
**ORANGE COUNTY SOCIAL SERVICES AGENCY
CFS OPERATIONS MANUAL**

Effective Date: January 20, 2016

Number: G-0403

Dual Status

Purpose To provide guidelines for CFS and Probation when a child appears to come within the description of both a dependent and a ward.

Approved This policy was approved by Gary Taylor, Director of CFS, and Steven Sentman, Chief Probation Officer, on January 20, 2016. *Signatures on file.*

Most Recent Revision New.

Background Children and Family Services (CFS) provides child welfare services through the dependency system to address child maltreatment. The Probation Department provides rehabilitative services through the delinquency system to address a child's delinquent behavior.

Per Welfare and Institutions Code (WIC) Section (§) 241.1, if a child appears to come within the description of both a dependent (pursuant to WIC § 300) and a ward (pursuant to WIC §§ 601 or 602), CFS and Probation will conduct a joint assessment to produce a recommendation as to the status that will best serve the interests of the child and the safety of the community. If Court determines the child comes within the description of both a dependent and a ward, options include:

- Dependency
- Wardship
- Dual Status (see "Definitions" section)

Dual status is intended to be used sparingly, in circumstances where a family would benefit from involvement of both CFS and Probation. The primary goals of dual status are to:

- Improve coordination among CFS, Probation, and the Juvenile Court (Court)
- Facilitate access to a broader range of services and resources

Per WIC § 241.1(e), in 2009, Orange County established a dual status protocol under a lead agency model. Dual status was initially limited to select cases assigned to the Dependency Teen Courts. Since that time, a new protocol has been established to permit dual status cases outside the Dependency Teen Courts.

This policy details the responsibilities of CFS and Probation when:

- Conducting a 241.1 joint assessment
- Court designates a child with dual status and assigns a lead agency

Definitions

For purposes of this P&P, the following apply:

Dual Status Child: A child simultaneously designated as both a dependent and a ward of the Juvenile Court.

Lead Agency: The agency designated by Court to be responsible for placement, case management, and court-related matters involving a dual status child.

241.1 Joint Assessment: An assessment conducted by CFS and Probation, when a child appears to come within the description of both a dependent and a ward, to produce a recommendation as to the status that will best serve the interests of the child and the safety of the community.

Dual Handling Team: A team of juvenile justice partners collaborating in the assessment and provision of services to children involved with child welfare and/or the juvenile justice system, to preserve families and reduce a child's engagement in delinquent behavior.

Transition Jurisdiction: A status that allows wards who have met their rehabilitative goals to remain in foster care, no longer subject to the terms of their probation. Transition jurisdiction is

available to wards older than 17 years, 5 months of age, who meet the eligibility criteria outlined in WIC § 450 and All County Letter (ACL) 11-85.

POLICY

Referrals to Wraparound/Dual Handling Team

Prior to consideration of dual status, when working with a child who may benefit from the services of both CFS and Probation, referrals may be made to:

- A. The Wraparound Program, to increase access to additional community resources.
- B. The Dual Handling Team, for consultation services. Refer to the Orange County Dual Handling Team Protocol for guidelines regarding submission of a *Referral for Dual Consultation (F063-25-736)*.

If further intervention appears necessary, dual status may be considered.

Initiating CFS Involvement with Wards

- A. **Child Abuse Registry (CAR):**
If Probation has knowledge of or suspects a ward (including any child with a pending 601/602 petition) has been a victim of abuse, neglect, or exploitation, the assigned Deputy Probation Officer (DPO) will contact CAR, pursuant to Penal Code § 11166.

CAR will determine whether an in-person investigation is warranted in accordance with CFS P&P [Child Abuse Registry \(CAR\) \(M-0109\)](#).

- B. **Emergency Response:**
Referrals assigned for investigation will be investigated per CFS P&P [Abuse Investigations—Practice Guidelines \(A-0412\)](#). The Emergency Response (ER) Senior Social Worker (SSW) will:

1. Contact the assigned DPO as part of the ER investigation.

Note: Review *Orange County Social Services Agency Child Abuse Report (F063-04-49A)* to identify the assigned DPO.

2. Determine if protective interventions are necessary to ensure the child's safety, per CFS P&P [Abuse Investigations—Protective Interventions \(A-0414\)](#).

