



CDSS

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REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

April 28, 2016

ALL COUNTY LETTER NO. 16-15

TO: ALL COUNTY WELFARE DIRECTORS
 ALL CHIEF PROBATION OFFICERS
 ALL FOSTER CARE MANAGERS
 ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
 TITLE IV-E AGREEMENT TRIBES
 ALL ADMINISTRATIVE LAW JUDGES

SUBJECT: YOUTH WHO ARE MISSING FROM FOSTER CARE

REFERENCE: PUBLIC LAW (PL) 113-183; 42 UNITED STATES CODE SECTION 5772;
 SENATE BILL (SB) 794; WELFARE AND INSTITUTIONS CODE (WIC)
 SECTIONS 16501.35, 16501.45 AND 16524.6; ALL COUNTY LETTER (ACL)
[15-49](#); ALL COUNTY INFORMATIONAL NOTICE (ACIN) [1-23-15](#); AND
 COUNTY FISCAL LETTER (CFL) [15/16-41](#).

The purpose of the ACL is to provide instructions regarding the policies and procedures counties are required to develop to locate and respond to youth, dependent or wards, who go missing from foster care.

Background

On September 29, 2014, the President of the United States signed into law the Preventing Sex Trafficking and Strengthening Families Act (PL 113-183) which amended a number of provisions in Titles IV-B and IV-E of the Social Security Act, which authorizes federal foster care programs. Among the many provisions designed to increase the oversight by the child welfare or probation agency of youth receiving child welfare services, as these youth are often the most vulnerable to sexual trafficking and exploitation. The PL 113-183 adds the following:

- Requires the title IV-E agency to demonstrate it has:
 - a) Developed and implemented protocols (i.e. policies and procedures) to locate **any child/Non-Minor Dependent (NMD) who has gone missing from foster care.**
 - b) Specifically, the protocols must include provisions to:
 - I. Locate any child/NMD missing from foster care;

- II. Determine the factors that lead to the child/NMD being absent from foster care and to the extent possible, address those factors in subsequent placements; and
- III. Determine the child's/NMD's experiences while absent from care, including whether the child/NMD is a sex trafficking victim. For any child for who the agency has determined is at risk of or has been a victim of sex trafficking, provide appropriate services.

Consistent with the provisions of PL 113-183 and in consultation with stakeholders, California created statewide standards to locate youth missing from foster care via SB 794 (Chapter 425, Statutes of 2015). Specifically, SB 794 added sections 16501.35 and 16501.45 to WIC. The WIC section 16501.35 addresses the protocols and requires counties to develop and implement policies and procedures to expeditiously locate any child missing from care. The WIC section 16501.45 addresses data collection requirements and will be discussed later in this letter. Effective January 1, 2016, these statutory changes were made to ensure compliance with federal law, as stated above.

Definitions and Scope of Concern

A child or youth missing from foster care is any individual whose whereabouts are unknown to the child welfare agency or probation department. That is, after allowing a reasonable amount of time for the child/youth to return and taking into account the child's age, intelligence, mental functioning, and physical condition, the caregiver, Social Worker (SW) or Probation Officer (PO) simply do not know the child's/NMD's location. Missing children/NMDs may have been abducted by a non-family member, wrongfully taken or detained by a person related to them, wandered away from a safe environment and become lost, run away from a home, foster home, or state care facility, or are otherwise missing from care for any reason. Most youth who run away from care are truly missing. However, there may be instances in which a youth runs away, often an older youth, but his/her whereabouts are known to the SW/PO (e.g. left the approved placement and is with a friend or family member and refuses to return to his/her placement). As the youth has absented himself/herself from care, this youth is to be considered missing from foster care.

PROTOCOL DEVELOPMENT AND REQUIREMENTS

I. Protocol Development

All counties likely have existing policies and protocols related to youth who are missing, have run away, or are otherwise absent from care. Some current policies may differ in reporting requirements by case service component (e.g. Family Maintenance vs. Family Reunification (FR)) or placement type (Non-Related Extended Family Member (NERFM) vs. group home) or counties may have one policy regardless of the case service component or placement type. When developing protocols to comply with the new requirements outlined in this ACL, counties should take into account existing policies, as they may serve as a starting point, but may need to be updated to include new federal requirements codified by SB 794.

