

MANUAL TRANSMITTAL

Arkansas Department of Human Services
Division of Children and Family Services

Policy Form Policy Directive
Service Programs Forms Manual

Issuance Number: SPF 2004-04
Issuance Date: March 17, 2004

From: Roy Kindle, DCFS Director

Expiration Date – Until
Superseded

Subj.: Executive Directive: **Protective Measures during Investigations.**

The Following process will be followed in the implementation of **Procedure (II-E13) Child Residency Following Alleged Child Maltreatment**. Procedure II-E13 currently states:

The child(ren) may remain in the residence with a non-offending custodian if:

- The alleged offender is legally restricted from contact with the child(ren) by:
- An “Order of Less Than Custody” (see Glossary) obtained by DCFS, or
- A “Restraining Order of Protection” obtained by the non-offending custodian.

NOTE: The order must be served on the alleged offender before the child will be allowed to remain in the residence.

- AND there is no reason to suspect that the non-offending custodian will allow the alleged offender access to the child(ren).

This policy Directive clarifies the current policy by stating that we no longer have the choice of obtaining an “Order of Less than Custody” or obtaining a Restraining Order of Protection but that you **MUST** obtain an “Order of Less Than Custody” even if you obtain the “Restraining Order of Protection.”

During the course of child maltreatment investigations, CFS must assess the health and safety of children. When the offender is identified as a caregiver for the child, CFS must assess the health and safety of the child with the offender still functioning as a caregiver and having access to the child. This means that CFS cannot make the assessment on the child if the child is placed with grandmother away from the parents who are identified as offenders. The assessment must be on the child's health and safety placed with the parents. CFS **shall not tell a parent his** or her child will be placed in foster care unless the parent places the child with someone else - this is called a "coercive placement" and this is prohibited.

If CFS recommends or determines that the child's health and safety will be at risk such that a safety plan or any other action needs to be taken, then CFS will immediately contact OCC for legal action. Even if the non-offending parent leaves the home and obtains an order of protection, CFS must immediately contact OCC

for legal action. In the past, CFS had the option of allowing the non-offending parent to get an order of protection; this option no longer exists. Even if the offending parent offers to move out of the house and leave the non-offending parent in the home with the victim child, CFS must immediately contact OCC for legal action.

Once CFS contacts OCC, then OCC will assess to determine the appropriate emergency petition to file. If we have a non-offending parent who CFS believes will comply with a written safety plan, then OCC can file an Emergency Order of Less than Custody and ask the court to restrict the offending parent's contact with the child. We still have a probable cause hearing within 5 days and an adjudication hearing. If the offending parent agrees to move out of the house, OCC can file an Emergency Order of Less than Custody to obtain an order that memorializes that the offender will not have contact with the victim child (perhaps, except for supervised visits by DHS), again, with a probable cause hearing in five days and an adjudication hearing.

OCC will always take legal action on any case where CFS determines that a child's health and safety is at risk due to an offender who is the child's caregiver.

Because a change in custody is granted with the approval of the court, DHS is **prohibited** from agreeing to, suggesting or facilitating any change in caregivers for children without court approval.

Please review all cases and staff with OCC any cases where there is an “Order of Protection” and No “Order of Less than Custody.”

THIS EXECUTIVE DIRECTIVE IS EFFECTIVE IMMEDIATELY

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