C. **Dependency Intake:**

If an *Application for Petition (F063-28-43)* is filed, a Dependency Intake investigation will be completed per CFS P&P [Dependency Intake \(A-0502\)](#). The Intake SSW will:

1. Contact the assigned DPO for consultation.
2. Include in the Detention Hearing Report:
 - Available delinquency case information (e.g., case number, relevant court orders, charges, etc.)
 - A recommendation for a 241.1 joint assessment

D. **Factors to Consider Before Filing a Petition:**

The decision to file a 300 petition will be based on whether the current level of risk to the child necessitates Juvenile Court involvement. Per *In Re Kaylee H.* Cal. App. 4th (2012), the following additional factors detailed in California Rule of Court 5.516, will be considered when determining whether to file a 300 petition on a current ward:

1. Whether the alleged condition (i.e., allegations of abuse or neglect) is in dispute and if found to be true, whether Court intervention appears desirable.
2. Whether the alleged condition involves a threat to the physical or emotional well-being of the child.
3. Whether a chronic, serious child abuse or neglect problem exists after other efforts to resolve the problem have been made.
4. Whether the alleged conduct of the child, if any, would be a felony or involved physical harm or the threat of physical harm to person or property.
5. If the alleged condition is not serious, whether the child has had serious problems in the home, school, or community that indicate formal Court action is desirable.

6. The attitudes of the child, parent/legal guardian, and any affected persons.
7. The age, maturity, and capabilities of the child.
8. If the alleged condition is not serious, whether the child is already a ward or dependent of the Court.
9. Whether the child is on probation or parole.
10. The recommendation, if any, of the referring party or agency.
11. Whether any other referrals or petitions are pending.
12. Any other circumstances that indicate the filing of a petition is necessary to promote the welfare of the child or to protect the public.

Probation Wards Eligible for Dependency Jurisdiction

Assembly Bill 212 (2011) provides that wards who do not meet the criteria for WIC § 450 Transition Jurisdiction, and who cannot be returned home safely, may have their delinquency status modified to dependency status under WIC § 300. To be eligible, the ward must:

- Have met their rehabilitative goals
- Be younger than 18 years of age
- Come within the description of WIC § 300 and be unable to return home safely

If Probation identifies a ward likely to meet their rehabilitative goals and circumstances suggest there may be difficulty returning the child home safely, efforts will be made by Probation, at the earliest possible time, to address the circumstances to facilitate the child's safe return home.

At the hearing to terminate jurisdiction over a ward who meets each of the above criteria the Court may, per WIC § 607.2(b):

A. **For Wards Who Were Never Dependents:**

Order Probation or the ward's attorney to submit an application to CFS to modify the jurisdiction from delinquency to dependency, if the ward:

1. Was not previously subject to jurisdiction of the Court as a result of a petition filed pursuant to WIC § 325.

2. Does not come within the description of WIC § 450.
3. Appears to come within the description of WIC § 300 and cannot return home safely.

Following CFS investigation, if a 300 petition is filed, Court may order a joint assessment pursuant to WIC § 241.1.

B. For Wards Who Were Prior Dependents:

Resume dependency jurisdiction pursuant to WIC § 300, based on the prior dependency petition, provided the ward was a dependent subject to a foster care placement at the time of being adjudged a ward under WIC § 725. Delinquency jurisdiction may be terminated.

Initiating Probation Involvement with Dependents

Probation may become involved with a dependent child if Law Enforcement or a School District submits an Application for Petition. The Non-Custody Intake Unit will assess the Application for Petition to determine if the case may be handled informally by Probation or whether to submit the case to the District Attorney (DA). If a petition is filed by the DA, Court may order a joint assessment pursuant to WIC § 241.1.

Notification of 241.1 Proceedings

Designated CFS and Probation staff will promptly alert the SSW and DPO assigned to a case, if notified by Court that:

- A new 601/602 petition has been filed on behalf of the child and Court has determined there is already an open dependency case

–Or–

- A new 300 petition has been filed on behalf of the child and Court has determined there is already an open delinquency case

Joint Assessment

Per WIC § 241.1(b), if Court orders a 241.1 joint assessment, CFS and Probation will coordinate efforts to complete the joint assessment; however, only one agency will be responsible for preparing the 241.1 Joint Assessment Report (see “241.1 Joint Assessment Report” Policy section).

A. Timeframe:

In accordance with California Rule of Court 5.512, the 241.1 joint assessment will be completed as soon as possible and prior to the Joint Assessment hearing.

B. **Process:**

Per established Orange County protocol, the 241.1 joint assessment will be completed through:

1. Mutual review by the assigned SSW and DPO, of the criteria specified in the “Joint Assessment Decision-Making Criteria” Policy section. Consult supervisor regarding appropriateness of recommendation.

