

S267429

**IN THE
SUPREME COURT OF CALIFORNIA**

In re D.P.,
A Person Coming Under the Juvenile Court Law.

THE LOS ANGELES COUNTY DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

T.P.,

Defendant and Appellant.

From an Unpublished Decision by the Court of Appeal
Second Appellate District, Division Five, Case No. B301135
Los Angeles Superior Court Case No. 19CCJP00973
On Appeal from the Superior Court of Los Angeles County
Honorable Craig S. Barnes, Judge Presiding

**PLAINTIFF AND RESPONDENT'S MOTION TO
AUGMENT THE RECORD AND FOR JUDICIAL NOTICE;
DECLARATION OF WILLIAM D. THETFORD; and
(PROPOSED) ORDER**

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**Petitioner and Respondent’s Motion to Augment The
Record and For Judicial Notice**

Petitioner and Respondent, the Los Angeles County Department of Children and Family Services (DCFS or Department), requests that the Supreme Court receive as additional evidence on appeal the Declaration of DCFS social worker Duke Nguyen (a copy of which is attached hereto as Exhibit 1). DCFS further requests that this Court take judicial notice of and accept as additional evidence DCFS’s Policy # 0070-548.17, Completion and Submission of the BCIA 8583 Child Abuse or Severe Neglect Indexing Form¹ (a copy of which is attached hereto as Exhibit 2), and California Health and Human

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(<http://m.policy.dcfs.lacounty.gov/Search?link=making%20a%20ca%20report.>)

Services Agency—State Department of Social Services’ Grievance Procedures for Challenging Reference to the Child Abuse Central Index² (a copy of which is attached hereto as Exhibit 3).

DATED: August 25, 2021 Respectfully submitted,

RODRIGO A. CASTRO-SILVA
County Counsel

By /s/ William D. Thetford
WILLIAM D. THETFORD
Principal Deputy County
Counsel

Attorneys for Respondent

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(https://cdss.ca.gov/cdssweb/entres/forms/English/SOC833_Updated2012.pdf.)

Memorandum of Points and Authorities

Statement of Relevant Facts

One of the issues involved in this matter is whether an appeal of a juvenile court's jurisdictional finding is moot when a parent asserts that he or she may be barred from challenging a current or future placement on the Child Abuse Central Index (CACI) as a result of the finding?

One of Father's contentions made before the Court of Appeal was "that the jurisdictional finding subjects them to registration on the Child Abuse Central Index (CACI) under the Child Abuse and Neglect and Reporting Act (the Act) (Pen. Code, § 11164 et seq.). The parents allege that registration on CACI is stigmatizing and will negatively impact their ability to participate in their children's extracurricular school activities or athletic endeavors; mother also alleges that CACI registration will jeopardize her employment as a teacher and limit future employment opportunities involving children. Thus, apart from jurisdiction, the parents contend their challenge to the juvenile court's section 300, subdivision (b)(1) finding involves a dispute as to which this court can grant effective relief." (Opinion 7.)

The Court of Appeal disagreed because, "The parents [had] not demonstrated that the Department here made a CACI referral even though under Penal Code, section 11169, subdivision (c), the Department would have been required to

provide written notice to the parents had it made such a referral.” (Opinion 8, fn. 9.)

In his Opening Brief on the Merits, Father advances the same contention. (Opening Brief on the Merits [BOM] 38-52.) However, he still fails to establish that DCFS filed a report with the Department of Justice pursuant to Penal Code section 11169, subdivision (a). (BOM, generally.)

Duke Nguyen was the investigator for DCFS who investigated the referral that initiated DCFS’s contact with the family. (Clerk’s Transcript [CT], 11.) After investigating the referral Mr. Nguyen reported the following:

As to the original allegation of Physical Abuse of the child Dalton Phuong by the unknown perpetrator, DCFS determined the allegation to be inconclusive. Per §11165.4, "unlawful corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition. On 2/6/2019, DCFS found the child Dalton Phuong had a fractured rib, lateral right 7th rib.

During the investigation, an allegation of General Neglect was added of the child Dalton Phuong by the parents . . . DCFS determined the allegation to be substantiated. Per §11165.2(b), "General Neglect" means the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred. On 2/6/2019, DCFS found the child [D.P.] had a fractured rib, lateral right 7th rib. On 2/6/2019, parents

provided no appropriate explanation as to the fracture.

CT, 19-20.) Attached hereto as Exhibit 1 is a Declaration by Mr. Nguyen that states the following:

1. I am currently employed as a social worker for the Los Angeles County Department of Children and Family Services (DCFS). In February 2019, as an emergency response social worker, I was assigned a child abuse and neglect referral regarding the children Britney P. and Dalton P. The referral, generated through DCFS's Child Protection Hotline alleged that Dalton P. was the victim of physical abuse by an unknown perpetrator and the child's sibling, Britney P, was at risk of sibling abuse.

