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The Crucial First Steps of a DCF "51A Investigation" for Child Abuse or Neglect in MA

By Nicole K. Levy | April 25, 2016

[Child Custody](#) [Department of Children and Families](#)

Massachusetts DCF lawyer Nicole K. Levy reviews the crucial first steps taken by the Department of Children and Families (DCF) after there is a report of child neglect or abuse.



For many Massachusetts parents and caregivers, a call from the Department of Child and Families (DCF) indicating that they are [under investigation for abuse or neglect of their children](#) feels like a nightmare from which they cannot wake up. However, understanding how DCF conducts its investigations is often the key to minimizing the [agency's involvement in a parent's life](#).

DCF has dual missions, where the agency is tasked with protecting children from neglect and abuse and promoting family stability. As a [recent Boston Globe article suggests](#), the Department's dual missions of protecting children and encouraging troubled families to stay together present conflicting goals for the agency:

The tension is right there in the agency's name — the Department of Children and Families — and in its mission statement, which charges it with both protecting children from abuse and holding together unstable families.

"These dual obligations — to protect children and yet simultaneously to respect the right of families to be free from unwarranted state intervention — present an inherently difficult balance to strike," notes the [mission statement](#).

Today, we will talk about the first of DCF's two missions: investigating and protecting children from neglect and abuse. The first step in the DCF investigation process is the so-called 51A report. This report is named after the statute which authorizes its existence, namely [G.L.c. § 51A](#). A 51A report is generated when DCF receives a report of alleged abuse and/or neglect of a child somewhere in Massachusetts. As previously discussed in this space, the individual reporting neglect abuse can be either a [mandated reporter](#), such as a teacher or doctor, or a layperson, such as a neighbor. The key [statutory language](#) provides:

(a) A mandated reporter who, in his professional capacity, has reasonable cause to believe that a child is suffering physical or emotional injury resulting from: (i) abuse inflicted upon him which causes harm or substantial risk of harm to the child's health or welfare, including sexual abuse; (ii) neglect, including malnutrition; (iii) physical dependence upon an addictive drug at birth, **shall immediately communicate with the department** orally and, within 48 hours, shall file a written report with the department detailing the suspected abuse or neglect; or (iv) being a sexually exploited child; or (v) being a human trafficking victim as defined by section 20M of chapter 233

...

(f) Any person may file a report under this section if that person has reasonable cause to believe that a child is suffering from or has died as a result of abuse or neglect.

Through this language, G.L.c. § 51A requires (a.) mandated reporters and (f.) authorizes non-mandated reporters to disclose concerns about potential child abuse and/or neglect by caregivers. After receiving a report, DCF is required to investigate the allegations. In my last [DCF-focused blog](#), I briefly went over the process of the investigation and assessment performed by DCF. In today's blog, I will focus on the preliminary steps.

Table of Contents for this Blog

- 1. The Intake Call
- 2. The Screening Process
- 3. Emergency vs. Non-Emergency Investigations
- 4. How Frequently are 51A Reports "Screened In" vs. "Screened Out"?
- 5. What Comes Next: the 51B Investigation
- 6. Hypothetical 51A Screen-In / Screen-Out Scenarios

- 7. The Take Away: the “Screening” Stage of a 51A Investigation is a Critical Moment for Parents Under Investigation by DCF

1. The Intake Call

The investigation begins with the “intake”, which consists of a [DCF investigator](#) accepting the initial call/report and taking notes on the [alleged neglect/abuse](#). The intake process is dictated by [110 CMR 4.20](#), which requires the intake provider to make an initial assessment of whether the alleged conduct qualifies as abuse or neglect:

The Department sometimes receives reports of subject matter or events which clearly do not fall within the Department’s mandate (i.e. abuse or neglect of children). Examples include: reports of abuse of young adults (over 18 years of age); reports of elder abuse; reports that a certain teenager is not being allowed to date or is not being given money for the high school prom; reports that a certain department store mail order catalogue contains pornographic pictures of children. If an individual attempts to report a matter which is not child abuse or neglect to the Department or to the Child-At-Risk-Hotline, the reporter shall be advised that the report is not appropriate. The Department shall treat such call not as a report of abuse or neglect, but rather as a request for information and referral services.