Note: Refer to [Attachment 1—Identifying the Assigned Social Worker/Probation Officer](#), to identify the assigned SSW or DPO assigned to a case.

If necessary, schedule a case review with the Dual Handling Team. Refer to the “Dual Handling Team” Policy section for further guidelines.

2. Exchange of information and case records regarding:

- Child’s history of abuse and/or neglect and out-of-control and/or delinquent behavior
- Other relevant information

3. Interviews, conducted by the agency responsible for preparing the 241.1 Joint Assessment Report, with:

- Child (unless prohibited by child’s defense attorney)
- Parents/Legal guardian
- Victim and/or parents of the victim, per WIC § 656.2 (required for Probation if a new 602 petition is filed)

Per best practice, interviews may be completed with the child’s caregiver and relevant collateral contacts.

4. Obtaining statements from each of the following, regarding the preferred status of the child:

- Child’s attorney
- Court Appointed Special Advocate (CASA) appointed for the child (if any)

See [Attachment 2—Suggested Guidelines for Completing the 241.1 Joint Assessment](#), for procedural guidelines.

Dual Handling Team

Per the Orange County Juvenile Court Protocol for Welfare and Institutions Code Section 241.1 Proceedings, the 241.1 joint assessment may involve case review by the Dual Handling Team, at a WIC 241.1 Screening Meeting, if:

- The assigned SSW and DPO disagree as to the recommended status of the child

–And/Or–

- Further consultation is required due to complex (extraordinary) case circumstances

If CFS and/or Probation elect to convene a case review by the Dual Handling Team, a referral will be completed by the agency responsible for preparing the 241.1 Joint Assessment Report, using the *241.1 Screening/Placement Referral (F063-25-734)*.

The assigned SSW and DPO will participate in the WIC 241.1 Screening Meeting, either in-person or by conference call.

Following case review, the assigned SSW and DPO will produce a recommendation as to the status that will best serve the interests of the child and the safety of the community.

241.1 Joint Assessment Decision-Making Criteria

Per WIC § 241.1(b) and California Rule of Court 5.512(d), the following criteria will be assessed after a new petition has been filed on a current dependent or ward, to produce a recommendation as to the status that will best serve the interests of the child and the safety of the community:

A. Nature of Referral:

The behavior leading to the filing of the petition will be evaluated. If the child has been abused, their safety is in imminent danger, and the basis for the wardship petition is a minor violation of the law, dependency will be preferred.

If the alleged conduct that appears to bring a dependent child within the description of WIC § 601 or 602 occurs in, or under the supervision of a foster home, group home, or other licensed residential facility, consideration will be given to whether the alleged conduct was within the scope of behaviors to be managed or treated by the foster home, group home, or residential facility.

B. Age of Child:

The younger the child, the greater the consideration will be towards dependency, subject to the seriousness of the crime alleged and the child’s level of maturity and sophistication.

C. **History of Physical, Sexual, or Emotional Abuse of the Child:**

If the child's delinquent behavior seems to derive from the child's attempt to deal with any recent physical, sexual, or emotional abuse, greater consideration will be given to dependency, depending upon the nature and seriousness of the delinquent behavior.

D. **Parent's Prior Child Abuse Record:**

If the child's delinquent behavior seems to derive from the child's attempt to deal with an abusive home environment, greater consideration will be given to dependency, depending upon the nature and seriousness of the delinquent behavior.

E. **Child's Prior Record of Out-of-Control or Delinquent Behavior:**

The greater the child's prior record of out-of-control and/or delinquent behavior, the greater the consideration will be towards wardship, depending upon the nature and seriousness of the delinquent behavior.

F. **Parents' Cooperation with the Child's School:**

The inability of the parents/legal guardian and school to provide appropriate support, education, and behavior controls for the child will be reason to favor wardship.

G. **Child's Functioning at School:**

Disruptive behavior in the school setting, particularly aggressive and destructive behavior, will be reason to favor wardship.

H. **Nature of the Child's Home Environment:**

The ability of the parents/legal guardian to meet the child's basic needs and control the child's delinquent behavior will be assessed. The greater the degree of the parents/legal guardian's inability or unwillingness to provide a minimum sufficient level of care and support, the greater the consideration will be towards dependency. If the home setting is basically sound, but the parents/legal guardian are unable to control the child's delinquent behavior, wardship will be preferred.

