

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

Distribution: X and Z

POLICY GUIDE 2013.05

**ALLEGATION OF HARM #40/90
HUMAN TRAFFICKING OF CHILDREN**

DATE: August 27, 2013
TO: Rules and Procedures Bookholders and Child Protection Staff
FROM: Richard H. Calica, Director 
EFFECTIVE: Immediately

I. PURPOSE

The purpose of this Policy Guide is to amend instructions for investigation and intake requirements involving allegation #40/90, Human Trafficking of Children. Procedures 300 Appendix B, The Allegation System is being revised and will be issued in the near future.

II. Definition

Federal law defines severe forms of trafficking in persons (Human Trafficking) as: “*sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage or slavery.*” [U.S.C. §7102(8)]

For the purpose of a child abuse/neglect investigation, force, fraud, or coercion need not be present.

Incidents of Maltreatment

- Labor exploitation (ABUSE).
- Commercial sexual exploitation (i.e., prostitution, the production of pornography or sexually explicit performance) (ABUSE).
- Blatant disregard of a caregiver’s responsibilities that resulted in a child being trafficked. (NEGLECT).



b) Taking a Report

1) Acceptable Reporter/Source/Other Person with Information (OPWI)

Any person who has reason to believe that a child is a victim of human trafficking may be the reporter/source/OPWI of a CA/N report.

Note: A person under the age of 18 suspected of or charged with a prostitution offense shall be immune from prosecution for a prostitution offense and shall be subject to the temporary protective custody provisions of Sections 2-5 and 2-6 of the Juvenile Court Act of 1987. Pursuant to the provisions of Section 2-6 of the Juvenile Court Act of 1987, a law enforcement officer who takes a person under 18 years of age into custody under this section shall immediately report an allegation of a violation of Section 10-9 of this Code to the Illinois Department of Children and Family Services State Central Register, which shall commence an initial investigation into child abuse or child neglect within 24 hours pursuant to Section 7.4 of the Abused and Neglected Child Reporting Act.

2) Usage

The reporter/source/OPWI must have reason to believe that human trafficking resulted from one or both of the following:

A) A direct action of a parent, caregiver, immediate family member, other person residing in the home, a parent's paramour, or other person responsible for the child's welfare resulted in the child being recruited, abducted, transported, harbored, or provided for the purpose(s) of labor exploitation and/or commercial sex exploitation.

B) The blatant disregard of a parent, caregiver, immediate family member, parent's paramour, other person residing in the home, or other person responsible for the child's welfare, to make reasonable efforts to stop another person from trafficking a child.

3) Factors to be considered

All factors need not be present to justify taking the report. One factor alone may justify taking a report.

- The child's age and cognitive development.
- The child's inability to attend school on a regular basis due to the actions of a perpetrator.
- The child is a runaway.
- The child makes references to frequent travel to other cities.

- The child makes reference to being coerced into performing illegal activities.
- The child is employed or performs work inappropriate for their age.
- The child is not compensated for work performed.
- The child has been isolated from family, friends, religious institutions or other sources of support and protection.
- The child and/or child's family has been threatened with physical harm, deportation or being reported to law enforcement.
- The child is not compensated for work performed.
- The child shows signs of moderate to severe physical harm.
- The child appears withdrawn, depressed or fearful.
- The child lacks control over his or her schedule.
- The child lacks control over his or her identification documents.
- The child is often hungry or appears malnourished.
- The child is inappropriately dressed for the weather or other physical conditions.
- The child refers to or shows signs of drug addiction and/or exposure to drug manufacture or trafficking.

Additional factors that may indicate sex-related trafficking include the following.

