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March 16, 2010

Members of the Arizona Legislature

The Honorable Janice K. Brewer, Governor

Neal Young, Director  
Department of Economic Security

Transmitted herewith is a report of the Auditor General, a Questions-and-Answers document on the Department of Economic Security, Division of Children, Youth and Families—Child Protective Services—CPS Central Registry. This document was prepared pursuant to and under the authority vested in the Auditor General by Arizona Revised Statutes §41-1966.

Our questions-and-answers documents were created to provide answers to multiple questions on a particular subject area. We hope that these questions-and-answers documents will fill a need and provide you with timely and useful information on topics of particular interest.

My staff and I will be pleased to discuss or clarify items in this document.

This document will be released to the public on March 17, 2010.

Sincerely,

Debbie Davenport  
Auditor General

Attachment

## QUESTIONS and ANSWERS

### Summary

This document answers five questions about Arizona's Child Protective Services Central Registry, a confidential database of substantiated child abuse and neglect reports. In addition to describing the Central Registry and the type of information maintained in it, the document provides information on its purpose, who may receive information from it, how to challenge the entry of information into it, and when reports are expunged from it. For each question, this document also provides comparative information for other states.



2010

## CPS Central Registry

### Question 1: What is Arizona's Child Protective Services Central Registry?

The Central Registry is a confidential database of substantiated reports of child abuse and neglect. Associated with each report and included in the Central Registry is information on the perpetrator(s), child victim(s), the abuse and/or neglect that occurred, and the date the report was received.

Arizona's Child Protective Services Central Registry is a confidential database of substantiated child abuse and neglect reports and their investigative outcomes maintained by the Department of Economic Security (Department). Reports alleging child abuse or neglect are received through the state-wide Child Abuse Hotline (Hotline) and assigned to child protective services (CPS) staff for investigation. A report is substantiated when CPS or the juvenile court finds probable cause to believe child abuse

or neglect occurred and after the alleged perpetrator has been afforded his/her due process rights.<sup>1,2</sup>

The Central Registry contains certain information associated with each substantiated report. Specifically, it includes the name, birth date, social security number, address, gender, and race of each perpetrator and the names of all child victims. It also includes information on the type of maltreatment, i.e., abuse and/or neglect that occurred for each incident with a brief narrative description. The date the Hotline received the report is also recorded. According to department personnel, as of January 2010, there were nearly 70,000 perpetrators of child abuse and neglect listed in Arizona's Central Registry.

Most states maintain central registries of child abuse and neglect reports, although the types of reports recorded in the registry and associated information may vary. According to a federal report, as of October 2008, 40 states statutorily required central registries. In the other states, central registries may be maintained as a matter of administrative or agency policy rather than statutory mandate.<sup>3</sup>

<sup>1</sup> Probable cause is established when the information gathered during the investigation would lead a reasonable person to believe that an incident of abuse or neglect occurred, and that the abuse or neglect was committed by the parent, guardian, or custodian.

<sup>2</sup> Arizona Revised Statutes §8-804(A) requires that a finding made by the juvenile court that a child is dependent based on an allegation of abuse or neglect be recorded as a substantiated abuse or neglect finding.

<sup>3</sup> Child Welfare Information Gateway. (2008c, October). Establishment and Maintenance of Central Registries for Child Abuse Reports: Summary of State Laws. Retrieved December 14, 2009, from [www.childwelfare.gov/systemwide/laws\\_policies/statutes/centregall.pdf](http://www.childwelfare.gov/systemwide/laws_policies/statutes/centregall.pdf)

Some states retain all investigated reports in their central registry, while other states keep only substantiated reports. According to a 2003 national

study on child protective services systems, 23 states, including Arizona, had policies restricting their central registries to substantiated reports.<sup>1</sup>

### Question 2: What can Arizona's CPS Central Registry be used for?

State law limits the use of the Central Registry to a few specific purposes. It is used as one factor in determining the qualifications of persons applying to the Department to become a licensed, certified, or registered child caregiver such as a foster parent or childcare provider for four or fewer children, or seeking department employment in a position providing direct services to children or vulnerable adults. State law allows information in the Central Registry to be used by other state agencies as part of their employment check for the same types of positions, but it does not appear that other state agencies use it. The Central Registry is also used to provide state-wide statistical information on the occurrence of child abuse and neglect. Finally, it is used to comply with the Department's internal administrative purposes, including reviewing prior reports of abuse and neglect to help assess child safety and risk when conducting a CPS investigation.