- I. **History of Involvement of Other Agencies or Professionals:**
Efforts will be made to obtain information from agencies and professionals known to have been involved with the child and family.
- J. **Services, Community Agencies, or Appropriate Out-of-Home Care Resources Available to Assist the Child and Family:**
Consider services or community agencies available to assist the child and family, and appropriate out-of-home care resources that consider the safety and well-being of other children. If the facts do not clearly establish a preference for one status over another, the availability of suitable placement resources by each agency may be considered.
- K. **A Statement by any Attorney Currently Representing the Child:**
Efforts will be made to obtain a statement from the attorney representing the child in dependency and delinquency proceedings, regarding the preferred status of the child.
- L. **A Statement by any Court Appointed Special Advocate (CASA) Currently Appointed for the Child:**
Efforts will be made to obtain a statement from a CASA appointed for the child, regarding the preferred status of the child.

Other factors relevant to the 241.1 joint assessment may include, but are not limited to:

- Child's placement history and progress in placement
- Child's medical, educational, and/or mental health needs
- Child's history of substance abuse (if known)
- Family's receptiveness to formal intervention by CFS and/or Probation

Per established Orange County Protocol:

- **Dependency will be preferred** when the child's behavior, within the control and support structure of dependency supervision, does not pose a threat to the child, others, or to the property of others
- **Wardship will be preferred** when a child's behavior cannot be controlled in a dependency setting, the child's behavior poses a threat to the child, others, or to the

property of others, and custody time is available, due to the nature of the child's offense, to provide enhanced control of the child's behavior

- **Dual Status may be appropriate** when a dependent child commits a delinquent act requiring the formal intervention of Probation, and the child would benefit from the continued involvement of CFS

241.1 Joint Assessment Report

Per established Orange County Protocol, a 241.1 Joint Assessment Report will be prepared by:

- Probation, if the child is already a dependent and a new 601/602 petition is filed
- CFS, if the child is already a ward and a new 300 petition is filed

A. Timeframe:

In accordance with California Rule of Court 5.512(f), the 241.1 Joint Assessment Report will be:

- Completed within the timeframe specified by the bench officer at the time the 241.1 joint assessment is ordered
- Filed with Court at least five calendar days prior to the Joint Assessment hearing

Note: If a Joint Assessment hearing requires a “short-set” report, it will be completed as soon as possible, and filed with Court prior to the Joint Assessment hearing.

B. Content:

The 241.1 Joint Assessment Report will be prepared pursuant to the guidelines and format detailed in:

- [Attachment 3—241.1 Joint Assessment Report Template \(CFS\)](#)

–Or–

- [Attachment 4—241.1 Joint Assessment Report Template \(Probation\)](#)

The report will include:

1. An assessment of the factors specified in California Rule of Court 5.512(d). Refer to the “Joint Assessment Decision-Making Criteria” Policy section.

2. The recommendation and rationale of the assigned SSW and DPO.

If CFS and Probation disagree on the recommendation and the case has already been reviewed by the Dual Handling Team (see “Dual Handling Team” Policy section), both agencies will attempt to resolve the disagreement per the “Resolution of Conflicts” Policy section. If resolution is not reached:

- a. The agency preparing the 241.1 Joint Assessment Report will include its’ recommendation and rationale in the report.
 - b. The other agency will prepare a statement regarding its recommendation and rationale, to be attached to the report. This statement will be provided to the agency preparing the 241.1 Joint Assessment Report prior to the filing deadline.
3. If dual status is recommended, a recommendation as to which agency is best suited to assume responsibilities as the lead agency.

Joint Assessment Hearing

If Court orders a 241.1 joint assessment, a Joint Assessment hearing will be calendared.

A. Timeframe for Hearing:

Pursuant to California Rule of Court 5.512(f), if the child is detained, the hearing will occur no later than fifteen judicial days after detention orders are made. If the child is not detained, the hearing will occur within 30 days of the date the petition is filed.

Note: A Joint Assessment hearing may be calendared to coincide with a Dispositional hearing or Pre-Trial.

B. Notice of Hearing:

In accordance with California Rule of Court 5.512(f), notice of the hearing will be provided:

1. By the agency responsible for completing the 241.1 Joint Assessment Report.
2. To the following parties, using the *241.1 Joint Assessment Hearing Notice (F063-25-735)*:

- Child
- Parents/legal guardian (including alleged parents)
- All attorneys of record
- CASA appointed for child, if any
- The Juvenile Court of any other county having jurisdiction over the child

Notice will include a copy of the 241.1 Joint Assessment Report.

3. At least five calendar days prior to the hearing.

Note: If a Joint Assessment hearing is scheduled to occur within five calendar days of the date the hearing is calendared, notice will be provided as soon as possible.

