



State of Florida
Department of Children and Families

Rick Scott
Governor

David E. Wilkins
Secretary

MEMORANDUM

DATE: February 19, 2013

TO: Patricia Badland, Director of Operations
Charles Scherer, CPM, Operations Manager

FROM: M. Drew Parker, General Counsel *-dp*
Melanie B. Coats, Assistant General Counsel *MBC*

SUBJECT: Foster Parent Investigations

Question Presented

Must law enforcement accompany a Child Protection Investigator (CPI) who is responding to an investigation involving a foster parent?

Brief Answer

Law enforcement is not required to accompany a CPI on an investigation involving a foster parent; however, if the allegations are criminal in nature or if a CPI believes there are any safety concerns, the CPI shall request assistance from law enforcement.

Discussion

At the outset of each investigation, the CPI must review all relevant information available to determine whether immediate consultation with law enforcement should occur.¹ Factors to be considered include whether the allegations are criminal in nature, any safety threats to the CPI and others, and whether the abuse occurred in an institutional setting. If the CPI determines that consultation with law enforcement warranted under the circumstances particular to that investigation, a discussion should occur as to whether a joint response is necessary and feasible.²

¹ §39.301(9)(a), Fla. Stat. (2012)

² *Id.*

Florida law requires a CPI to notify law enforcement when investigating a report of institutional child abuse.³ No requirement exists for a law enforcement officer to accompany the CPI to the institution. Florida law does require a joint investigation of institutional abuse allegations, unless independent investigations are more feasible.⁴

Institutional child abuse or neglect is defined in Chapter 39 as those “situations of known or suspected child abuse or neglect in which the person allegedly perpetrating the child abuse or neglect is an employee of a private school, public or private day care center, residential home, institution, facility, or agency or any other person at such institution responsible for the child’s care.”⁵ Although foster parents are included in the statutory definition of “other person responsible for a child’s welfare,” the foster parent ***must*** be located at one of the enumerated institutions before the notification requirement is triggered.

“Family foster home” is defined in section 409.175(1)(e), Florida Statutes as “a private residence in which children who are unattended by a parent or legal guardian are provided 24-hour care.” The Department licenses foster parents to provide a family-like living environment for children in out-of-home care. By definition, family foster homes are supposed to be non-institutional settings in which children receive 24-hour care.

The Department also licenses residential group homes, which are institutions; however, these residential homes are operated by paid staff who are not subject to the same stringent licensure requirements as foster parents. “Residential child-caring agency” means “any person, corporation, or agency, public or private, other than the child’s parent or legal guardian, that provides ***staffed 24-hour care*** for children in facilities maintained for that purpose, regardless of whether operated for profit or whether a fee is charged. Such residential child-caring agencies include, but are not limited to, maternity homes, runaway shelters, group homes that are administered by an agency, emergency shelters that are ***not in private residences***, and wilderness camps. Residential child-caring agencies do not include hospitals, boarding schools, summer or recreation camps, nursing homes, or facilities operated by a governmental agency for the training, treatment, or secure care of delinquent youth, or facilities licensed under s. 393.067 or s. 394.875 or chapter 397.”⁶ *Emphasis added.* Section 39.302(1), Florida Statutes, requires a CPI to notify law enforcement when a report of alleged abuse or neglect occurs in a residential group home, but not in a private “family foster home.”

Therefore, the Department interprets section 39.302(1), Florida Statutes, to require CPIs, including those sheriff’s offices providing child protective investigative services, to notify law enforcement only when investigating a report of institutional abuse or neglect.⁷ This approach supports the legislature’s stated intent that the Department implement policies and procedures which engage families in constructive, supportive

³ §39.302(1), Fla. Stat. (2012)

⁴ *Id.*

⁵ §39.01, Fla. Stat. (2012)

⁶ §409.175(1)(j), Fla. Stat. (2012)

⁷ §39.3065(3)(b), Fla. Stat. (2012)

and non-adversarial relationships; intrude as little as possible on family life; and maintain the integrity of families.⁸ The Department will implement quality assurance measures to ensure that these principles are followed in all foster parent investigations and that law enforcement is engaged in such investigations only when it is absolutely necessary to ensure safety and well-being.⁹

⁸ §39.001(1)(b), Fla. Stat. (2012)

⁹ §39.301(11), Fla. Stat. (2012)