

Department of Children and Families
Annual Report to the Legislature
False Reports of Child Abuse, Neglect or Abandonment
Referred to Law Enforcement
FY 2005-2006
March 2007

I. Statutory References:

S. 39.205(4), F.S. : The department shall establish procedures for determining whether a false report of child abuse, abandonment, or neglect has been made and for submitting all identifying information relating to such report to the appropriate law enforcement agency and shall report annually the number of reports referred.

S. 39.01(28), F.S. : “False report” means a report of abuse, neglect, or abandonment of a child to the central abuse hotline, which is **maliciously** (*emphasis added*) made for the purpose of:

- (a) Harassing, embarrassing, or harming another person;
- (b) Personal financial gain for the reporting person;
- (c) Acquiring custody of a child; or
- (d) Personal benefit for the reporting person in any other private disputes involving the child

The term “false report” does not include a report of abuse, neglect or abandonment of a child made in good faith to the central abuse hotline.

II. Background:

Approximately 31 states have penalties in law for false reporting. Generally the standards are “knowingly and willfully”. Some of the states have misdemeanor penalties or simple fines. Florida is one of nine states with a felony penalty as well as civil liability and administrative fines.

Florida law provides three avenues for an individual alleged to have perpetrated abuse or neglect to seek remedies if it can be proven that the report was made maliciously.

- Criminal penalty pursued by the state attorney for false reporting or advising another to make a false report, prosecuted as a felony of the third degree;
- Civil liability for damages, including attorney fees and costs; and
- Departmental imposition of an administrative fine, not to exceed \$10,000, as authorized by Chapter 39, F.S., and subject to the hearing and other

requirements of Chapter 120, F.S. In these cases, the standard of “knowingly and willfully” also applies.

In Florida, approximately one third of calls to the Abuse Hotline are initially screened out as not meeting the legal standards for initiating an investigation. Of the calls that are accepted as a report, Florida, along with most other states across the nation, maintains a fairly steady rate of approximately 50% of completed investigations that result in no finding of maltreatment. It is important to not equate the percentage of reports closed with “no findings”, “unfounded”, “not valid”, “untrue”, “unsubstantiated” or “not provable” with reports that are made knowingly, willingly and maliciously. There are many reasons for an investigation to fail to yield sufficient evidence to make substantiated or partially substantiated findings of maltreatment.

Researchers and writers have identified several categories relating to the lack of findings in abuse cases. The following categories are from Adjudicating Allegations of Child Sexual Abuse When Custody Is in Dispute, a facilitators’ manual created by the National Judicial Education Program, the American Bar Association and the Center on Children and the Law.

- Insufficient evidence to reach a conclusive finding often due to the young age the child, the reticence of the child to divulge information, and the lack of physical or medical evidence;
- Reporting parties are simply mistaken in their perceptions about a child’s behavior, non-sexual contact or ambiguous statements made by the child;
- Reporting parties who do not deliberately fabricate but are rather persistently seeking some kind of proof that abuse may be occurring or not occurring; and
- Reporting parties who do fabricate or lie. These reporters are after personal gain such as visitation or custody that is more favorable to them, or to make reports to hurt or defame the alleged perpetrator such as a dispute between neighbors.

III. Ongoing Activities:

To decrease the incidence of false reporting to the central abuse Hotline in Florida, we have caller identification and call recording. This information is available in recorded format to state attorneys and law enforcement upon request. The Hotline also has a warning message relating to the penalties for false reporting heard by all who call.

Florida additionally implemented the following procedures, secondary to a February 2004 workgroup that convened to examine the problem of false reporting:

- Hotline and investigations’ pre-service curriculum contains training relative to the identification of false reports.

- Hotline staff advise suspected false reporters of the potential for administrative, civil and criminal consequences of their actions. This is a very sensitive area where a balance must be maintained because situations exist wherein children have died or been seriously injured due to the community's failure to report. Because most professionals believe that abuse is underreported, great care must be taken not to discourage well-meaning reporters.
- Investigative staff provide direction and encouragement, by way of closure notices, to instruct victims of false reporting to pursue false allegations with law enforcement and the state attorney.
- Districts and the region are encouraged to send informational letters, outlining the consequences of false reporting, to callers whose reports are suspicious in nature.

Section 65C-29.010, Florida Administrative Code, which was promulgated in May 2006, also includes information to enhance investigators' ability to determine if any given report meets the criteria of a potential false report.

Collaboration among child protection workers and law enforcement needs to continue to gather the evidence and elements necessary to make sound cases. This must be done without any loss of focus on public safety or on children's need for safety, well-being and permanency.

IV. Summary of Reports Identified as Potential False Reports:

Florida's current system of record and assessment for child abuse and neglect investigations is the Child Safety Assessment ("CSA"), which exists within the construct of Florida's statewide automated child welfare information system, HomeSafenet. When submitting a CSA for closure (which requires the completion of findings and a Recommended Disposition, amongst other activities), there is a checkbox within the Recommended Disposition section which allows the assigned Child Protective Investigator to reflect that the report will be referred to the state attorney as a possible false report. Checking this box places the CSA (or investigation for which the CSA was completed) on a data list of potential false reports. It is from this listing that the statewide numbers of potential false reports were obtained.