State law restricts the use of the Central Registry to specific purposes. As indicated in the textbox, information in the Central Registry helps assess the fitness of prospective adoptive and foster families to safely care for a child the Department places with them. Similarly, persons seeking department certification or registration to care for four or fewer children in their home or certification as a home- and community-based service provider to elderly or disabled individuals enrolled

### Allowable Uses of Arizona's CPS Central Registry

- Conduct background checks as one factor to determine the qualifications of individuals seeking foster home licensing, adoptive parent certification, childcare home certification or registration to care for four or fewer children, and home- and community-based services certification.
- Conduct background checks as one factor to determine the qualifications of persons applying for employment with the State in positions providing direct service to children or vulnerable adults, including contract employees.
- Provide statistical information on the occurrence of child abuse and neglect in the State.
- Comply with internal administrative purposes, including assessing safety and risk to a child when conducting an investigation.

Source: Auditor General staff summary of Arizona Revised Statutes §§8-804(B) and 8-804.01(B)

in the State's long-term care program also undergo screening using Central Registry information.<sup>2,3</sup>

Central Registry information may also be used as one factor to determine the qualifications of persons, including contractors and their employees, seeking employment with the State in positions that provide services directly to children and vulnerable adults. This could potentially include staff working at the Arizona State Hospital, the Pioneers' Home, the Veteran Home, and the Department of Juvenile Corrections.

The Department performs Central Registry checks on all applicants for department positions requiring direct interaction with children and vulnerable adults. The Department will disqualify applicants for these positions if they are identified as the subject of a substantiated report for high- or moderate-risk abuse or neglect, or the death of a child (see textbox on page 3). If an applicant

<sup>1</sup> United States Department of Health and Human Services. (2003). National Study of Child Protective Services Systems and Reform Efforts: Review of State CPS Policy. Retrieved December 22, 2009, from <http://aspe.hhs.gov/hsp/cps-status03/state-policy03/index.htm>

<sup>2</sup> Childcare providers who serve five or more children are licensed through the Arizona Department of Health Services.

<sup>3</sup> Central Registry checks are performed only on home- and community-based service providers who disclose on their certification applications that they have been a subject of an investigation by child or adult protective services.

## Definitions of High- and Moderate-Risk Abuse and Neglect

### Physical abuse, high and moderate risk

- Severe/life-threatening injuries requiring emergency medical treatment and/or parent presents severe physical harm to a child.
- Serious/multiple injuries that may require medical treatment and/or a child at risk for serious physical abuse if no intervention is received.

### Neglect, high and moderate risk

- Severe/life-threatening situations requiring emergency intervention due to the absence of a parent, or a parent who is either unable due to physical or mental limitations or is unwilling to provide minimally adequate care.
- Serious/nonlife threatening situations requiring intervention due to the absence of a parent, or a parent who is unable due to physical or mental limitations or is unwilling to provide minimally adequate care.

### Sexual abuse, high and moderate risk

- Physical evidence of sexual abuse reported by a medical doctor or child reporting sexual abuse within the past 7 days.
- Sexual behavior or attempted sexual behavior occurring 8 days or up to 1 year ago and/or child is exhibiting indicators consistent with sexual abuse.

### Emotional abuse, moderate risk

- Child diagnosed by a mental health professional as exhibiting symptoms of emotional abuse caused by a parent.

### Death of a child

- Child death due to physical abuse/neglect or suspicious death.

Source: Department of Economic Security Policy 1-01-22, Use of CPS Central Registry Information for Employment Purposes.

has a substantiated report for other than a disqualifying act of abuse or neglect, the Department may still consider him/her for employment in that position.<sup>1</sup>

Although statute allows other Arizona state agencies to request and use Central Registry information for background checks for positions providing direct services to children and vulnerable adults, department personnel reported that no state agency other than the Administrative Office of the Courts, Court Appointed Special Advocate program, is using the Central Registry. Auditors contacted several state agencies that employ or contract with persons to provide direct services to children or vulnerable adults and found that none of them used Central Registry information in their background checks.<sup>2</sup> In most instances, agency personnel indicated that they were not aware of the Central Registry and that it could be used for employment screening.<sup>3</sup> The agencies reported that they typically conduct criminal background checks on prospective employees and contractors providing direct services to children and vulnerable adults.