4. By personal service or first-class mail.

Agency Responsibilities

Per All County Information Notice (ACIN) I-05-06, if Court designates a child with dual status, CFS and Probation will:

- Coordinate service delivery
- Comply with all statutory and regulatory requirements related to delinquency/dependency proceedings, Division 31, and Title IV-E

In an effort to prevent duplication in case management/services:

- CFS will address dependency issues and child safety
- Probation will address delinquency issues and enforce terms of the child's probation

Court will assign either CFS or Probation as the lead agency.

A. Lead Agency Responsibilities:

Per Orange County policy, the lead agency will be responsible for:

1. Placement (refer to the "Placement" Policy section).
2. Compliance contacts (refer to "Compliance Contacts" Policy section).
3. Developing a Case Plan in consult with the child/family and non-lead agency to:

- Increase or maintain access to available resources and supports
- Avoid duplication of services and potential conflicts with the non-lead agency's Case Plan

Note: Per Orange County Juvenile Court Miscellaneous Order No. 520.4, CFS and Probation may exchange Case Plans.

4. Monitoring compliance with the lead agency's Case Plan. This includes contacting service providers and relevant collateral contacts (in coordination with the non-lead agency).
5. Arranging visitation for the child.
6. ICWA compliance (refer to "ICWA" Policy section).
7. Providing Independent Living Program (ILP) services to the child, when applicable.
8. The child's medical/dental care, educational, mental health, and other basic needs.
9. Referring the case for child support collection (i.e., collection of restitution), if appropriate.

Established agency policies will guide the lead agency in meeting these responsibilities.

B. Non-Lead Agency Responsibilities:

Per Orange County policy, the non-lead agency will be responsible for:

1. Compliance contacts (refer to "Compliance Contacts" Policy section).
2. Developing a Case Plan in consult with the child/family and lead agency, to:
 - Increase or maintain access to available resources and supports
 - Avoid duplication of services and potential conflicts with the lead agency's Case Plan
3. Monitoring compliance with the non-lead agency's Case Plan. This includes contacting service

providers and relevant collateral contacts (in coordination with the lead agency).

4. Providing relevant information and documentation to the lead agency to facilitate placement (refer to “Placement” Policy section).

Established agency policies will guide the non-lead agency in meeting these responsibilities.

Court Hearings

Per ACIN I-05-06, dual status does not change or interrupt the statutory guidelines and timeframes related to a child’s dependency and delinquency proceedings.

Example: If a dual status child in foster care is subsequently placed in Juvenile Hall, and then returns to their foster home, family reunification timeframes remain the same.

Court may calendar dependency and delinquency hearings to occur on the same date and in the same courtroom. These hearings remain separate, distinct, and calendared under the appropriate WIC statute(s).

If dependency and delinquency matters are not heard in the same courtroom:

- CFS will arrange for a courtesy copy of each court report filed in Dependency Court to be provided to the bench officer overseeing delinquency proceedings
- Probation will arrange for a courtesy copy of each court report filed in Delinquency Court to be provided to the bench officer overseeing dependency proceedings

Note: The provision of courtesy copies is intended to provide bench officers with important information which may impact subsequent judicial decisions/determinations.

A. **Dependency Hearings:**

For dependency hearings, CFS will, in accordance with established agency policies:

1. Prepare and submit court reports by the court filing deadline, including relevant information provided by the assigned DPO.

Note: Consult assigned DPO, in an effort to avoid conflicting recommendations.

2. Provide notice, as required, to all parties of the dual status proceedings.
3. Provide the court report and Case Plan, as required, to all parties of the dual status proceedings, including Probation.

B. **Delinquency Hearings:**

For delinquency hearings, Probation will, in accordance with established agency policies:

1. Prepare and submit court reports by the court filing deadline, including relevant information provided by the assigned SSW.

Note: Consult assigned SSW, in an effort to avoid conflicting recommendations.

2. Provide notice, as required, to all parties of the dual status proceedings.
3. Provide the court report and case plan, as required, to all parties of the dual status proceedings, including CFS.

C. **Fifteen Day Review Hearings:**

Per Orange County policy, the lead agency will be responsible for Fifteen Day Review hearings, in accordance with WIC § 367(b).

Court Return Detention Hearing Reports and Fifteen Day Review Hearing Reports will be prepared and submitted in accordance with established agency policies. If dependency and delinquency matters are not heard in the same courtroom, court reports will be submitted to:

- Dependency Court (if CFS is the lead agency)
- Delinquency Court (if Probation is the lead agency)

**Compliance
Contacts**

For dual status cases, CFS and Probation will comply with the contact requirements in CDSS MPP Division 31, Chapter 300.