2. Based on my investigation of the initial referral, I determined it to be inconclusive.

3. Based on my investigation, I substantiated an allegation of general neglect to Dalton P. by his parents. Based on DCFS policy # 0070-548.17, I did not report the referral to the Department of Justice.

Attached hereto as Exhibit 2 is a copy of DCFS Policy # 0070-548.17, Completion and Submission of the BCIA 8583 Child Abuse or Severe Neglect Indexing Form, which Mr Nguyen followed. Attached hereto as Exhibit 3 is a copy of The California Health and Human Services Agency—State Department of Social Services' Grievance Procedures for Challenging Reference to the Child Abuse Central Index, which is referenced in *In re C.F.*

(2011) 198 Cal.App.4th 454, 464, cited at page 33 of DCFS's Answer Brief on the Merits.

Additional Evidence

The general rule is that the appellate court reviews the correctness of a judgment as of the time of its rendition upon a record of matters that were before the trial court for its consideration. (*In re Randi D.* (1989) 209 Cal.App.3d 624, 627; *In re James V.* (1979) 90 Cal.App.3d 300, 304.) However, a reviewing court may receive additional evidence in an appropriate situation, such as a case involving the best interests of a child. (Code of Civ. Proc. § 909; *In re Elise K.* (1982) 33 Cal.3d 138, 149-150, conc. opn. of Bird, C.J.) Our Supreme Court has held that the general rules for accepting post-judgment evidence on appeal apply to juvenile dependency appeals. (*In re Zeth S.* (2003) 31 Cal.4th 396, 405-406.) Generally, to be accepted on appeal, new evidence must enable the reviewing court to affirm the judgment, not lead to a reversal. (*Philippine Expert & Foreign Loan Guar. Corp. v. Chuidian* (1990) 218 Cal.App.3d 1058, 1090.)

The portion of the Detention Report quoted above was before the juvenile court, and was included in the record on appeal. (CT 19-20.)

The Declaration of Duke Nguyen is relevant to the issue on review regarding the CACI in that it shows DCFS did not file a

report with the DOJ regarding the underlying juvenile dependency case. The Declaration resolves the issue, renders Father's arguments in this regard meritless, and is submitted in support of affirming the Opinion. DCFS Policy # 0070-548.17, Completion and Submission of the BCIA 8583 Child Abuse or Severe Neglect Indexing Form and California Health and Human Services Agency—State Department of Social Services' Grievance Procedures for Challenging Reference to the Child Abuse Central Index, are also being submitted in support of affirming the Opinion.

Judicial Notice

Evidence Code sections 452 and 459 authorize this Court to take judicial notice of regulations and legislative enactments issued by or under the authority of the United States or any public entity in the United States. (Evid. Code, § 452, subds. (b) & (d), § 459, subd. (a); *Day v. Sharp* (1975) 50 Cal.App.3d 904, 914.) DCFS Policy # 0070-548.17 is a regulation enacted by the County of Los Angeles by and through its agency, DCFS, and is therefore the proper subject matter for judicial notice. The California Health and Human Services Agency—State Department of Social Services' Grievance Procedures for Challenging Reference to the Child Abuse Central Index is a guideline promulgated by the State of California and is therefore also the proper subject matter for judicial notice.

Conclusion

For the foregoing reasons, DCFS respectfully requests this Court accept as additional evidence the Declaration of Duke Nguyen and take judicial notice of DCFS Policy # 0070-548.17, Completion and Submission of the BCIA 8583 Child Abuse or Severe Neglect Indexing Form, and California Health and Human Services Agency—State Department of Social Services’ Grievance Procedures for Challenging Reference to the Child Abuse Central Index.

DATED: August 25, 2021 Respectfully submitted,

RODRIGO A. CASTRO-SILVA
County Counsel

By */s/ William D. Thetford*
WILLIAM D. THETFORD
Principal Deputy County Counsel

Attorneys for Respondent

Declaration of William D. Thetford

I, William D. Thetford, hereby declare:

1. I am an attorney at law duly licensed to practice before this Court and an employee of the Office of the County Counsel for the County of Los Angeles. In such capacity, I represent Petitioner and Respondent, the Los Angeles County Department of Children and Family Services (DCFS or Department), in *In re D.P.*, Supreme Court No. S267429, 2d Juvenile No. B311035, and Juvenile Court No. 19CCJP00973.

2. I received the document attached hereto as Exhibit 1, in an email from Duke Nguyen. Mr. Nguyen mailed the originally signed hard copy to our office, which will be provide if requested by this Court.

3. I accessed the document attached hereto as Exh. 2 at <http://m.policy.dcfs.lacounty.gov/Search?link=making%20a%20ca%20report>.