Central Registry information is also used to provide statistical information on the occurrence of child abuse and neglect in the State and comply with the Department's internal administrative purposes. For example, whenever the Hotline receives a report alleging abuse or neglect, hotline staff will check the Central Registry to see if there are any prior substantiated reports on the family. If prior reports are found, staff provide the information to the CPS specialist assigned to the current report to use in his/her assessment of child safety and risk.

Other states use their central registries for similar purposes. According to federal reports, most states required a check of their central registry records as part of the background check for foster and adoptive parent applicants. In addition, as of April 2008, 30 states and the District of Columbia allowed or required a check of their central registry or department records for individuals applying to be child or youth care providers.<sup>4</sup> Several states also use the information in their registries for administrative purposes. A 2003 national study of child protective service systems found that 43

<sup>1</sup> Department personnel reported that since 2004, the Department has also required Central Registry checks on its contractors and their employees who provide services directly to children and vulnerable adults.

<sup>2</sup> Auditors contacted the following Arizona state agencies: Department of Corrections, Department of Health Services, Department of Juvenile Corrections, Pioneers' Home, and Veteran Home.

<sup>3</sup> Department staff reported that the Department informed other state agencies of the change in law and that Central Registry information is being used for screening Court Appointed Special Advocate volunteers.

<sup>4</sup> Child Welfare Information Gateway. (2008a, April). Criminal Background Checks for Prospective Foster and Adoptive Parents: Summary of State Laws. Retrieved December 22, 2009, from [www.childwelfare.gov/systemwide/laws\\_policies/statutes/backgroundall.pdf](http://www.childwelfare.gov/systemwide/laws_policies/statutes/backgroundall.pdf); Child Welfare Information Gateway. (2008b, April). Disclosure of Confidential Child Abuse and Neglect Records: Summary of State Laws. Retrieved November 11, 2009, from [www.childwelfare.gov/systemwide/laws\\_policies/statutes/confideall.pdf](http://www.childwelfare.gov/systemwide/laws_policies/statutes/confideall.pdf)

states specified in policy that their central registry could be used for internal administrative purposes, such as reviewing prior reports of abuse and

neglect in risk assessments and statistical reporting.<sup>1</sup>

### **Question 3: Who may receive Arizona CPS Central Registry information and how is it obtained?**

Individuals may request information about any CPS report in which they were the subject, and information may be shared with other entities, including law enforcement and other federal and state agencies, as allowed by law. To obtain the information, a signed and notarized request must be submitted to the Department. The Department will provide either the information or an explanation of why the requested information could not be provided.

The Department maintains and releases CPS records, including CPS report information in the Central Registry, in accordance with federal and state confidentiality laws and regulations. Information in the Central Registry may be released to individuals or their agents who are the subject of the report, i.e., perpetrators, child victims age 12 years or older, and child victims' parents or legal guardians. State law also allows the Department to share CPS information with other entities including federal, state, tribal, and local agencies; law enforcement; other states' child protective services programs; and others whose child protection responsibilities necessitate such information. The Department must also release specific information to the public when abuse or neglect results in a child fatality or near fatality, including the name and city, town, or general location of the victim and alleged perpetrator and whether there have been

any other reports of abuse, abandonment, or neglect involving these individuals. Finally, as discussed in Question 2 (see pages 2 through 4), Central Registry information may also be provided to other state agencies to help them determine the qualifications of applicants seeking state contracts or employment in positions that provide direct services to children and vulnerable adults.

The Department's hotline staff process Central Registry information requests. Requests must be made in writing using department forms that are signed and notarized, and sent to the Hotline. Within 30 days of receiving the completed request, hotline staff will provide the requestor with either a copy of the report with personally identifiable information on the person reporting the abuse and/or neglect redacted, or a written response indicating that the Department does not have the requested report or cannot provide it because the requestor is not legally entitled to it.<sup>2</sup> In fiscal year 2009, hotline staff processed approximately 950 written requests for CPS report information from individuals who were the subject of the report or the child victims' parents or legal guardians.<sup>3</sup>

Many other states provide similar access to their central registry information. According to the 2003 national study on child protective services systems, 37 states shared information in their central registries with other federal, state, or local governmental or private entities such as tribes, law enforcement, schools, healthcare practitioners, and legislators when their child protection responsibilities required such information.<sup>4</sup> A federal report found that as of April 2008, 27 states, including Arizona, also allowed some disclosure of information in cases where child abuse or neglect resulted in a child fatality or near fatality.<sup>5</sup>

<sup>1</sup> United States Department of Health and Human Services, 2003

<sup>2</sup> Requests for Central Registry information for background screening purposes are processed by having the individual who is the subject of the background check request the information using the required department form. Hotline staff will process the request and mail the results back to the individual. The individual is then responsible for providing the information to the agency conducting the background check.