- The child has a sudden change in attire, behavior, or material possessions (e.g., has expensive items, dresses provocatively or has unaccounted for money).
- The child makes reference to having a "pimp".
- The child makes reference to sexual situations that are beyond age-specific norms.
- The child uses or makes reference to the terminology of the commercial sex trade.
- The child has a "boyfriend" or "girlfriend" who is significantly older.
- The child engages in sexually provocative behaviors, is promiscuous and/or has unprotected sex with multiple partners.

c) **Investigating a Report**

- 1) Required Documentation/Evidence to Support Finding:
 - A) Secure evidence that the victim was trafficked by an eligible perpetrator (ABUSE), or that the blatant disregard of a harmful situation resulted in trafficking (NEGLECT).
 - B) If previous investigations are used to support current finding, the files must be read to ensure evidentiary value.
 - C) If law enforcement has conducted an investigation their report and final finding must be obtained and documented. If the police report is not

available, a SACWIS contact note must be included in the file that documents that the report was requested as well as documentation of verbal statements made by law enforcement. The supervisor must review law enforcement reports and/or findings in order to ensure consistency with previous law enforcement documentation of the pending investigation.

Note: In addition to requesting a copy of a law enforcement report, the Investigation Specialist must also request a copy of all other police reports involving the same subject or subjects of the pending investigation. Use a SACWIS contact note to document this activity.

- D) Apply and document the application of the “Factors to be Considered.” Each factor should be assessed as to the relevance of the specific case and the assessment should be documented on a SACWIS contact note.
- E) Ensure there has been a detailed analysis of all inculpatory and exculpatory evidence and whether any inconsistencies in the evidence have been resolved.
- F) A waiver of any of the above requirements must be approved by the Investigation Supervisor. Details of the request and the supervisor’s decision must be documented on a SACWIS contact note.

2) Requirements for Initial Investigation

Where available, these investigations should be conducted under the auspices of the local Child Advocacy Centers.

- A) Complete a SACWIS and LEADS check of members of the family and other subjects frequenting or living in the home/environment.
- B) Thoroughly read and review prior indicated and existing unfounded investigations.

Note: A pending report involving the same subjects of an unfounded report shall **not** be indicated solely on the basis of the prior unfounded report. If new details provide information that could impact a previously unfounded investigation, this information must be reported to the SCR to determine if a new investigation of the unfounded allegation is warranted.

- C) Interview the reporter, source, and OPWI(s) identified in the current report and related information reports.

D) Interview each alleged child victim(s) individually and in-person and complete the CERAP. Ask the child if there is an extended family member, another adult or caregiver that he or she feels safe with, important, or special to. Persons identified by the child victim shall be interviewed.

Note: The Investigation Specialist should not interview the victim if the case is Forensic Interview eligible, per local protocol. If a VSI interview is necessary, the Investigation Specialist shall coordinate with the VSI interviewer to ensure the child is asked if there is an extended family member, another adult or caretaker that he or she feels safe with, important or special to. Persons identified by the child victim shall be interviewed.

E) If police have conducted an investigation, interview the police officer/investigator in person or by telephone. This contact will help establish the need to move to formal investigation phase. Investigation Specialists must also inquire about and document efforts to obtain existing law enforcement reports on the persons under investigation.

F) Interview the caseworker if the family has an open service case.

G) Interview the parents/caregivers in person and individually. The parents should be contacted on the same day contact is made with the child victim(s), if possible. If the CERAP is marked “unsafe,” parents **must** be interviewed immediately to ensure child safety **and** the formal investigation must be commenced. If the CERAP is marked “safe,” the Investigation Specialist must secure corroboration of the parent/caregiver’s statements for the purpose of strengthening the “safe” determination. Efforts to corroborate the statements must occur as soon as possible. If information obtained from collateral sources conflicts with the statements of the parent/caregiver, the Investigation Specialist shall immediately notify his or her supervisor or Area Administrator for guidance regarding the need to complete a subsequent CERAP and additional investigation activities.

H) Interview the alleged perpetrator in person, if necessary, for immediate safety planning. The Investigation Specialist should consult with law enforcement prior to interview to avoid compromising the investigation

Note: If the allegation is human trafficking by neglect, an effort must be made to identify who trafficked the child.

I) Verbally notify the DCFS Guardian and interview the guardian ad litem if the alleged child victim is a DCFS ward or a ward of the court (i.e., a child in the home with a parent/caregiver under an order of protection).

