

DEPARTMENT OF SOCIAL SERVICES

CHILDREN'S DIVISION

P. O. BOX 88

JEFFERSON CITY, MISSOURI

March 14, 2017

M E M O R A N D U M

TO: CHILDREN'S DIVISION AND CONTRACTED STAFF

FROM: TIM DECKER, DIRECTOR

SUBJECT: UNKNOWN PERPETRATORS

DISCUSSION:

In C.D.J., Jr., By and Through His Next Friend C.D.J., Sr., and C.D.J., Sr., Individually, vs. Missouri Department of Social Services, Children's Division, the Eastern District Court of Appeals recently ruled the Children's Division does not have the authority to substantiate a report that an unknown perpetrator committed child abuse or neglect. The Court further ruled reports of alleged abuse by an unknown perpetrator cannot be retained in the Central Registry indefinitely.

Effectively immediately, staff must cease making findings of preponderance of the evidence that an unknown perpetrator committed child abuse or neglect. If the identity of the perpetrator absolutely cannot be determined, the report should be unsubstantiated.

The conclusion option of preponderance of the evidence by an unknown perpetrator has most often been utilized for the Children's Division's most critical incidents of abuse and neglect when it is obvious that a child has been harmed. Staff should make certain the allegations are investigated thoroughly. When it is evident a child has been harmed, but it cannot be determined who was responsible, staff should consider taking the following steps:

- Completing an investigative timeline. Timelines can be highly beneficial in narrowing down who had access to the child when the injury occurred. They can also help identify what information is missing, inconsistencies in accounts of what happened to the child and other witnesses for further interviews.
- Requesting a Child Advocacy Center (CAC) case review to collaborate with multi-disciplinary team (MDT) members on identifying investigative next-steps.
- Utilizing group supervision to staff cases in which the investigator is struggling to determine who was responsible for the incident.

- Making a referral to the Division of Legal Services (DLS) to request a review of the current evidence and request recommendations on how to proceed with the investigation.
- Making a recommendation for protective custody to the Juvenile Office or, at a minimum, opening a Family Centered Services (FCS) case in order to protect the child from further abuse or neglect.
- Making a referral to the State Technical Assistance Team (STAT) to request assistance in investigating the allegations.

There are times in which staff are able to narrow down the alleged perpetrator to a few individuals who had care, custody, and control of the child at the time of the alleged incident. It is generally inappropriate to make a preponderance of the evidence finding on multiple parties who may have been responsible for the abuse or neglect incident. Each element of the definitions of abuse and neglect must be satisfied by a preponderance of the evidence, including the identification of who had care, custody, and control when the act of abuse or neglect was committed.

Example: An infant is diagnosed with abusive head trauma (AHT). The investigation reveals that only the infant’s parents had access to the infant during the time the doctor believes the injury occurred. However, when both parents were interviewed, neither admitted any knowledge of what happened to the child and there were no other witnesses.

Prior to making a preponderance of the evidence finding on both parents, staff must make a referral to the Division of Legal Services (DLS) to determine whether this is appropriate.

NECESSARY ACTION	
<ol style="list-style-type: none"> 1. Review this memorandum with all Children’s Division staff. 2. Review revised Child Welfare Manual chapters as indicated below. 3. All questions should be cleared through normal supervisory channels and directed to: 	
PDS CONTACT Kara Wilcox-Bauer 573-526-9707 Kara.B.Wilcox-Bauer@dss.mo.gov	MANAGER CONTACT Christy Collins 573-751-9603 Christy.Collins@dss.mo.gov
CHILD WELFARE MANUAL REVISIONS Section 2, Chapter 4.1.8.1.6, Determining Child Abuse or Neglect by a Preponderance of Evidence on an Unknown Perpetrator	
FORMS AND INSTRUCTIONS N/A	

REFERENCE DOCUMENTS AND RESOURCES
N/A
RELATED STATUTE
N/A