The California Department of Social Services (CDSS) encourages counties to include key, child-serving agencies in the development of their policies and procedures required by WIC section 16501.35 and this ACL. The CDSS along with the Federal Administration for Children and Families (ACF) encourages probation and child welfare departments to consult and include runaway and homeless youth providers in the development and subsequent implementation of these protocols, as these providers are uniquely positioned to understand these children's needs and identify effective strategies to engage them (see [ACYF-CB/FYSB-IM-14-1](#)).

Currently, some California counties have dedicated units or dedicated liaisons focused on locating, placing and stabilizing youth through developing rapport and offering alternative service plans for runaway youth. The specialized liaisons can work collaboratively with the case-carrying SW/PO or independently as case-carrying SW/PO to provide more intensive case management interventions in locating and stabilizing this high risk population. A specialized unit/ liaison is designed to provide a more expedient, trained, front line response to youth demonstrating at-risk behavior while allowing these youth to also develop and participate in their own case planning processes while transitioning back into care. In counties with specialized units, these units often have smaller caseloads to provide intensive case management services. In developing protocols, counties should consider the feasibility of implementing dedicated units or dedicated liaisons in the county.

In 2014, SB 855 (Chapter 29, Statutes of 2014) amended the WIC (commencing with section 16524.6) to establish an optional state-funded county Commercially Sexually Exploited Children (CSEC) Program to be administered by CDSS that counties may opt to participate. The CSEC Program was created to effectively serve identified and at-risk CSEC through a coordinated, interagency approach to case management, service planning, and provision of services. To date, 22 counties have Interagency CSEC Protocols for responding to children whom are suspected or confirmed victims of sex trafficking. The law requires that a county opting into the CSEC Program form a Multidisciplinary Team (MDT) to coordinate case management, case planning, and services for CSEC. Members of the MDT work together to complete various activities including reconvening should a triggering event (e.g. running away) occur. Additionally, PL 113-183 requires the development and implementation of policies and procedures for identifying, documenting, and determining appropriate services for children/youth the child welfare or probation departments believe to be the victim of, or is at risk of being the victim of, commercial sexual exploitation. The [ACL 16-08](#) provides information on the required policies and procedures. Counties should take into account the areas of overlap between these two protocols when complying with the new requirements laid-out herein. For more information on the CSEC Interagency Protocol framework, see [ACIN I-23-15](#). General Fund allocation for the federally mandated activities as mandated by PL 113-183 as well as time study and claiming instructions can be found in [CFL 15/16-41](#).

II. Protocol Requirements

The SB 794 requires counties to develop and implement protocols used by county child welfare or probation staff to expeditiously locate any child or NMD missing from care. Protocols must include, but are not limited to, the timeframe for reporting the youth missing,

the individuals or entities entitled to notification that the youth is missing, any required initial and ongoing efforts to locate the youth, and the plan to return the youth to placement. These elements constitute the statewide minimum standards necessary to comply with federal law; counties may add additional local requirements to their protocols in order to suit their local needs.

A. Reporting and Noticing Requirements for a Missing Child

When the caregiver or SW/PO first learns that a child has runaway or is otherwise missing from care, the child should be immediately reported missing to the local law enforcement agency. Policies should clearly identify the reporting responsibilities of both the caregiver and social worker/probation officer (i.e. does the caretaker report the child missing to child welfare services/probation, law enforcement, and when required Community Care Licensing and the SW/PO confirms the reports are made, or does the reporting requirement that of the SW/PO, etc.).

Policies should also address other parties entitled to noticing:

- The youth's parents, attorney, tribal representative, court appointed special advocate (CASA), etc.
- The Court via a request for a protective custody (PC) warrant or bench warrant.
- Foster care eligibility staff regarding the placement change.

Some parties like the child's parents, attorney, and tribal representative should be notified immediately of their missing status. The PC warrant or bench warrant should be filed no later than one business day, upon learning the child was missing from care.

County protocols must include policies that ensure the timely reporting of missing youth to law enforcement. Protocol language that requires the reporting of the missing dependent to be "immediate" or "within two hours" is consistent with "expeditious location".