A. **Schedule of Planned Contacts:**

Per Orange County policy, CFS and Probation will each complete monthly compliance contacts unless a contact exception/waiver has been approved. Contacts will be completed in accordance with established agency policy.

Per CDSS MPP Division 31-206.24:

- The schedule of planned contacts will be specified in each agency's Case Plan
- Contact exceptions/waivers will be documented in the Case Plan and case file

Refer to the "CWS/CMS" Policy section for information on documenting compliance contacts in CWS/CMS.

B. Joint Visits:

Per Orange County policy, CFS and Probation will complete a joint visit with a child placed within Orange County, on at least a quarterly basis.

C. Placement in a Non-Adjacent County/Out-of-State:

Per Orange County policy, CFS and Probation may coordinate efforts to fulfill contact requirements if a child is placed:

- In a non-adjacent county and courtesy supervision will not be provided
- Out-of-state and ongoing supervision will not be provided through the Interstate Compact on the Placement of Children (ICPC)

This decision will be made on a case-by-case basis, in consultation with the Program Manager (or equivalent).

Communication

Refer to [Attachment 1—Identifying the Assigned Social Worker/Probation Officer](#), to identify the assigned SSW or DPO assigned to a case and to obtain contact information.

A. Authorization:

Per established Orange County Protocol and Orange County Juvenile Court Miscellaneous Order No. 520.4 and No. 524.4, CFS and Probation may exchange information and provide mutual access to records when:

- Completing a 241.1 joint assessment
- Case planning, determining eligibility, and/or coordinating service delivery on a dual status case

B. Guidelines:

Per established Orange County Protocol, the spirit of cooperation and candid communication will prevail in the exchange of information between CFS and Probation.

Per best practice:

- When completing a 241.1 joint assessment, the assigned SSW and DPO will maintain ongoing communication and respond to one another within one business day
- For dual status cases, the assigned SSW and DPO will, at a minimum, maintain monthly verbal contact

C. **Confidentiality:**

CFS and Probation will maintain the confidentiality of case record information exchanged, in accordance with WIC § 827 and California Rules of Court, Rule 5.552.

Indian Child Welfare Act (ICWA)

A. **Inquiry:**

Pursuant to WIC § 224.3, CFS and Probation have a continuing duty to inquire about a child's possible American or Native Alaskan Indian heritage status in:

- Dependency proceedings
- Delinquency proceedings where the child is in foster care or at risk of foster care placement

ICWA inquiries will be completed and documented in accordance with established agency policies.

B. **Notice:**

Pursuant to WIC § 224.2, CFS and Probation will comply with ICWA notice requirements unless:

- Court determines ICWA does not apply

–And/Or–

- The child is placed in foster care for reasons solely based on the child's delinquent or criminal behavior (In Re W.B., Jr., 55 Cal. 4th 30 [2012])

C. **Other Provisions:**

The lead agency will comply with other provisions of ICWA unless foster care placement is motivated, in part, by the child's delinquent behavior and the need for rehabilitation (In Re W.B., Jr., 55 Cal. 4th 30 [2012]).

These ICWA provisions include:

- Active efforts
- Expert witness testimony
- ICWA placement preferences
- Tribal involvement in case plan development

Established agency policies will guide the lead agency's application of ICWA.

Placement

Per ACIN I-05-06, the lead agency will retain placement responsibility for a dual status child.

A. The lead agency will place the child in accordance with established agency policies:

1. In consult with the non-lead agency to identify the safest, least restrictive placement that is best suited to meet the child's needs.

Note: Whenever possible, the assigned DPO will be invited to participate in Team Decision Making (TDM) meetings held on behalf of the child

2. In compliance with WIC § 16514:

- a. A child adjudicated pursuant to WIC § 300 may be placed in an emergency shelter, foster family home (FFH), or foster family agency (FFA) with a child adjudicated pursuant to WIC § 601.

- b. A child adjudicated pursuant to WIC § 300 or 601 will not be placed in an emergency shelter with a child adjudicated under WIC § 602.

Note: To remain compliant with WIC § 16514, children adjudicated under WIC § 602 will not be admitted to Orangewood Children and Family Center (OCFC).