- J) A waiver of any of the above requirements must be approved by the supervisor. The request for a waiver, including the reasons for the request, and the supervisor's decision must be documented on a SACWIS contact note.
 - K) Complete all relevant assessment screens for household members (e.g., Adult Substance Abuse Screen, **CFS 440-5**).
- 3) Requirements for Proceeding to Formal Investigation
- A) A formal investigation must be commenced if:
 - i) the CERAP is marked "unsafe";
 - ii) there is a determination that the child victim alleges labor exploitation or commercial sexual exploitation, and/or there is reasonable cause to suspect that the victim was trafficked by an eligible perpetrator (ABUSE) or by the blatant disregard (NEGLECT) of an eligible perpetrator;
 - iii) the alleged victim is under the age of 18.
 - B) Apply "Factors to be Considered" to determine if sufficient and reasonable cause exists to move to a formal investigation.
 - C) The decision to proceed to a formal investigation must be made within 14 days from the date of the report and documented on a SACWIS contact note.
- Note:** Because the nature of a DCFS investigation is intrusive to families, careful consideration should be given regarding the necessity to move to a formal investigation.

4) Requirements for Formal Investigation:

All interviews of subjects of an investigation should be in person and individually. Interviews of collateral contacts may be in person or by phone.

- A) Interview the parents/caregivers.
- B) Interview the alleged perpetrator.
- C) Interview all other adults and verbal children in the victim's and/or perpetrator's household. Non-verbal children must be observed, and if possible, observed interacting with others in their surroundings.

- D) Interview all identified witnesses who are reported to have knowledge of the incident.
- E) The previous DCFS caseworker should be interviewed if the family had a service case closed within the past two years.
- F) If there are children 12 years of age and younger, interview the school teachers and/or care providers who would have knowledge of the children and the level of care provided to them.
- G) Interview the child's primary care physician or the physician that examined the victim within the past six months, if a past history of maltreatment is alleged.
- H) Interview the physician who completed the sex abuse exam, if performed.
- I) Interview the law enforcement investigator involved in the criminal investigation.
- J) Interview other community professionals who would have firsthand knowledge of the incident or circumstances concerning the incident.
- K) Contact the Child Protection Service in other states where family members have resided during the previous five years. If a history of maltreatment is uncovered, the Investigation Specialist shall request documentation of the family's abuse/neglect history.
- L) A waiver of any of the above contacts must be approved by the Area Administrator. The request for a waiver and the Area Administrator's decision must be documented in a SACWIS contact note.

5) Required Medical Information and/or Consultations

Whether or not the child's medical needs are related to the alleged incident, Investigation Specialists must take the following actions when it is suspected that the child is in need of urgent medical care.

- A) Ensure that the parent/caregiver seeks immediate medical care for the child. Contact the child's physician within 24 hours of him/her seeing the child to confirm that medical care was provided.
- B) If the parent/caregiver refuses or fails to obtain medical assistance for the child, the Investigation Specialist must *immediately* consult with his or her supervisor or Area Administrator to determine if the child should be taken into temporary protective custody.

- C) Call law enforcement for assistance as needed.
 - D) If appropriate, add Medical Neglect allegation #79 or Medical Neglect of Disabled Infants #85 to the report.
 - E) Obtain medical records of the child's current treatment/diagnosis and relevant past treatment.
- 6) Law Enforcement/State's Attorney Notification and Involvement
- A) The State's Attorney and law enforcement shall be notified within 24 hours of taking a report.
 - B) The State's Attorney shall be notified if the current report is to be indicated and if there are indicated priors reports within the same family unit.
 - C) DCFS and law enforcement should cooperate in conducting these investigations.
 - D) Report the suspected incident of trafficking to the FBI Violent Crimes Against Children Task Force at 312-421-6700.
 - E) If a DCFS ward is being investigated for allegedly committing crimes, other than being a victim of human trafficking, then contact the DCFS Guardian's Office at 312-814-8600 to obtain legal representation for the ward.
- 7) Assessment to Support Case Finding

The Investigation Supervisor shall have a formal supervisory conference with the Investigation Specialist to assess all inculpatory and exculpatory evidence obtained during the course of the investigation. Use a SACWIS contact note to document the supervisory conference and the evidence used to reach a finding.