If the intake investigator determines that the reporter is describing the neglect or abuse of a child falling under DCF’s purview, a “51A Report” is filed. The next step in the investigation focuses on determining whether the allegation(s) should be “screened in” or “screened out.” Before discussing the screening process, we should take a moment to note the terminology. If the intake receiver determines that the incidents described by the caller are not neglect or abuse – or are a kind of abuse, such as elder abuse or bullying at school, that fall outside DCF’s mandate – then the intake receiver does not file a 51 report, but instead attempts to refer the caller to the best available source of assistance. However, if the intake receiver determines that the incident(s) described, if true, would constitute neglect or abuse by a child’s caretaker, then a 51A report is filed. Thus, the “screening” process only begins after a 51A report has been filed.

2. The Screening Process

The DCF screening process is dictated by [110 CRM 4.21](#), and it often begins during the intake call itself. Under DCF regulations, the purpose of “screening”

is not necessarily to determine whether child abuse or neglect has actually occurred. The first goal of screening is to determine whether an (a.) emergency exists that threaten's a child's immediate health or safety and/or (b.) if a child remains at risk of neglect or abuse from a caretaker:

Upon receipt of any oral or written "51A" report (whichever is received first), the Department shall immediately screen such report. The purpose of screening is to identify children at risk of abuse or neglect from a caretaker, and to distinguish the need for an emergency or non-emergency response. The screener may also provide the caller with information about other authorities (police, District Attorney, licensing agency, etc.) who should be called.

The second purpose is to determine whether the alleged neglect or abuse was the result of a caretaker's actions. Indeed, 110 CRM 4.21 provides the following example of child abuse that would be screened out:

For example, the rape of a small girl by a stranger in a vacant lot, while certainly an incident of "child abuse" in the broad sense, is not the type of child abuse which the Department's investigation process was created to address. The criminal justice system remains primarily responsible for the investigation of such acts.

If the screener determines that a child may have been abused or neglected by a caretaker, the case is "screened in", and the investigation and assessment will continue under what is known as a "[51B Investigation](#)". If a case is "screened out" DCF ceases its investigation. In the case of emergency, DCF will take steps to remove the child from the home. More commonly, DCF permits the children to remain at home but continues the investigation with an [assessment of the family](#) and the need for services.

Timing is a critical factor in the investigation process. According to [110 CRM 4.31](#), the time frame for 51A/B investigation is as follows:

(1) The investigation of all "emergency reports" shall commence within two hours of initial contact and shall be completed within five working days after the receipt of the report by the Department. The results of the investigation shall be in writing, transcribed onto a "51B" standard investigation form, as established by the Department.

(2) The investigation of all "non-emergency reports" shall commence within two working days of initial contact and shall be completed within

15 working days following the receipt of the report by the Department. The results of the investigation shall be in writing, transcribed onto a “51B” standard investigation form, as established by the Department.

Notably, the time frames above are for the *entire investigation* into abuse or neglect, where a determination to “screen in” or “screen out” a report happens at the earliest stages – often just a matter of days – after the initial report. In some regards, the easiest way to understand the 51A vs. 51B distinction is the actual, paper reports produced by DCF. Whenever there is a supported finding a neglect or abuse, there are two reports: (a.) a 51A report that describes the initial intake and the steps taken by the investigator over the first few days before “screening in” the report, and (b.) a 51B report, that picks up where the 51A report leaves off, and includes the remaining investigation, which occurs over several weeks, and which concludes with either a “supported” or “unsupported” finding of neglect or abuse.

If you are [under DCF investigation for neglect or abuse in MA](#), call to schedule a consultation with [Nicole K. Levy](#) today at (781) 253-2049 or send [her an email](#).



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3. Emergency vs. Non-Emergency Investigations

Early in the screening process, the investigator must determine if the “reported condition poses a threat of immediate danger to the life, health, or physical safety of the child.” If the situation is deemed an emergency, then [110 CRM 4.26](#) provides:

The first priority of an emergency response is to view the child(ren) in question and to determine the condition of any other children residing in the same household. The children are visited a minimum of one time within 24 hours after receipt of the report. This meeting should occur in the home; however, in certain situations, the social worker and supervisor may decide that another location is more appropriate (e.g.,

the child is hospitalized, the injury/incident occurred outside the home, the child would be placed at greater risk if interviewed in the home).