- c. A child (or non-minor dependent) adjudicated pursuant to WIC § 300, including a child for whom a petition has been filed to initiate dependency proceedings, will not be placed in a group home, FFH, or FFA with a child adjudicated pursuant to WIC § 601 or 602 unless the assigned SSW or DPO determine:

- The placement has a program that meets the specific needs of the child

–And–

- There is a commonality of needs among the children in the placement

Note: A dual status child may be detained in Juvenile Hall for a Probation Violation (WIC § 777) if the child is a ward pursuant to WIC § 602. If a dual status child is detained in Juvenile Hall, the assigned DPO (or designee) will file a WIC § 777 Notice of Hearing/Probation Violation petition.

- B. Per Orange County Juvenile Court Miscellaneous Order No. 520.4 and No. 524.4, the non-lead agency may assist in facilitating placement by:
1. Sharing information with the lead agency regarding the child's placement history and needs.
 2. Providing the following documentation, as available:
 - Court reports
 - Certified copy of child's birth certificate
 - Copy of child's social security card
 - Child's immunization record
 3. Providing available clearance information regarding a prospective caregiver. This may include:
 - Historical information regarding prior CFS/Probation involvement
 - Child abuse and neglect records (per CDSS MPP Division 31-001 and 31-405, and Penal Code § 11167.5[b][4])

Note: The lead agency will obtain criminal clearance information regarding a prospective caregiver, as required, independent of information provided by the non-lead agency.

Funding

- A. **Placement:**
Per ACIN I-05-06, Foster Care Eligibility will make AFDC-FC eligibility determinations for a dual status child, based on existing eligibility requirements.

The lead agency will submit eligibility-related documentation, per established county claiming procedures.

- B. **Time Studying to Administrative Activities:**
Per ACIN I-05-06, the lead agency and non-lead agency may time study to administrative activities for dual status cases, as long as there is no duplication of activities or services, and the cost associated with each is not duplicated

For Example: The assigned SSW and DPO may time study to the appropriate code for:

- Involvement in Multi-Disciplinary Team meetings (if each agency provides unique information and expertise)
- Provision of referrals and/or services that are distinct and different
- Monthly compliance contacts (if the focus/purpose of visits are different)
- Preparation of court reports (for either dependency or delinquency hearings)

CWS/CMS

Dual status cases will have an open CWS/CMS case. Established agency policies will guide use of CWS/CMS.

- A. **Primary/Secondary Assignment:**
The lead agency will retain primary assignment of the CWS/CMS case. The non-lead agency will be given secondary assignment until dual status is terminated.

If Probation is designated as the lead agency, CFS will close the CWS/CMS case and notify Probation of key personnel that will need secondary assignment. Probation will open the case as a “Non-CWD” case and give secondary assignment, as requested.

Refer to [CWS/CMS Data Entry Standards—Dual Status \(Jurisdiction\) Cases](#) for further information.

- B. **Documenting Monthly Compliance Contacts:**
Per ACL 11-18, CFS and Probation will document compliance contacts in CWS/CMS.

Refer to [CWS/CMS Data Entry Standards—Qualifying Referral/Case Contact Instructions](#), for instructions on documenting CFS and Probation contacts.

- C. **Special Projects Codes:**
The following CWS/CMS special project codes will be used to gather data and track outcomes:

- Probation Referral
- Dual Jurisdiction Cases
- Dual Handling Team

Note: Probation cases referred to the Dual Handling Team will be flagged in the Integrated Case Management System (ICMS).

Refer to [CWS/CMS Data Entry Standards—Dual Status \(Jurisdiction\) Cases](#), for instructions on using the CWS/CMS special projects codes.

Absent Without Leave (AWOL)

Per Orange County policy, if a dual status child goes AWOL, the lead agency will, in accordance with established agency policies and timeframes:

A. Provide notification regarding the child’s AWOL status, to:

- Parents/Legal guardian
- Court (**Note:** Notify bench officer[s] overseeing dependency and delinquency proceedings.)
- Child’s attorney
- Law enforcement
- Foster Care Eligibility
- Other relevant parties (e.g., service providers, CASA, siblings, etc.)

B. As applicable, request:

- A bench warrant through Dependency Court, pursuant to WIC § 340 (if CFS is the lead agency)

–Or–

- A “No Bail” warrant through Delinquency Court (if Probation is the lead agency)

If dependency and delinquency matters are not heard in the same courtroom, a courtesy copy of the warrant request will be provided to the other bench officer.