Evidence used to support an investigative finding must include documentation that a child under 18 years of age has been recruited, abducted, transported, harbored, or provided for the purpose of labor exploitation and/or commercial sexual exploitation.

Note: While force, fraud, or coercion need not be present for the purposes of investigating child abuse/neglect, they may be present. Examples of force, fraud or coercion may include any of the following:

- Threats of serious harm to the child and/or child's family;
- Physical restraint or threats of restraint to the child;
- Exposure to violent or intimidating acts towards other children;

- Promoting and coercing drug and/or alcohol dependency;
- False promises to the victim (e.g., reunification with family; citizenship, or eventual independence);
- Withholding of basic needs, such as food and shelter;
- Threats of deportation or other legal processes;
- Destruction, confiscation or concealment of any identification document belonging to the child (e.g., passport, immigration document, or any other government issued identification);
- Extortion or financial control of the child and/or child's family by the threat or act of causing monetary harm.

8) Assessment of "Factors to be Considered" to Support Case Finding

- A) What are the ages of the involved children?
- B) Does the child have a medical condition, behavioral, mental or emotional problem, or other disability or handicap that would impact his or her potential for being trafficked?
- C) Is there a pattern of similar instances of human trafficking with this child or other children for whom the parent/caregiver is or has been responsible?
- D) Was an instrument or weapon used on the victim or was the victim threatened with an instrument or weapon?
- E) Is there a history of abuse and/or neglect that is verifiable in official records or has substantial corroboration from other credible sources.
- F) What are the relationship dynamics between the victim and the parent/caregiver? Does the child express fear or mistrust of the parent/caregiver? Does the parent/caregiver appear to be appropriately concerned about the child's welfare and protection?
- G) Is there any support system in place for the victim and the parent/caregiver?
- H) Identify any issue of substance abuse or the manufacture/distribution of illegal drugs, that involves the child, parent/caregiver, other household members, or others who are frequently in the home.

9) Notification of Findings

Required notifications and supervisory consultations concerning the recommended finding shall be documented on a SACWIS contact note prior to submitting the investigation for supervisory approval. Notification of the

recommended finding must occur *after* the supervisor and/or Area Administrator have discussed the recommended finding with the Investigation Specialist and approved the finding.

- A) Verbally notify the family of the recommended finding.
- B) Verbally notify and discuss the recommended finding with the mandated reporter. If the mandated reporter disagrees with the recommended finding, the Investigation Specialist shall immediately notify his or her supervisor of the concerns raised by the reporter. The Investigation Supervisor shall contact the reporter to resolve identified issues and/or to determine if there are additional investigation activities that need to be completed. When a resolution cannot be reached, the supervisor shall inform the reporter of his or her right to appeal the investigation finding. The supervisor and Investigation Specialist shall document all attempts to resolve issues raised by mandated reporters in a SACWIS contact note.
- C) With parental consent, notify collateral contacts that were interviewed if the case is unfounded.
- D) Verbally notify and discuss the recommended finding with the guardian ad litem if the victim is a DCFS ward or a ward of the court (e.g., a child home with a parent under an order of protection). If the guardian ad litem disagrees with the recommended finding, the Investigation Specialist shall immediately notify his or her supervisor of the concerns raised by the guardian ad litem. The Investigation Supervisor shall contact the guardian ad litem to resolve identified issues and determine if there are additional investigation activities that need to be completed. When a resolution cannot be reached, the supervisor shall inform the guardian ad litem of his or her right to appeal the investigation finding. The supervisor and Investigation Specialist shall document all attempts to resolve issues raised by the guardian ad litem in a SACWIS contact note.

III. QUESTIONS

Questions concerning these revisions may be directed to the Office of Child and Family Policy at 217/524-1983 or e-mail through Outlook at OCFP-Mailbox or for non-Outlook users at cfpolicy@idcfs.state.il.us

IV. FILING INSTRUCTIONS

Place remove Policy Guide 2011.09 from behind **Procedures 300 Appendix B, Allegation 22, Substantial Risk of Sexual Injury** and replace with this Policy Guide