It is important to note that a separate provision of SB 794 requires counties to immediately or in no case later than 24 hours from receipt of the information, report missing youth to law enforcement. Specifically, when a child or youth who is receiving child welfare services **and** who is reasonably believed to be the victim of, or is at risk of being the victim of, commercial sexual exploitation, as defined in WIC section 11165.1, is missing or has been abducted, the county probation or welfare department *shall immediately, or in no case later than 24-hours from receipt of the information*, report the incident to the appropriate law enforcement authority, who will enter the information into the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation (FBI) and report to the National Center for Missing and Exploited Children (NCMEC). A forthcoming ACL will cover the additional SB 794 cross-reporting requirement mandated in Penal Code section 11166(j-k).

B. Reporting and Noticing Requirements for Missing NMDs

When the caregiver, provider, or SW/PO learns the NMD is in fact missing from care a Missing Person's Report should immediately be filed with the local law enforcement agency. Due to the adult status of the NMD, a PC warrant is not filed on the NMD's behalf. Note that the law assumes that the NMD has been reasonably determined to be in fact missing from care in order for the reporting and noticing requirements to apply. That is, there must be competency issues or a reasonable suspicion the NMD is a victim of harm or foul play.

Policies should also address other parties entitled to noticing:

- The NMD's parents (if receiving FR services), attorney, tribal representative, CASA, the court, etc.
- Foster care eligibility staff regarding the placement change.

Some parties like the NMD's parents (if in FR), attorney, and tribal representative should be notified immediately of their missing status. The court should be notified in a manner consistent with local county practice for NMDs.

The court may elect to terminate dependency for a NMD, if the case manager has documented the efforts to locate the NMD and, at the WIC section 391 hearing, the court finds that reasonable efforts were made to locate the NMD and inform the NMD of his or her options under extended foster care. When terminating dependency, the court maintains general jurisdiction so that the young adult would be eligible to re-enter foster care at a later date, if still under age 21. As mentioned above, if it is suspected the NMD is a victim of harm or foul play (e.g. abducted or held against their will) and not voluntarily absent from care, the SW/PO should confirm that a missing person's report is on file in the Department of Justice (DOJ) Missing and Unidentified Persons System before the dependency is terminated.

C. Provide Due Diligent Searches

In accordance with CDSS, Manual of Policy and Procedures, Division 31-320, the assigned SW/PO, as information is provided but no less frequent than on a monthly basis, must attempt to locate a dependent/ward whose whereabouts are unknown and document location efforts in the Child Welfare Services/Case Management Services (CWS/CMS) in the Contact Notebook. Location efforts should also be documented in each status review report filed during an absence. These efforts to locate a missing child should include, yet not be limited to:

1. Determining the child's whereabouts by contacting significant persons in the child's life (e.g. parents, siblings, relatives, child's best friends, former caregivers, former and current schools and service providers, if applicable);
2. Requesting caregiver and/or parent make inquiries to the above individuals and report back information obtained;
3. Physically checking all the places where the youth is likely to be;
4. Following up on leads received regarding the child's whereabouts;

5. Conducting visits to relevant addresses, or request law enforcement agency conduct a welfare check;
6. When available, consultation with or referral to internal Runaway/Missing Children Liaisons;
7. Searching social media websites (if authorized); and
8. Search of public locator databases {e.g. California Missing Child Clearinghouse, National Center for Missing and Exploited Children, etc.}

When the SW/PO learns the child/NMD has been located, it is the responsibility of the child welfare or probation agency to arrange for the immediate return of the child/youth to care.

To meet the requirements to assess the circumstances of the child when returned, the SW/PO must:

- I. Determine the primary factors that contributed to the child or NMD running away or otherwise being absent from care;
- II. To the extent possible, respond to factors identified for subsequent placements; and
- III. Determine the child's or NMD's experiences while absent from care, including whether the child/NMD is a possible victim of commercial sexual exploitation (CSE).

When a dependent child or NMD returns to the care of the child welfare agency or probation department, the assigned SW/PO, or designee, should meet with the youth as soon as possible to determine the primary factors that contributed to the child/NMD running away/being absent from care. Best practice is to conduct an in-person interview. The interview should occur as soon as possible and no later than three business days after return to care and in a location that is comfortable for the youth and where there is sufficient privacy. Open ended questions should be asked to allow the youth to include more information, attitudes, and true feelings.