A. Number identified as potential false reports: 143

B. Number of potential false reports referred to law enforcement: 58

C. Primary reasons potential false reports were not referred to law enforcement:

1. The CSA checkbox for identification of a potential false referral (and the intent to refer to law enforcement or the state attorney's office) was checked in error upon closure. This category includes:

- Reports which did not actually meet the criteria as potential false reports

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- Reports which were made by parties who were felt (by the assigned investigator) to have made the reports in good faith and/or conscience
- Reports which contained at least “some findings” of the alleged maltreatment(s), so could not be considered true “false” reports, regardless of the intention or motivation of the reporting party

2. Investigative staff simply failed to refer the reports to law enforcement for follow-up, despite having identified them as potential false reports.

V. Additional Activities Undertaken to Insure Appropriate Identification and Referral of Potential False Reports:

Following receipt of all district responses for number of reports referred to law enforcement for follow-up (of the entire population that were identified as potential false reports), select operational administrators were advised of the need to provide refresher information to all investigative staff regarding both the criteria and the referral process for potentially false reports. This was in response to a majority of the identified reports being determined not to have actually met the criteria established by statute, and was provided on a district-by-district need.

In addition, the Family Safety Program Office recently submitted a False Reporting training article, for inclusion in the April 2007 edition of the Office of Family Safety Training Bulletin. This bulletin, which is produced monthly, is formatted to address both Frequently Asked Questions (that are posed to Family Safety Program Office specialists and other staff) as well as training issues or concerns which become evident as the result of the program office’s ongoing contact with district operations’ staff. The bulletin is posted and archived on the Department’s intranet, and is readily available to all Department staff having intranet access.

The False Reporting training article includes:

- Detailed references to the statutory criteria;
- Reference to the Florida Administrative Code, which provides detailed guidelines to assist in the determination of a potential false report;
- Guidelines on the appropriate use of the CSA checkbox when identifying a potential false report;
- Guidelines on the Departmental staffing process which needs to occur prior to such formal identification; and
- The necessity of referring to law enforcement and providing all relevant information and/or evidence in order to assist with their follow-up.

NOTICE OF FILING

Reporting Agency:	Department of Children and Families
Recipient Agency:	GOVERNOR, SENATE PRESIDENT, HOUSE SPEAKER, CHAIRPERSONS OF THE APPROPRIATE SUBSTANTIVE COMMITTEES AND APPROPRIATION COMMITTEES
Subject:	False Reports of Child Abuse, Neglect or Abandonment
Report Due Date:	Annual (date not specified)
Statutory Requirements:	section 39.205(4), Florida Statutes
Abstract:	<p>This is a legislatively mandated report on the number of false reports made to the Florida's central abuse Hotline that were referred to law enforcement. A false report is a report of abuse, neglect, or abandonment of a child to the central abuse Hotline, which is maliciously made for the purpose of: (a) harassing, embarrassing, or harming another person; (b) personal financial gain for the reporting person; (c) acquiring custody of a child; or (d) personal benefit for the reporting person in any other private disputes involving the child.</p> <p>The term does not include a report of abuse, neglect or abandonment of a child made in good faith to the central abuse Hotline.</p> <p>1. Number identified as potential false reports: <u>143</u></p> <p>2. Number of potential false reports referred to law enforcement: <u>58</u></p> <p>Copies of this report may be obtained by contacting:</p> <p>Department of Children and Families Office of Family Safety 1317 Winewood Boulevard Tallahassee, FL 32399-0700</p> <p>Attention: John Harper (850) 922-3862; e-mail john_harper@dcf.state.fl.us</p>

LEGISLATIVELY MANDATED REPORT – STATUTORY REQUIREMENT

REPORT TITLE	STATUTORY REFERENCE	SPECIFICATIONS
Annual Report on False Reports of Child Abuse, Neglect or Abandonment Referred to Law Enforcement	section 39.205(4), Florida Statutes	<p>This is a legislatively mandated report on the number of false reports made to Florida’s central abuse Hotline that were referred to law enforcement. A false report is a report of abuse, neglect, or abandonment of a child to the central abuse Hotline, which is maliciously made for the purpose of: (a) harassing, embarrassing, or harming another person; (b) personal financial gain for the reporting person; (c) acquiring custody of a child; or (d) personal benefit for the reporting person in any other private disputes involving the child.</p> <p>The term does not include a report of abuse, neglect or abandonment of a child made in good faith to the central abuse Hotline.</p> <p>The report concerns potential false reports made during State Fiscal Year 2005 – 2006 and provides the following:</p> <ol style="list-style-type: none"> 1. Number identified as potential false reports 2. Number of potential false reports referred to law enforcement