

## **Appendix C**

### **Current Legal and Policy Requirements Regarding Information on Child Maltreatment Perpetrators**

**Study of the Feasibility of a National Registry of Child Maltreatment Perpetrators**

**CURRENT LEGAL AND POLICY REQUIREMENTS REGARDING  
INFORMATION ON CHILD MALTREATMENT PERPETRATORS**

This questionnaire focuses on the legal and/or written policy requirements regarding maintaining and sharing information on child maltreatment perpetrators and due process protections for such persons.

This study collects data about and from repositories of data on perpetrators of child abuse and neglect. In general, the term “data repository” applies only to the source or sources which are currently used by your State to respond to requests from other in-state or out-of-state agencies about persons who have been found to be responsible for child abuse and neglect. Some States may have more than one repository. Criminal databases are not included. If your State has more than one data repository for perpetrators of child abuse and neglect, a separate questionnaire should be completed for each repository.

In-state or out-of-state requests may come from agencies investigating child abuse and neglect or considering hiring a person. The term perpetrator is used to indicate any person whom the child protective services agency has found to be responsible for child abuse and neglect. The person need not have been charged with either a civil or criminal offense.

Please complete the following information before beginning the survey.

Name of data repository: \_\_\_\_\_

Agency/department primarily responsible for the content of the repository: \_\_\_\_\_

Agency/department primarily responsible for maintaining the repository: \_\_\_\_\_

According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0990-XXXX. The time required to complete this information collection is estimated to average 2 hours per response, including the time to review instructions, search existing data resources, gather the data needed and complete and review the information collection. If you have comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Health & Human Services, OS/OCIO/PRA, 200 Independence Ave., S.W., Suite 336-E, Washington, D.C. 20201 Attention: PRA Reports Clearance Officer.

**A. BACKGROUND**

1. Does State law or written policy define and describe the data repository?
  - a. Yes  
Please insert text and provide statutory citation(s), policy, or web link to law or policy: \_\_\_\_\_
  - b. No
  
2. Does State law or written policy include a definition of a perpetrator of child abuse and neglect?
  - a. Yes  
Please insert text and provide statutory citation(s), policy, or web link to law or policy: \_\_\_\_\_
  - b. No
  
3. What is the terminology used in your State in making findings regarding allegations of child abuse and neglect? (check all that apply)
  - a. Substantiated or founded
  - b. Indicated or reason to suspect
  - c. Unsubstantiated or unfounded
  - d. Intentionally false allegation
  - e. Closed without a finding
  - f. Assigned to alternative response, no finding
  - g. Other:  
Please list: \_\_\_\_\_
  
4. What is the standard of proof required by State law or written policy in order to make a finding that a person is a perpetrator of child abuse and neglect?
  - a. Clear and convincing
  - b. Preponderance
  - c. Probable cause
  - d. Some credible evidence
  - e. Reasonable cause
  - f. Material evidence
  - g. Other:  
Please specify: \_\_\_\_\_
  - h. Not specified in law or written policy

5. Does State law or written policy specify the classes of people who can be determined to be a perpetrator of child abuse and neglect?
  - a. Yes
  - b. No (Skip to Q7)
  - c. Don't know (Skip to Q 7)
  
6. According to State law or written policy, which classes of people can be determined to be perpetrators of abuse and neglect? (check all that apply)
  - a. Parents
  - b. Unmarried partners of parents
  - c. Other relatives in caregiving roles
  - d. Legal guardians
  - e. Minor children in the home
  - f. Foster parents
  - g. Residential facility/group home staff
  - h. Child care providers
  - i. Educational staff/teachers
  - j. Other professionals:  
Please list: \_\_\_\_\_
  - k. Neighbors or friends
  - l. Other:  
Please list: \_\_\_\_\_
  - m. Not defined in law or written policy
  
7. Does State law or written policy specify which classes of persons, once found to be perpetrators of child abuse and neglect, can be designated as such in the data repository?
  - a. Yes
  - b. No (Skip to Q9)
  - c. Don't know (Skip to Q9)

