

# Child Safety Alert

From Executive Deputy Commissioner Zeinab Chahine

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March 30, 2006

## Finding the Best Placements for Our Youth

During the course of a CPS investigation, parents/caretakers may make arrangements with family members or friends to provide a temporary, short-term safe home for the children. These informal arrangements must not be considered long-term or permanent solutions to address the safety or risk to the children.

A relative or family friend's willingness to file for custody of a child who is the subject of a child protective investigation should not be the determining factor for CPS or FCLS when they are deciding whether to file an abuse or neglect petition in Family Court. If CPS learns during a child protective investigation that family members or friends have already stepped in or are willing to step in to care for the children, CPS should consider whether the relative or friend may be an appropriate kinship foster parent.

**Encouraging family members or friends to file a custody petition instead of filing a neglect petition is an appropriate option for CPS staff to recommend only in exceptional circumstances.** Custody should not be recommended when the family member or friend would not qualify as a foster parent due to a child abuse, neglect or criminal history. Exceptional circumstances may exist if all of the following conditions are present: (i) there are no child protective concerns regarding the relatives or friends who are seeking custody; (ii) it is determined after review with an FCLS consulting attorney that there is no basis to file an abuse or neglect petition against the parent or caretaker; and (iii) the parents and relatives or friends agree to the custody arrangement. Exceptional circumstances may also exist if the abuse and neglect allegations are unfounded against the parents. In these circumstances, the relatives' or friends' service needs must always be identified and addressed.

**CPS staff may not recommend that a relative or family friend file for custody during the course of a child protective investigation without obtaining the expressed approval of their Child Protective Manager.** Prior to granting such approval, the CPM will ensure that the CPS and their Supervisor II reviewed the decision to make the custody recommendation with an FCLS consulting attorney.

While relatives and family friends may intend to protect the child(ren) in their temporary care, CPS must consider in each case whether the children have been neglected or abused by their parent(s), who are legally required to care for them safely. If either parent/caretaker has demonstrated an inability to care for their child(ren) safely, it is Children's Services' obligation to determine whether the child(ren)'s parent(s)/caretaker(s) could benefit from the provision of services and whether Family Court intervention is necessary.

Unless the underlying neglect or abuse is addressed, child(ren) may remain at risk while in the custody of a relative or family friend. Children's Services must take all available steps to eliminate this risk to children. Parents may demand that a relative or family friend return their child(ren), and

the relative or friend may feel that they have to return the child even though they have a court order that gives them legal custody. A relative or family friend may become unable or unwilling to continue caring for the child(ren). In either case, children may be returned to their parents without the parents having received necessary services because Children's Services failed to pursue a neglect or abuse case. It is critical to the safety of the children that this be avoided. Once ACS files a neglect or abuse case, the Family Court retains the option to release the children to their parents with ACS supervision or to release the children to the custody of a relative or family friend with ACS supervision.

Staff should consult with their supervisor and manager when considering whether to recommend that a relative or family friend file for custody of a child during a child protective investigation. Thank you for your cooperation.