4. I accessed the document attached hereto as Exh. 3 at [https://cdss.ca.gov/cdssweb/entres/forms/English/SOC833 Update d2012.pdf](https://cdss.ca.gov/cdssweb/entres/forms/English/SOC833_Update%20d2012.pdf).

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Declaration of William D. Thetford (Continued)

I declare under penalty of perjury that the foregoing is true and correct.

Executed August 25, 2021, at Los Angeles, California.

/s/ William D. Thetford
WILLIAM D. THETFORD

Exhibit 1

Declaration of Duke Nguyen

I, Duke Nguyen, hereby declare:

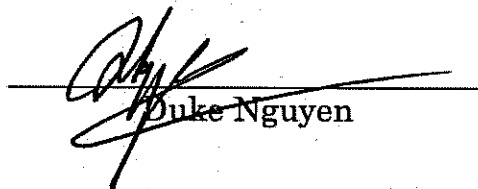
1. I am currently employed as a social worker for the Los Angeles County Department of Children and Family Services (DCFS). In February 2019, as an emergency response social worker, I was assigned a child abuse and neglect referral regarding the children Britney P. and Dalton P. The referral, generated through DCFS's Child Protection Hotline alleged that Dalton P. was the victim of physical abuse by an unknown perpetrator and the child's sibling, Britney P, was at risk of sibling abuse.

2. Based on my investigation of the initial referral, I determined it to be inconclusive and, therefore, did not report it to the Department of Justice.

3. Based on my investigation, I substantiated an allegation of general neglect to Dalton P. by his parents. Based on DCFS Policy # 0070-548.17, I did not report the referral to the Department of Justice.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on August 16th, 2021, at Covina, California.



Duke Nguyen

Exhibit 2

Completion and Submission of the BCIA 8583, Child Abuse or Severe Neglect Indexing Form

0070-548.17 | Revision Date: 07/26/18

Overview

This policy guide provides guidance on when a BCIA (Bureau of Criminal Information and Analysis) 8583, [Child Abuse](#) or [Severe Neglect](#) Indexing Form should be sent to the Department of Justice and instructions for the investigating CSW for completing the BCIA 8583.

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Approvals

Helpful Links

- [Forms](#)
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Version Summary

This policy guide was updated from the 07/01/14 version to incorporate [ACL 17-85](#) that states DCFS cannot submit a substantiation of an allegation to the Child Abuse Central Index (CACI) if the conclusion was reached on the basis of a law enforcement investigation without an active investigation by DCFS.

POLICY

Reporting Substantiated Findings

When a child abuse/neglect investigation concludes with a substantiated finding in the categories of sexual abuse, physical abuse, severe neglect, emotional/mental abuse or exploitation, the investigating CSW is responsible for forwarding the BCIA 8583, Child Abuse or Severe Neglect Form to the Department of Justice (DOJ). In turn, the DOJ records this information in the Child Abuse Central Index (CACI).

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The Department of Justice does not require notice of allegations of general neglect, or when the allegations are concluded as unfounded or inconclusive. If a report has previously been filed which subsequently proves to be unfounded, the DOJ shall be notified in writing of that fact and shall not retain the report.

DCFS is required to notify the known or suspected child abuser when his or her name is reported to the DOJ and the [CACI](#). The (alleged) perpetrator must be sent a SOC 832, SOC 833, and SOC 834 whenever their name is submitted to the DOJ on the SS 8583. This letter must be sent within 5 business days of the submission of the SS 8583 to DOJ.

DCFS cannot forward a report to the DOJ unless it has conducted an active investigation and determined that the report is substantiated. If a CSW has not been able to locate the family, the CSW has not completed an active investigation, and therefore cannot submit the BCIA 8583, Child Abuse or Severe Neglect Indexing Form to DOJ.

The ERCP CSW is responsible for completing and submitting the BCIA 8583 when he or she investigates a referral and closes it at ERCP. If an ERCP CSW conducts the initial investigation of the allegation and sends the referral to the regional office as a follow-up or placement/replacement, the regional ER CSW will complete and submit the BCIA 8583. Only substantiated dispositions are to be reported to the DOJ.

CSWs are no longer required to send the BCIA 8583 to Law Enforcement or the District Attorney after completing an investigation because both agencies can obtain the disposition of the allegations via [E-SCARs](#).

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When Not to Submit Results to the CACI

DCFS cannot forward a report to the DOJ unless it has conducted an [active investigation](#) and determined that the report is substantiated.

An "active investigation" conducted by DCFS must include, at a minimum:

- Assessing the nature and seriousness of the known or suspected abuse
- Conducting interviews of the victim(s) and any known suspect(s) and witness(es) when appropriate and/or available
- Gathering and preserving evidence
- Determining whether the incident is substantiated, inconclusive, or unfounded
- Preparing a report that will be retained in the files

If substantiation of an allegation is made on the basis of a law enforcement investigation without an "active investigation" by the DCFS, DCFS shall not submit the results to the CACI.