The SW/PO shall:

- Assess the immediate needs of the child/NMD.
 - Offer medical care for injuries, illness, or harm experienced while absent from placement (e.g. refer the case to the public health nurse for consultation to rule out injuries, illness, pregnancy, sexual transmitted infections, effects of substance use, etc.).
 - Evaluate need for mental health services, foster youth services, or law enforcement assistance due to victimization/exploitation, exposure to or participation in criminal activity, missing school credits, etc.
- Determine reasons for the youth running away and, when possible, address the identified reasons in subsequent placements.

- Learn of behaviors and activities while missing from foster care, including whether the child or NMD is a possible victim of CSE and where and with whom he or she may have stayed.
- Unless otherwise required by law, the information disclosed by the child/youth should not be used to implicate them in a criminal charge or for any purpose other than tailoring services for the child/youth and to meet reporting requirements. Assess placement and service needs.
 - Determine the need for Team Decision Making meeting or Child and Family Team meeting.
 - With the youth's agreement and in an effort to provide continuity in placement, contact the previous caregiver and determine if there is willingness to have the child/youth returned to his/her home and if it is suitable and safe for the child/youth to do so.
 - If the youth cannot return to his or her previous placement, team with the youth to explore the possibility of placing him or her with a suitable relative, NREFM, licensed foster family home, or other licensed facility that would best meet the youth's needs.
- Explore alternative options to running away from foster care placement, including developing a safety plan, support resources and/or prevention plan.

Note: If it is determined the youth was a victim of or was at risk of being, CSE during his/her absence from care, [ACL 15-49](#) provides instruction on how to properly document within CWS/CMS including when and how to use the existing "Exploitation" abuse category and the new statewide Special Project Codes to capture this information.

Data Collection and Reporting

The PL 113-183 requires states to submit information on children who run away from foster care and their risk of becoming sex trafficking victims. Information to be submitted will include, but not limited to: characteristics of children who runaway, potential factors associated with children running away from care, children's experience while absent from care, and trends in the number of children reported as runaway each fiscal year. The CDSS anticipates further guidance from ACF as to the specifics of reporting requirements for PL 113-183. Upon receipt of said guidance from and pursuant to WIC section 16501.45, the CDSS will request additional information or data necessary to comply with federal reporting requirements.

RESOURCES

National Center for Missing and Exploited Children (NCMEC)

The NCMEC, the leading non-profit organization in the United States providing assistance to law enforcement, social service agencies, and families to find missing children, reduce CSE and prevent child victimization. The NCMEC intakes reports about missing children, younger than 18 years of age, who have run away from a parent, guardian or state care facility. Case management teams within the Critical and Runaway Unit provide technical assistance to law

enforcement and support the runaway's family. Case management teams also partner with law enforcement agencies to help locate runaway children believed to be victimized through child sex trafficking. The case management team will coordinate the creation and dissemination of posters to help generate leads. Information about your child must be entered in the FBI's NCIC so a poster can be created. The case management team will assist in forwarding leads called into NCMEC to the investigating law enforcement agency.

Agencies can report a missing child online or to find additional information at <http://cmfc.missingkids.org/Home>.

The California Missing Children's Clearinghouse (MCCH)

The MCCH maintains a toll-free telephone hotline (1-800-222-FIND) 24-hours-a-day, seven-days-a-week to receive information and inquiries regarding missing children. It relays this information to the appropriate law enforcement agencies. The California MCCH may also be reached at (916) 227-3290 or by email at missing.persons@doj.ca.gov.

The MCCH works closely with the NCMEC to aid in locating children who have been abducted and taken out of California or brought into California. The MCCH publishes and distributes a monthly poster and quarterly bulletin featuring missing children and dependent adults throughout California. The posters and bulletins are distributed to all California police and sheriff's departments, California Highway Patrol offices, district attorneys' offices, public primary and secondary schools, private primary schools, hospitals, state agencies, road side rest stops, other missing children clearinghouses nationwide and other parties determined appropriate by the Department of Justice (DOJ).

Additional Information

There will be a forthcoming ACIN to be issued in 2016, providing additional information and further guidance for counties with regard to developing and implementing these required policies and procedures, including promising practices and tools to engage youth.

If you have any questions or need additional guidance regarding the information in this letter, contact the Child and Youth Permanency Branch at (916) 651-7464 or at concurrentplanningpolicy@dss.ca.gov.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

cc: County Welfare Directors Association
Chief Probation Officers of California
Judicial Council of California