8. According to State law or written policy, which classes of persons, once found to be perpetrators of child abuse and neglect, are designated as such in the data repository? (check all that apply)
- a. Parents
  - b. Unmarried partners of parents
  - c. Other relatives in caregiving roles
  - d. Legal guardians
  - e. Minor children in the home
  - f. Foster parents
  - g. Residential facility/group home staff
  - h. Child care providers
  - i. Educational staff/teachers
  - j. Other professionals:  
Please list: \_\_\_\_\_
  - k. Neighbors or friends
  - l. Other:  
Please list: \_\_\_\_\_
  - m. Not defined in law or written policy

**B. DUE PROCESS CONSIDERATIONS—NOTICE OF INVESTIGATION FINDING**

9. Does State law or written policy require that all individuals determined to be perpetrators of child abuse and neglect be notified of the finding?
- a. Yes
  - b. Only some are notified  
Please explain: \_\_\_\_\_
  - c. No (Skip to Q12)
10. How are they notified?
- a. By phone
  - b. By regular mail
  - c. By certified mail
  - d. In-person by a child welfare representative with written notice
  - e. In-person by a child welfare representative without written notice
  - f. Other:  
Please specify: \_\_\_\_\_

11. What information is contained in the notice? (check all that apply)
- a. The fact that the agency has made a determination that the person was found to be a perpetrator of child abuse and neglect
  - b. An explanation regarding any right to challenge the finding that the person is a perpetrator of child abuse and neglect
  - c. The specific type of child abuse and neglect that the perpetrator has committed
  - d. The name(s) of the victim(s)
  - e. The consequences of being determined to be a perpetrator of child abuse and neglect
  - f. The fact that the person will be designated a child maltreatment perpetrator on the data repository
  - g. The consequences of being designated a perpetrator of child abuse and neglect in the data repository
  - h. The right to challenge being designated a child maltreatment perpetrator on the data repository
  - i. The right to challenge being determined to be a perpetrator of child abuse and neglect
  - j. The timeframes for any challenges that can be made
  - k. Other:  
Please list: \_\_\_\_\_

**C. DUE PROCESS CONSIDERATIONS—CHALLENGE OF THE INVESTIGATION FINDING**

12. If a person challenges the finding that he/she is a perpetrator of child abuse and neglect, what is the first level of review?
- a. Review of written documentation by one or more individuals at the agency at a higher level than the caseworker or supervisor
  - b. Review of written documentation by an administrative body within the agency
  - c. In person hearing before an administrative body within the agency
  - d. In person hearing before an administrative body outside of the agency
  - e. In person hearing before a judicial body or a judge or magistrate
  - f. Other:  
Please specify: \_\_\_\_\_
13. Does State law or written policy specify whether the person can be designated a child maltreatment perpetrator in the data repository while the first level of review is being conducted?
- a. Yes, the person can be designated
  - b. No, the person cannot be designated
  - c. No, the State law or written policy does not specify

14. What standard of proof is required at the first level of review of the challenge to being found a perpetrator of child abuse and neglect?

- a. Clear and convincing
- b. Preponderance of the evidence
- c. Probable cause
- d. Some credible evidence
- e. Reasonable cause
- f. Material evidence
- g. Other:

Please specify: \_\_\_\_\_

15. Is there a process to appeal the decision made in the first level of review?

- a. Yes
- b. No (Skip to Q 18)

16. If a person challenges the decision of the first level of review, what second level of review is provided?

- a. In-person hearing before an administrative body within the agency
- b. In-person hearing before an administrative body outside the agency
- c. In-person hearing before a judicial body or judge or magistrate
- d. Other:

Please specify: \_\_\_\_\_

17. What standard of proof is required at the second level of review?

- a. Clear and convincing
- b. Preponderance of the evidence
- c. Probable cause
- d. Some credible evidence
- e. Reasonable cause
- f. Material evidence
- g. Other

Please specify: \_\_\_\_\_

18. Does the State law or written policy specify the length of time to complete a first level review?

- a. Yes:  
Please specify: \_\_\_\_\_
- b. No

19. If response to Question 18 is yes, how many cases currently exceed this time frame?
- a. Please estimate number of cases: \_\_\_\_\_
  - b. None
  - c. The agency does not track or collect this information
  - d. Don't know / Not applicable