If a CSW has not been able to locate the family, the CSW has not completed an active investigation, and therefore cannot submit the BCIA 8583, Child Abuse or Severe Neglect Indexing Form to DOJ.

PROCEDURE

Allegation(s) is Substantiated and Perpetrator is Identified

Investigating CSW Responsibilities

1. Complete and print a BCIA 8583 in CWS/CMS for each known or suspected child abuser.
 - All information blocks contained on the BCIA 8583 must be completed.

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- If the information is not available, indicate “UNK” in the applicable field.
- For date of birth, the exact month, day, and year is required for entering into the CACI.
 - If not known, provide approximate date.

2. Complete the following steps:

- a. Indicate that an Initial Report is being submitted by checking the appropriate box at the top of the form.
- b. Section A. “Submitting Agency.” This information will pre-populate.
- c. Section B, Block 2.
- d. Indicate the date of the report and the finding of the allegation as “substantiated.”
- e. Indicate the date of the incident and select the type of abuse.
- f. Section C, Amended Report Information.
 - Only use this section to update information previously submitted on the BCIA 8583.
- g. Section D, Involved Parties.
 - Provide the information of the victim(s) and suspect(s) for the substantiated allegation.

3. Submission of the BCIA varies based on the type of referral:

Type of Referral	BCIA 8583
Referral with a Substantiated and an Inconclusive Allegation. (BCIA 8583 will automatically list both the substantiated and inconclusive allegations under “Type of Abuse” and the victims and suspects for both substantiated and inconclusive allegations.)	<ul style="list-style-type: none"> • Before submitting the BCIA 8583, CSWs must manually: <ul style="list-style-type: none"> • Delete the “Inconclusive Allegation” listed under “Type of Abuse.” • Remove the name(s) of the victim(s) and suspect(s) for the inconclusive allegation listed in the report before it is sent to the DOJ.
Referral with more than one allegations and the disposition is substantiated for all of the allegations, and the allegations have the same suspects.	<ul style="list-style-type: none"> • Create one BCIA 8583.
Referral with more than one allegation, and the disposition is substantiated for all of the allegations but the suspects are not the same.	<ul style="list-style-type: none"> • Create a separate BCIA 8583 for each suspect. <ul style="list-style-type: none"> • CWS/CMS will automatically populate a separate BCIA 8583 for each suspect.

4. Print the BCIA 8583 and forward a copy or the copies of the BCIA 8583 to clerical support staff for submission to the Department of Justice within 5 days of the determination.
 - Department of Justice, Bureau of Criminal Statistics and Special Services, Box 903417, Sacramento, CA 94203-4170. ATTENTION: Child Abuse Central Index.

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Allegation(s) is Inconclusive and there are No Substantiated Allegations

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Since CWS/CMS generates the BCIA 8583 for every referral, a Cross Report Notebook in which an inconclusive allegation is recorded must also be generated in order to close the referral.

Investigating CSW Responsibilities

1. Create a Cross Report Notebook for the BCIA 8583 and select the checkmark “Cross Report Not Sent.”
 - This manual procedure will satisfy the requirement for the cross report, and will allow the referral to close.
 - If the BCIA 8583, [SOC 832](#), [SOC 833](#), or [SOC 834](#) reports are unintentionally generated for an inconclusive allegation, the CSWs must place the form in the designated receptacle for shredding.

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Notifying the Perpetrator or Alleged Perpetrator of the Report to the Child Abuse Central Index (CACI)

Investigating CSW Responsibilities

1. Complete and print the [SOC 832](#), [SOC 833](#), and [SOC 834](#) for each known or suspected child abuser within 5 business days of the submission of the BCIA 8583 to the DOJ, to list an individual on the CACI.
2. Forward a copy of the SOC 832, SOC 833 and SOC 834 to clerical support staff to mail the forms to the individuals last known address, or any other address known by the DCFS where the notice and request for grievance are most likely to be received by the individual.
 - If the CSW knows that the suspect is no longer at the last known address, the CSW should make a reasonable effort to obtain the suspect’s current address.
 - If the suspect has moved and the CSW is unsuccessful in obtaining further information, then the CSW should document this information in CWS/CMS.
 - CSWs must consult with county counsel to determine whether further steps should be taken to locate the suspect.
3. Record the mailing of the SOC 832, SOC 833 and SOC 834 in the Contact Notebook of the referral.
 - Select Deliver Service to Client as the Contact Purpose.
4. If the known or suspected child abuser contacts the CSW to dispute the submission of his or her name to the Department of Justice, follow instructions for [CACI Review Hearings](#).