If the reported incident is not an emergency, then [110 CMR 4.27](#) provides:

The investigation shall include a viewing of the child who is the subject of the report and a visit to the home of the child who is the subject of the report both of which shall occur within three working days after the screening decision. ... The investigator may waive the visit to the home of the child in appropriate circumstances (for example, if the abuse alleged occurred outside the child's home in a daycare facility and if the child is viewed at the daycare facility). The investigation shall include a determination of the name, age, and condition of other children in the same household. The Department will ensure that the investigation includes the linguistic capacity and cultural knowledge needed to perform a fair and comprehensive investigation of the reported child and family.

4. How Frequently are 51A Reports “Screened In” vs. “Screened Out”?

In 2014, DCF performed 51A investigations [on a staggering 77,974 reports](#) of alleged child neglect or abuse in Massachusetts. From these 77,974 initial reports, 47,591 (61%) were “screened in” and 30,383 (39%) were “screened out” following the initial intake interview and 51A screening process. In 2014, 93.8% of the screened in investigations by DCF in Massachusetts were for child neglect, 10.8% were for [physical abuse](#), and 2.6% were for [sexual abuse](#). The volume of screened-in 51B investigations gives Massachusetts the [highest per capita rate of child neglect and abuse](#) in the country by a substantial margin.

5. What Comes Next: the 51B Investigation

A report that is “screened in” following a 51A investigation proceeds to another, more open-ended “51B investigation”. The formal purpose of the 51B investigation is for the department to enter either a “supported” or “unsupported” finding of neglect or abuse against a caretaker. Under [110 CMR 4.31](#), a non-emergency 51B investigation is supposed to be “completed within 15 working days following the receipt of the report by the Department.” In practice, however, 51B investigations often stretch on for weeks or months. The standards and procedures used by DCF in making a supported vs. unsupported finding of neglect or abuse following a 51B investigation is a separate blog unto itself. Suffice it to say that for caretakers under the scrutiny

of DCF, it is much preferable for the Department to “screen out” the case after a brief 51A investigation versus a longer, far more involved 51B investigation.

6. Hypothetical 51A Screen-In / Screen-Out Scenarios

When considering the screening process, it is easier to understand in the context of the larger DCF investigation to determine whether neglect or abuse occurred. Obviously, “screening out” a case is a quick and efficient way to eliminate cases at an early stage, instead of committing Department resources to a full-blown investigation. Accordingly, one way to understand the screening in/out process is as a “test run” of the larger investigation. Below are some examples general of potential screening outcomes in the context of a larger investigation:

a. Screened in, non-emergency, no further risk of neglect or abuse, with subsequent supported finding of neglect or abuse. Some parents believe their babysitter is physically abusing their child. The parents set up a nanny cam, and low and behold, they catch the nanny hitting their crying infant. The parents fire the nanny (obviously) and report the incident to the police. The police contact DCF. Under these circumstances, DCF will likely conclude that an investigation is warranted, where the nanny was abusing the child in her role of caretaker, which DCF defines as parents or “parent substitutes”, such as stepparents, nannies and daycare providers. During the screening process, DCF determines that no emergency exists regarding the child (who is now safe with his or her parents) and that there is no risk of further neglect or abuse, where the parents have fired the nanny.

The 51A report is “screened in”, commencing a 51B investigation that will likely conclude with a supported finding of abuse against the nanny several weeks later. DCF will probably not send social workers or investigators to the parents’ home for follow up interviews or safety checks, where the alleged offender has no further contact with the child. Following the supported finding of abuse, DCF will likely refer to the case to the local DA for the prosecution of the nanny.

b. Screened in, non-emergency, some risk of potential neglect or abuse, no subsequent supported finding of neglect or abuse. Parents of an eleven-month-old boy have taken the child to the hospital three times due to recurring head injuries. The most recent injury was a fractured skull. The hospital, noting a possible pattern, contacts DCF. A DCF investigator interviews the parents, observing their home is neat and appropriately furnished for a young child. The parents tell the investigator that the boy is a

“climber”, who must be constantly prevented from climbing on chairs and tables, after which the boy invariably falls and hurts himself. The parents’ story sounds highly plausible to the investigator; however, given the severity of the child’s injuries, the investigator decides to “screen in” the 51A report. As a practical matter, DCF is unlikely to enter a formal finding of neglect or abuse on the facts provided. However, by screening in the report, DCF can stay involved with the family during the 51B investigation, providing a handful of home visits and safety checks over the next several weeks to ensure the child’s safety.