<sup>3</sup> The approximately 950 requests processed in fiscal year 2009 exclude those processed in November 2008 because the Department was unable to provide this information.

<sup>4</sup> United States Department of Health and Human Services, 2003

<sup>5</sup> Child Welfare Information Gateway, 2008b

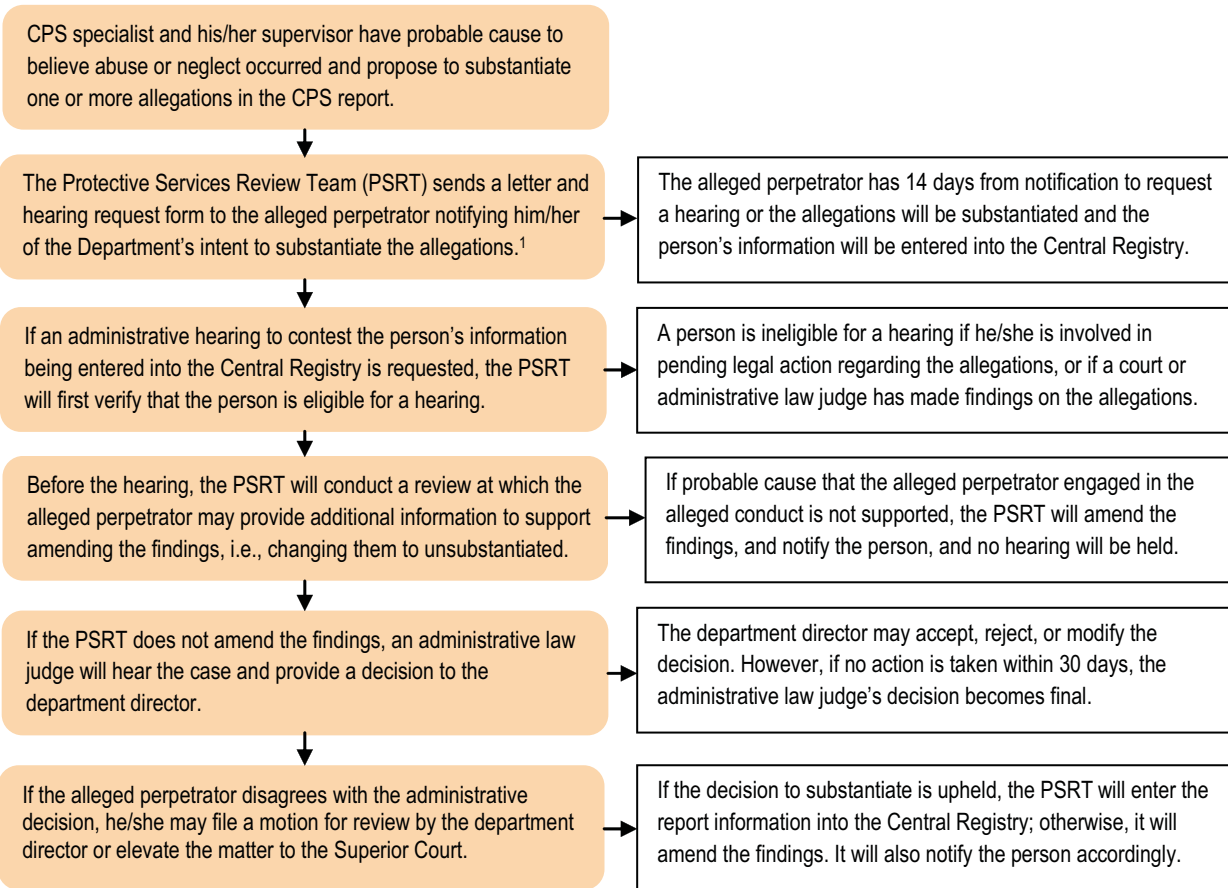
**Question 4: What rights does a person have to challenge the entry of his/her name and other information into Arizona's CPS Central Registry?**

State law and department policy have established various procedural safeguards to ensure a person's due process rights before the entry of his/her information into the Central Registry, including administrative and judicial hearings.