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Notifying the Department of Justice (DOJ) of a Correction to the Child Abuse Central Index (CACI)

Instances when an amended BCIA 8583 is required include, but are not limited to, circumstances where the Juvenile Court has determined that the allegations which prompted the submission of the BCIA 8583 to the DOJ were not substantiated by a preponderance of the evidence (i.e., a specific allegation(s) or the entire petition was dismissed because the court found the alleged abuse was not substantiated). In these situations, the Dependency Investigator (DI) will complete and submit the amended BCIA 8583.

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In the event that the Juvenile Court has dismissed a petition pursuant to Welfare and Institutions Code Section 301, or subsequent to a finding that a child is described by Section 300 and without adjudicating the child a dependent, has ordered services pursuant to section 360, the Dependency Investigator is not required to submit a revised BCIA 8583 to the Department of Justice. The revised form is not required because there has been no finding by the Juvenile Court that the abuse and/or neglect was not substantiated; rather, the court has found that the risk can be ameliorated through a program of informal (non-court) supervision. The court has not made a determination about the facts in evidence as it normally does when a petition is dismissed following an adjudication on the petition.

If the finding of substantiated abuse or neglect is changed because of the [grievance hearing](#), the Chief Grievance Officer will submit a new BCIA 8583 to the DOJ and update the Allegation Notebook in CWS/CMS. For all other changes in investigation disposition not as a result of court order, the investigating CSW is responsible for submitting the amended BCIA 8583 to the DOJ.

DI CSW Responsibilities

1. Attach a copy of the original BCIA 8583 and complete Sections A & C on an amended BCIA 8583 in CWS/CMS.
2. Indicate that you are submitting an Amended Report by checking the appropriate box at the top of the new BCIA 8583.
3. Indicate one of the following reasons for the change:
 - a. Changed to Inconclusive – A previously submitted BCIA 8583 indicated as substantiated is being reclassified to inconclusive.
 - b. Now **Unfounded** – A previously submitted BCIA 8583 indicated as substantiated is being reclassified as unfounded.
 - i. Within three business days of determining that the allegations are unfounded, submit an amended BCIA 8583.
 - c. Added Additional Information – Supplementary information is being provided for a previously submitted BCIA 8583.
 - i. Cases in which subsequent child death has resulted must be reported.
 - d. Corrected Report Information – Information submitted on an initial BCIA 8583 is being corrected.
 - e. Underlying Investigative File No Longer Available – The agency no longer retains the underlying investigative file that supports a previously submitted BCIA 8583.
 - f. Comment section – Use this area only if you are reporting amended information that relates to one victim or suspect, and there is a need to clarify which victim or suspect the amended information applies to when the initial report contained multiple victims and/or suspects.
4. Forward the original BCIA 8583 and the amended BCIA 8583 to the clerical support staff for submission to the Department of Justice within 5 business days of making the change.

The BCIA 8583 forms must be mailed to:

Department of Justice
4949 Broadway, Room B216
Sacramento, CA 95820

DI SCSW Responsibilities

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1. Update the Allegation Notebook of the referral on CWS/CMS. Change the allegation conclusion to be consistent with the amended BCIA 8583 that is submitted to the Department of Justice.

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APPROVALS

SCSW

- Changing the conclusion of the allegation

HELPFUL LINKS

Forms

CWS/CMS

BCIA 8583, Child Abuse or Severe Neglect Indexing Form

SOC 832, Notice of Child Abuse Central Index Listing Form

SOC 833 [Grievance Procedures](#) for Challenging Reference to the Child Abuse Central Index Form

SOC 834, Request for Grievance Hearing Form

LA Kids

[SOC 832](#), Notice of Child Abuse Central Index Listing Form

[SOC 833](#), Grievance Procedures for Challenging Reference to the Child Abuse Central Index Form

[SOC 834](#), Request for Grievance Hearing Form

Referenced Policy Guides

[0070-548.18](#), Child Abuse Central Index (CACI) Review Hearings

Statutes

[All County Letter \(ACL\) 17-85](#) -- Assessing and Investigating Referrals Involving Third Party Perpetrators of Child Abuse and [Neglect](#).

[Penal Code \(PEN\) Section 11165.1](#) – Defines "sexual abuse" as sexual assault or sexual exploitation.

[PEN Section 11165.2](#) – In part, provides definitions for "neglect" and "severe neglect."

[PEN Section 11165.6](#) – States, in part, that "child abuse or neglect" does not include a mutual affray between minors. States that "child abuse or neglect" also does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

[PEN Section 11165.12](#) – Provides, in part, definitions for an "Unfounded Report," a "Substantiated Report," and an "Inconclusive Report."

[PEN Section 11169\(a\)\(c\)\(g\)](#) – States, in part, that the child welfare agency shall forward to the Department of Justice a report in writing of every case it investigates of known or suspected child abuse or severe neglect which is determined to be substantiated. An agency shall not forward a report to the Department of Justice [Back to Top ^](#)

unless it has conducted an active investigation and determined that the report is not unfounded. If a report has previously been filed which subsequently proves to be unfounded, the Department of Justice shall be notified in writing of that fact and shall not retain the report. The reports required by this section shall be in a form approved by the Department of Justice and may be sent by fax or electronic transmission.