**D. DUE PROCESS CONSIDERATIONS—NOTICE OF THE DESIGNATION AS A CHILD MALTREATMENT PERPETRATOR IN THE DATA REPOSITORY**

20. Does State law or written policy require that all individuals determined to be perpetrators of child abuse and neglect be notified that they are being designated as a child maltreatment perpetrator in the data repository?
- a. Yes
  - b. Only some are  
Please explain: \_\_\_\_\_
  - c. No
21. Does State law or written policy specify when the person can be designated a child maltreatment perpetrator in the data repository?
- a. Yes  
Please explain: \_\_\_\_\_
  - b. No
22. Is the notice regarding being designated a child maltreatment perpetrator in the data repository included in the notice about being determined a perpetrator of child abuse and neglect (see Part B)?
- a. Yes (Skip to Q 25)
  - b. No, the notice is provided separately
  - c. No, no notice is sent (skip to Q 25)
23. How is the person notified?
- a. By phone
  - b. By regular mail
  - c. By certified mail
  - d. In person by a child welfare representative with written notice
  - e. In person by a child welfare representative without written notice
  - f. Other:  
Please specify: \_\_\_\_\_



24. What information is contained in the separate notice of the fact that they will be designated a child maltreatment perpetrator on the data repository? (check all that apply)
- a. The fact that the agency has made a determination that the person was found to be a perpetrator of child abuse and neglect
  - b. An explanation regarding any right to challenge the finding that the person is a perpetrator of child abuse and neglect
  - c. The specific type of child abuse and neglect that the perpetrator is responsible for having committed
  - d. The name(s) of the victim(s)
  - e. The consequences of being determined to be a perpetrator of abuse and neglect
  - f. The consequences of being designated a perpetrator on the data repository
  - g. An explanation regarding any right to challenge being designated a child maltreatment perpetrator on the data repository
  - h. The timeframes for any challenges that can be made
  - i. Other:  
Please specify: \_\_\_\_\_

**E. DUE PROCESS CONSIDERATIONS—CHALLENGES TO BEING DESIGNATED A CHILD MALTREATMENT PERPETRATOR IN THE DATA REPOSITORY**

25. What is the first level of review for a challenge to being designated a child maltreatment perpetrator in the data repository?
- a. Review of written documentation by one or more individuals within the agency at a higher level than the caseworker or supervisor
  - b. Review of written documentation by an administrative body within the agency
  - c. In-person hearing before an administrative body within the agency
  - d. In-person hearing before an administrative body outside of the agency
  - e. In-person hearing before a judicial body or a judge or magistrate
  - f. Other:  
Please specify: \_\_\_\_\_
26. Does state law or written policy specify whether the person can be designated a child maltreatment perpetrator in the data repository while the first level of review of this challenge is being conducted?
- a. Yes, the person can be designated
  - b. No, the person cannot be designated
  - c. No, the State law or written policy does not specify

27. What standard of proof is required at the first level of challenge to being designated a child maltreatment perpetrator in the data repository?
- a. Clear and convincing
  - b. Preponderance of the evidence
  - c. Probable cause
  - d. Some credible evidence
  - e. Reasonable cause
  - f. Material evidence
  - g. Other:  
Please specify: \_\_\_\_\_
28. Is there a process for appealing the decision made in the first level of review of the challenge to being designated a child maltreatment perpetrator in the data repository?
- a. Yes
  - b. No (Skip to Q 31)
29. If a person challenges the decision of the first level of review, what level of review is provided?
- a. In-person hearing before an administrative body within the agency
  - b. In-person hearing before an administrative body outside the agency
  - c. In-person hearing before a judicial body, judge, or magistrate
  - d. Other  
Please specify: \_\_\_\_\_
30. What standard of proof is required at the second level of review?
- a. Clear and convincing
  - b. Preponderance of the evidence
  - c. Probable cause
  - d. Some credible evidence
  - e. Reasonable cause
  - f. Material evidence
  - g. Other:  
Please specify: \_\_\_\_\_
31. Does State law or written policy specify the time within which the first level of review must be completed?
- a. Yes
  - b. No
32. If the response to the question above is yes, how many cases currently exceed this timeframe?
- a. Please estimate the number of cases: \_\_\_\_\_
  - b. None
  - c. The agency does not track or collect the information

d. Not applicable

33. What is the average length of delay in responding to these cases?

**F. EXPUNGEMENT—REMOVING INFORMATION FROM THE DATA REPOSITORY**

34. Does State law or written policy specify the conditions under which the designation of the person as a perpetrator of child maltreatment may be expunged from the data repository?