In this instance, DCF is likely to proceed slowly in its 51B investigation – despite the requirement under [110 CRM 4.31](#) that non-emergency investigations conclude within 15 working days – where the real purpose of the Department’s involvement is to observe the family for a period of time to ensure the child is not at risk for another injury. (In rare instances, DCF will enter an “unsupported with concern” finding of neglect or abuse, where they find no neglect or abuse occurred, but the Department attempts to stay involved with the family. Where the regulatory authority for “with concern” findings is limited, DCF often tries to address situations like this by stretching out the 51B investigation or pressuring the family to enter a “service plan” in which the parents consent to DCF’s longer involvement.)

c. Screened in, non-emergency, risk of potential neglect or abuse, subsequent supported finding of neglect or abuse. The police contact DCF following a domestic incident. The report indicates the father of three young children is a chronic alcoholic, and the previous night, he passed out on the kitchen floor. The parties’ ten-year-old called 911 and the father was hospitalized. DCF investigates, meeting with the mother and children, while father enters a three-day detox program. During the first interview, DCF learns of father’s chronic alcoholism, which has included numerous examples of the father’s inebriation around the children. The also children indicate they love their dad and describe a father with many positive traits beyond his alcoholism. The mother indicates the latest incident is the “last straw”, and she is filing for divorce. The investigator visits the father in detox, where doctors indicate the father is a potential suicide risk. The father admits he needs help and indicates he will stay at his brother’s home after being released from DCF to give the wife a “cooling off” period.

The DCF investigator “screens in” the report, and will almost certainly enter a supported finding of neglect against father for the incident after a 51B investigation. During the 51B investigation, however, the department will seek to provide the father with goals and access to services while the investigation

is ongoing, where DCF has a secondary goal of providing services to keep families intact. There is some disagreement at the DCF office between the supervisor, who believes there should be an immediate supported finding of neglect, followed by a suggested “service plan” for the father. The investigator believes it would be more effective to stretch out the 51B investigation before entering a formal finding of neglect, where the investigator believes father will better cope with the eventual finding of neglect after a period of sobriety, and where an open investigation will motivate the mother to limit father’s parenting time through the divorce process.

d. Screened in, emergency, subsequent supported finding of neglect or abuse. Police contact DCF following a drug bust. The investigator finds two malnourished children of a drug-addicted mother living in squalor. The investigator immediately determines that the children are at serious risk, and the Department takes emergency custody of the children pursuant to [110 CRM 4.29](#), which provides, “Emergency removal pursuant to M.G.L. c. 119, § 51B is an extreme measure requiring dire circumstances. Before arriving at a decision to effect an emergency removal, the investigator shall consider the harm to the child that such removal inevitably entails.” By taking emergency custody, the Department triggers “care and custody” proceedings in the Juvenile Court, which are separate and distinct from the 51A/B investigation process.

e. Screened out, no neglect or abuse present. A nosy neighbor hears yelling adults and crying children next door. The neighbor calls DCF and reports that children are being abused next door and that other neighbors have told him/her that the children are covered with bruises from their father’s belt. The intake receiver concludes that if the neighbor’s claims are true, there is a reasonable likelihood that neglect or abuse is occurring, and files a 51A report. When a DCF investigator visits the home, however, he or she learns that the children are happy, healthy and bruise-free and that the complaining neighbor frequently calls the police reporting that neighborhood children are too noisy. The DCF investigator would like “screen out” the report, stopping the 51A investigation in tracks.

7. The Take Away: the “Screening” Stage of a 51A Investigation is a Critical Moment for Parents Under Investigation by DCF

Massachusetts parents and caretakers under investigation by DCF often want one thing: to get DCF out of their lives. In the context of an [investigation for](#)

[neglect or abuse](#), this means that the steps taken by the parent and/or their lawyers in the early days of the investigation can prove the critical difference between ending the investigation early – through a “screened out” 51A finding – or a far longer, more invasive 51B investigation.

Do You Need a DCF Attorney?

Nicole K. Levy of Lynch & Owens [represents parents and caregivers who are under investigation by DCF](#), as well as individuals pursuing a fair hearing appeal of a supported finding of neglect or abuse by DCF.

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