The agency must notify in writing the known or suspected child abuser that she or she has been reported to the CACI.

Any person listed in the CACI as of January 1, 2013, who was listed prior to reaching 18 years of age, and who is listed once in CACI with no subsequent listings, shall be removed from the CACI 10 years from the date of the incident resulting in the CACI listing.

PEN Section 11170 (3) & (b)(2) – States, in part “that only information from reports that are reported as substantiated shall be filed..., and all other determinations shall be removed from the central list. When a report is made..., the investigating agency, upon completion of the investigation or after there has been a final disposition in the matter, shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.”

California Code of Regulations 901(a) – Provides, in part, a definition for an “**Active Investigation**.” States that for purposes of reporting information to the Child Abuse Central Index, the activities shall include, at a minimum: assessing the nature and seriousness of the known or suspected abuse; conducting interviews of the victim(s) and any known suspect(s) and witness(es) when appropriate and/or available; gathering and preserving evidence; determining whether the incident is substantiated, inconclusive, or unfounded; and preparing a report that will be retained in the files of the investigating agency.

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Exhibit 3

GRIEVANCE PROCEDURES FOR CHALLENGING REFERENCE TO THE CHILD ABUSE CENTRAL INDEX

1. Within five (5) business days of submitting an individual's name to the Department of Justice (DOJ) for listing on the Child Abuse Central Index (CACI), the following forms shall be sent to the individual at his/her last known address:
 - a. The Notice of Child Abuse Central Index Listing (SOC 832),
 - b. Grievance Procedures for Challenging Reference to the Child Abuse Central Index (SOC 833), and
 - c. Request for Grievance Hearing (SOC 834).
2. An individual wishing to challenge his/her listing on the CACI may request a grievance hearing pursuant to the following procedure. This does not preclude the county from initiating an internal investigation to address or rectify the matter identified in the request for grievance, prior to the hearing.
 - a. The individual wishing to challenge his/her listing on the CACI shall send by U.S. mail, fax, or in person, a completed SOC 834 form or a written request for grievance hearing, signed by the complainant that includes the referral number, name of county, complete contact information, a reason for grievance which the individual believes provides a basis for reversal of the county decision, and if represented, the name and contact information for the representative.
 - b. The request must be received by the county within thirty (30) calendar days of the date of notice. Failure to send the completed SOC 834 form, or written request, within the prescribed timeframe shall constitute a waiver of the right to a grievance hearing.
 - c. An individual is deemed aware of the county decision when the county mails the notification to the individual's last known address or any other address known by the county where the notice and request for grievance are most likely to be received by the individual.
 - d. For individuals to whom no prior notification was mailed regarding his/her submission to the CACI, the individual shall file the completed SOC 834 form within thirty (30) calendar days of becoming aware that he/she is listed in the CACI and becoming aware of the grievance process.
 - e. When an individual requests, the county shall assist the individual in the completion of the SOC 834 form or written request for grievance hearing.
3. The following grievance hearing procedures shall only apply for challenges to county submission for listing individuals on the CACI.
 - a. A grievance hearing request shall be denied when a court of competent jurisdiction has determined that the suspected child abuse and/or severe neglect has occurred, or when the allegation of child abuse and/or severe neglect resulting in the referral to CACI is pending before the court.
 - b. If the information in 3 (a) no longer applies, a complainant (an individual wishing to challenge his/her listing on the CACI) can submit the completed SOC 834 form, or written request, within thirty (30) calendar days of the conclusion of the judicial matter to request a grievance hearing.
 - c. The grievance hearing shall be scheduled within ten (10) business days and held no later than sixty (60) calendar days from the date the request for grievance is received by the county, unless otherwise agreed to by the complainant and the county.
 - d. Notice of the date, time, and place of the grievance hearing shall be mailed by the county to the complainant at least thirty (30) calendar days before the grievance hearing is scheduled, unless otherwise agreed to by the complainant and the county.
 - e. The complainant may have an attorney or other representative present at the hearing to assist him/her.
 - f. Either party may request a continuance of the grievance hearing not to exceed ten (10) business days. Additional continuance or dismissal of the hearing shall be granted with mutual agreement of all parties involved or for good cause.
 - g. The county may resolve a grievance at any point by changing a finding of substantiated child abuse and/or severe neglect to inconclusive or unfounded and notifying the DOJ of the need to remove the complainant's name from the CACI.
4. The grievance review officer conducting the grievance hearing shall be:
 - a. A staff or other person not directly involved in the decision, or in the investigation of the action or finding, that is the subject of the grievance hearing.
 - b. Neither a co-worker nor a person directly in the chain of supervision of any of the persons involved in the finding, or in the investigation of the action or finding, that is the subject of the grievance hearing unless the grievance review officer is the director or chief deputy director of the county.
 - c. A staff or other person who is knowledgeable of the child welfare services field, capable of objectively reviewing case information pertaining to the grievance, able to conduct a fair and impartial hearing, and available to prepare the proposed decision.
5. The grievance review officer shall voluntarily disqualify him/herself and withdraw from any proceeding in which he/she cannot give a fair and impartial hearing or in which he/she has an interest.
 - a. A claimant may request at any time prior to the close of the record, that the grievance review officer be disqualified upon the grounds that a fair and impartial hearing cannot be held or a decision cannot be rendered. Such request shall be ruled upon by the grievance review officer prior to the close of the record.
 - b. If, at the beginning or during the hearing, the grievance review officer upholds a party's motion for disqualification, the matter shall be postponed.
6. If the grievance review officer who heard the case is unavailable to prepare the proposed decision, the county director or his/her designee shall contact the claimant and the county and notify each party that the case is being assigned to another grievance hearing officer for preparation of the decision on the record.
 - a. The notice shall inform the claimant that he/she may elect to have a new grievance hearing held in the matter, provided that he/she agrees to waive the ten (10) day or sixty (60) day period.
 - b. A grievance review officer shall be considered unavailable within the meaning of this section if he/she: is incapacitated; has ceased employment as a grievance review officer; or is disqualified under section 5, above.
7. The grievance review hearing shall, to the extent possible, be conducted in a non-adversarial environment.