- a. Yes
- b. No (Skip to Q 36)

35. Which conditions for expungement are specified in State law or written policy? (check all that apply)

- a. Successful challenge to being determined to be a perpetrator of child maltreatment
- b. Successful challenge to being designated as a perpetrator of child maltreatment in the data reports
- c. Passage of a certain amount of time since the person was determined to be a perpetrator of abuse and neglect  
Indicate number of years: \_\_\_\_\_
- d. All children involved in the abuse and neglect incident reach a certain age  
Indicate age: \_\_\_\_\_
- e. All children in the home are 18 years of age or older
- f. Perpetrator of child abuse and neglect was acquitted of criminal charges related to the abuse and neglect
- g. Death of the perpetrator
- h. Other:  
Please specify: \_\_\_\_\_

**G. ACCESS TO CHILD MALTREATMENT PERPETRATOR INFORMATION IN THE DATA REPOSITORY BY OUT-OF-STATE ENTITIES**

36. According to State law or written policy, which out-of-state entities can receive information about child maltreatment perpetrators in the data repository? (check all that apply)
- a. Public child welfare agencies
  - b. Employers of school personnel
  - c. Employers of child care personnel
  - d. Employers of personnel working with children (not child care for education)
  - e. Police or law enforcement
  - f. Citizen review boards
  - g. State law or policy does not specify
  - h. Other:  
Please specify: \_\_\_\_\_

37. According to State law or written policy, for what purposes can information on child maltreatment perpetrators be released from the data repository? (check all that apply)
- a. As part of an abuse and neglect investigation
  - b. As part of a criminal investigation
  - c. As part of a background check to become a foster or adoptive parent
  - d. As part of a background check for employment or licensing in child care, residential care, or other direct child services
  - e. State law or policy does not specify
  - f. Other:  
Please specify: \_\_\_\_\_

**H. OTHER LEGAL AND POLICY ISSUES**

38. Are there any pending legislative or policy changes regarding the definition of a perpetrator of child abuse and neglect?
- a. Yes  
Please explain: \_\_\_\_\_
  - b. No
  - c. Don't know

39. Are there any pending legislative or policy changes regarding designating a person as a perpetrator of child maltreatment in this data repository and maintaining such information?

a. Yes

Please explain: \_\_\_\_\_

b. No

c. Don't know

**I. FUTURE NATIONAL REGISTRY OF CHILD MALTREATMENT PERPETRATORS**

There is discussion of creating a National Registry of Child Maltreatment Perpetrators. It is anticipated that if such a registry were created, States would provide only limited information on child maltreatment perpetrators. The data under discussion currently include only the name and State of the person. Please consider the following questions with regard to using such a registry.

40. Would State law or written policy prohibit your State from providing information to a National Registry of Child Maltreatment Perpetrators from the data repository?

a. Yes

Please explain: \_\_\_\_\_

b. Maybe

Please explain: \_\_\_\_\_

c. No, under State law we would use another data repository to provide information

Please explain: \_\_\_\_\_

d. No, under State law we could not provide any data from any source

41. Would State law or written policy prohibit your State from obtaining information from a National Registry of Child Maltreatment Perpetrators?

a. Yes

Please explain: \_\_\_\_\_

b. Maybe

Please explain: \_\_\_\_\_

c. No

Please explain: \_\_\_\_\_

42. Are there any additional barriers to participating in a future National Registry of Child Maltreatment Perpetrators?

43. What might be the benefits to participating in a future National Registry of Child Maltreatment Perpetrators?
  
44. Would the potential benefits of participating in a National Registry of Child Maltreatment Perpetrators outweigh the potential problems?
  - a. Yes
  - b. No
  - c. Don't know
  
45. Please provide any additional feedback regarding the establishment of a National Registry of Child Maltreatment Perpetrators.