Before a substantiated investigation finding can be entered into the Central Registry, the alleged perpetrator's appeal rights must be exhausted. As shown in Figure 1, state law and department policy have established various procedural safeguards to ensure the alleged perpetrator's due process rights.

A relatively small number of individuals request appeals through the Protective Services Review Team (PSRT), which is the entity that notifies the alleged perpetrator of the Department's intent to substantiate the allegation(s) and enter his/her name in the Central Registry. In fiscal year 2009, the PSRT received appeals requests on 537, or about 16 percent, of the 3,271 reports proposed

Figure 1: Substantiation Appeals Process



<sup>1</sup> Probable cause is established when the information gathered during the investigation would lead a reasonable person to believe that an incident of abuse or neglect occurred, and that the abuse or neglect was committed by the parent, guardian, or custodian.

Source: Department of Economic Security Policy 1-01-22, Use of CPS Central Registry Information for Employment Purposes.

for substantiation by CPS. The PSRT declined the requests associated with 259 reports primarily because the requestor was involved in pending legal action regarding the report allegations, or a court or administrative law judge had already made findings on the allegations. Another 5 individuals rescinded their request. The PSRT amended, i.e., changed from substantiated to unsubstantiated, findings for 120 of the reports through its review process. The remaining 153 reports were forwarded to an administrative law judge for a hearing. As of February 2010, an administrative ruling was made on 121 of the requests, with only 9, or 7 percent, resulting in amended findings.

The Department is in the process of expanding its appeals procedures to address a 2009 statutory amendment. Prior to the amendment, only abuse and neglect reports substantiated through the Department could be entered into the Central Registry. Statute now requires that a finding made by a juvenile court that a child is dependent based upon an allegation of abuse or neglect shall be recorded as a substantiated finding in the Central Registry. The dependency hearing at which a judge will decide if the child should be made a ward of

the State and possibly placed in out-of-home care will be the primary due process mechanism in these cases. However, there are still some administrative procedures that need to be developed for these cases, including how persons are notified of their due process rights if the judge dismisses the dependency petition and does not rule on the allegations.

Similar to Arizona, many other states have procedures for individuals to challenge the entry of their information into their states' child abuse and neglect central registries. According to a federal report, as of November 2008, 29 states and the District of Columbia provided an individual with the right to request an administrative hearing to contest the findings of a child protective services investigation and to have an inaccurate report deleted from the central registry. Alternately, in Louisiana and New Hampshire, a person who wishes to challenge a report must petition the court for a hearing. In Wyoming, any person who has been named in a substantiated report of child abuse or neglect has the right to submit to the central registry a statement concerning the incident.<sup>1</sup>

### **Question 5: When are reports expunged from Arizona's CPS Central Registry?**

State law requires that any substantiated report received prior to September 1, 1999, must be expunged from the Central Registry when the youngest child victim reaches 18 years of age. The law also requires that reports in the Central Registry received by the Department on or after September 1, 1999, must be expunged 25 years from the report date.

State law establishes time frames for expunging substantiated reports from the Central Registry. Reports received prior to September 1, 1999, must be expunged when the youngest child victim

reaches 18 years of age. Reports received by the Department on or after September 1, 1999, must be expunged 25 years from the report date. Any person who was the subject of a substantiated CPS report may request confirmation that the Department has expunged his/her identifying information in accordance with these time frames. On receipt of such a request, the Department must verify that the person is no longer listed in the Central Registry and provide him/her with written confirmation to that effect.

According to a federal report, as of November 2008, 40 states and the District of Columbia had provisions in their statutes for the expunction of certain child abuse and neglect reports. Statutes vary as to expunction standards and procedures, although substantiated reports are typically retained until the child victim has reached adulthood.<sup>2</sup>

<sup>1</sup> Child Welfare information Gateway. (2008d, November). Review and Expunction of Central Registries and Reporting Records: Summary of State Laws. Retrieved December 14, 2009, from [www.childwelfare.gov/systemwide/laws\\_policies/statutes/registryall.pdf](http://www.childwelfare.gov/systemwide/laws_policies/statutes/registryall.pdf)

<sup>2</sup> Child Welfare Information Gateway, 2008d







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QUESTIONS and  
ANSWERS

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