**GRIEVANCE PROCEDURES FOR CHALLENGING
REFERENCE TO THE CHILD ABUSE CENTRAL INDEX**

8. The county, complainant, and his/her representatives, if any, shall be permitted to examine all records and relevant evidence that is not otherwise made confidential by law, which the opposing party intends to introduce at the grievance hearing.
 - a. The county and the complainant shall make available for inspection all records and evidence related to the original referral that prompted the CACI listing, except for information that is otherwise made confidential by law, at least ten (10) business days prior to the hearing.
 - b. The county shall redact such names and personal identifiers from the records and other evidence as required by law and to protect the identity, health, and safety of those mandated reporters of suspected child abuse and/or severe neglect pursuant to Penal Code section 11167. The county may further redact information regarding the mandated reporter's observations of the evidence indicating child abuse and/or severe neglect.
 - c. The county shall release disclosable information to the complainant's attorney or representative only if the complainant has provided the county with a signed consent to do so.
 - d. Witness lists shall be available for exchange in advance of the hearing. The county and the complainant shall provide a list of witnesses they intend to call at the grievance hearing at least ten (10) business days prior to the grievance hearing.
 - e. Failure to disclose evidence or witness lists in advance of the grievance hearing can constitute grounds for objecting to consideration of the evidence or allowing testimony of a witness during the hearing.
 - f. Each party and their attorney or representative, and witnesses while testifying, shall be the only persons authorized to be present during the grievance hearing unless all parties and the grievance review officer consent to the presence of other persons.
 - g. The information disclosed at the grievance hearing may not be used for any other purpose. No information presented at the grievance hearing shall be disclosed to any person other than those directly involved in the matter, unless otherwise required by law. Any records and other evidence disclosed by the county to the complainant or the complainant's representative shall be returned to the county at the conclusion of the hearing.
9. All testimony shall be given under oath or affirmation.
 - a. The grievance review officer has no subpoena power. However, the parties may call witnesses to the hearing and question the witnesses called by the other party. The grievance review officer may limit the questioning of the witness to protect the witness from unwarranted embarrassment, oppression, or harassment.
 - b. The grievance review officer may prevent the presence and/or examination of a child at the grievance hearing for good cause, including but not limited to, protecting the child from trauma or to protect his/her health, safety, and/or well-being.
 - c. The grievance review officer may permit the testimony and/or presence of a child only if the child's participation in the grievance hearing is voluntary and the child is capable of providing voluntary consent.
 - d. The grievance review officer may interview the child outside the presence of county staff, complainant, and/or any other party in order to determine whether the participation of the child is voluntary or whether good cause exists for preventing the child from being present or testifying at the grievance hearing.
 - e. The county employee(s) who conducted the investigation that is the subject of the grievance hearing shall be present at the hearing if that person is employed by the county and is available to participate in the grievance hearing. A conflict in work assignments shall not render the county employee who conducted the investigation unavailable to participate in the hearing.
 - f. The county shall first present its evidence supporting its action or findings that are the subject of the grievance. The complainant will then provide evidence supporting his/her claim that the county's decision should be withdrawn or changed. The county shall then be allowed to present rebuttal evidence in further support of its finding. Thereafter, the grievance review officer may, at his/her discretion, allow the parties to submit any additional evidence as may be warranted to fully evaluate the matter under review.
 - g. The grievance review officer shall have the authority to continue to review for a period not to exceed ten (10) calendar days if additional evidence or witnesses are necessary to make a determination on the issue.
10. The county shall have the proceedings of the grievance hearing audio recorded as part of the official administrative record. The county shall possess and maintain the administrative record of the grievance hearing.
 - a. The complainant or the complainant's attorney and/or representative shall be entitled to inspect the recording and any transcripts made thereof; however, the county shall keep possession of the recording and transcript and its contents will remain under seal.
 - b. Where the complainant seeks to inspect the transcript, the costs for transcribing a recording of the hearing shall be assessed to the complainant.
 - c. The county shall lodge the administrative record with the court if any party seeks judicial review of the final decision of the county director.
11. Grievance hearing decisions shall be rendered as follows:
 - a. The grievance review officer shall make a determination based upon the evidence presented at the grievance hearing, whether the allegation of child abuse and/or severe neglect is unfounded, inconclusive, or substantiated as defined by the Penal Code section 11165.12.
 - b. The grievance review officer shall render a written recommended decision within thirty (30) calendar days of the completion of the grievance hearing. The decision shall contain a summary statement of facts, the issues involved, findings, and the basis for the decision. The county director shall issue a final written decision adopting, rejecting, or modifying the recommended decision within ten (10) business days after the recommended decision is rendered. The final written decision shall explain why a recommended decision was rejected or modified by the county director.
 - c. A copy of the recommended and final decision shall be sent to the following:
 - i. The complainant that requested the grievance hearing;
 - ii. The complainant's attorney or representative, if any; and
 - iii. The California Department of Social Services.
 - d. If the complainant chooses to challenge the final decision of the county director, the evidence and information disclosed at the grievance hearing may be part of an administrative record for a writ of mandate and kept confidential.
 - e. The administrative record shall be kept confidential, including if any of the parties request that it be filed with the court under seal.
 - f. The grievance hearing administrative record shall be retained for a length of time consistent with current law, regulations, or judicial order which governs the retention of the underlying record, but not less than one year from the decision date in any circumstance, and shall include all records accepted as evidence at the hearing.

S267429

**IN THE
SUPREME COURT OF CALIFORNIA**

In re D.P.,
A Person Coming Under the Juvenile Court Law.

THE LOS ANGELES COUNTY DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

T.P.,

Defendant and Appellant.

(PROPOSED) ORDER

Plaintiff and Respondent's Motion to Augment the Record
and for Judicial Notice, filed on August 25, 2021, is hereby
granted.

IT IS SO ORDERED.

Dated: _____

STATE OF CALIFORNIA
Supreme Court of California

PROOF OF SERVICE

STATE OF CALIFORNIA
Supreme Court of California

Case Name: **IN RE**
D.P.

Case Number: **S267429**

Lower Court Case Number: **B301135**

1. At the time of service I was at least 18 years of age and not a party to this legal action.
2. My email address used to e-serve: **wthetford@counsel.lacounty.gov**
3. I served by email a copy of the following document(s) indicated below:

Title(s) of papers e-served:

Filing Type	Document Title
BRIEF	S267429_ABM_DCFS
REQUEST FOR JUDICIAL NOTICE	S267429_RJN_DCFS

Service Recipients:

Person Served	Email Address	Type	Date / Time
Landon Villavaso Law Office of Landon C. Villavaso 213753	landon@lvlaw.org	e-Serve	8/25/2021 2:41:14 PM
Lucrecia Villafan Children's Law Center, Unit 3 298957	appeals3@clcla.org	e-Serve	8/25/2021 2:41:14 PM
Megan Turkat-Schirn Court Added 169044	schirn@sbcglobal.net	e-Serve	8/25/2021 2:41:14 PM
Landon Villavaso Attorney at Law	office@lvlaw.info	e-Serve	8/25/2021 2:41:14 PM
William Thetford Office of the County Counsel 133022	wthetford@counsel.lacounty.gov	e-Serve	8/25/2021 2:41:14 PM
Honorable Craig S. Barnes	JuvJoAppeals@lacourt.org	e-Serve	8/25/2021 2:41:14 PM
Springsong Cooper	coopers@clcla.org	e-Serve	8/25/2021 2:41:14 PM
Petra Alexander	alexanderp@clcla.org	e-Serve	8/25/2021 2:41:14 PM
California Appellate Project	capdocs@lacap.com	e-Serve	8/25/2021 2:41:14 PM

This proof of service was automatically created, submitted and signed on my behalf through my agreements with TrueFiling and its contents are true to the best of my information, knowledge, and belief.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

8/25/2021

Date

/s/Arlene Meza

Signature

Thetford, William (133022)

Last Name, First Name (PNum)

Los Angeles County Counsel Appellate group

Law Firm