Failed Family Maintenance (FM)

For dual status cases under FM supervision, if new information is received concerning suspected child abuse/neglect:

A. The agency receiving the information will contact the CAR, per Penal Code § 11166.

- B. CAR will determine whether an in-person investigation is warranted in accordance with CFS P&P [Child Abuse Registry \(CAR\) \(M-0109\)](#).
- C. New child abuse referrals opened for investigation will be investigated by CFS in accordance with CFS P&P [Abuse Investigations—Open Case \(A-0402\)](#).
- D. CFS will identify protective interventions necessary for the safety of the child. As necessary and appropriate, CFS will:
 - File a Supplemental (WIC § 387) or Subsequent (WIC § 342) petition with Dependency Court
 - Obtain a protective custody warrant to re-detain the child (when exigent circumstances do not exist)
- E. If the child is re-detained, the lead agency will retain placement responsibility.

Terminating Dual Status

For a dual status child, if circumstances change, and the continued involvement of CFS and Probation no longer appears necessary, CFS or Probation may request that Court calendar a hearing to reconsider the appropriate status of the child.

Note: Court may order a new 241.1 Joint Assessment Report.

A recommendation to terminate or modify a child's dual status will be made in consult with the DA, County Counsel, and the child's attorney.

If a child's dual status is terminated or modified:

- CFS and Probation will coordinate efforts to ensure services are not disrupted
- The child will be provided written notice of available benefits/services and proof of wardship/dependency, in accordance with WIC § 391 and WIC § 607.5

Transition to Extended Foster Care

The lead agency retaining placement responsibility for a dual status child upon his/her 18th birthday will be responsible for transitioning the child into extended foster care (EFC), when appropriate, in accordance with established agency policies. This may include, but is not limited to:

- Providing required EFC advisements to a child approaching 18 years of age
- Determining eligibility for EFC (and completing required

forms)

- Collaborating with the child to develop a Transitional Independent Living Case Plan, which includes a plan to meet at least one EFC participation requirement
- Identifying an agency-approved placement that will support the youth's transition to independence
- Initiating proceedings to determine eligibility for resumption of Court jurisdiction, if a non-minor elects to re-enter EFC

After a dual status child transitions into EFC, the lead agency will remain responsible for placement of the NMD, and for verifying ongoing compliance with EFC participation requirements. The Court will determine the level of continued involvement, if any, of the non-lead agency.

Resolution of Conflicts

Disagreements between CFS and Probation will be resolved in accordance with the Orange County Juvenile Court Protocol for Welfare and Institutions Code Section 241.1 Proceedings.

REFERENCES

Attachments and CWS/CMS Data Entry Standards

Hyperlinks are provided below to access attachments to this P&P and any CWS/CMS Data Entry Standards that are referenced.

- [Attachment 1—Identifying the Assigned Social Worker/Probation Officer](#)
 - [Attachment 2—Suggested Guidelines for Completing the 241.1 Joint Assessment](#)
 - [Attachment 3—241.1 Joint Assessment Report Template \(CFS\)](#)
 - [Attachment 4—241.1 Joint Assessment Report Template \(Probation\)](#)
 - [CWS/CMS Data Entry Standards—Dual Status \(Jurisdiction\) Cases \(F0109\)](#)
 - [CWS/CMS Data Entry Standards—Qualifying Referral/Case Contact Instructions](#)
-

Hyperlinks

Users accessing this document by computer may create a direct connection to the following references by clicking on them.

- CFS P&P [Abuse Investigations—Open Case \(A-0402\)](#)
- CFS P&P [Abuse Investigations—Practice Guidelines \(A-0412\)](#)
- CFS P&P [Abuse Investigations—Protective Interventions \(A-0414\)](#)

- CFS P&P [Child Abuse Registry \(CAR\) \(M-0109\)](#)
- CFS P&P [Dependency Intake \(A-0502\)](#)

Other Sources Other printed references include the following:

None.

FORMS

Online Forms Forms listed below may be printed out and completed, or completed online, and may be accessed by clicking on the link provided.

Form Name	Form Number
Orange County Social Services Agency Child Abuse Report	F063-04-49A
Application for Petition	F063-28-43
241.1 Screening/Placement Referral	F063-25-734
241.1 Joint Assessment Hearing Notice	F063-25-735
Notice of Hearing Worksheet	F063-28-04
Notice of Hearing Worksheet—366.26 Selection and Implementation Hearing Only	F063-28-05
Attorneys of Record for Delinquency Proceedings	F063-25-732

Hard Copy Forms

Forms that may be completed in hard copy (including multi-copy NCR forms) are listed below. ***For reference purposes only***, links are provided to view these hard copy forms, where available.

Form Name	Form Number
Notice of Pendency Action <i>(For use by Orange County Juvenile Court)</i>	CP018

CWS/CMS Forms

Forms that may **only** be obtained in CWS/CMS are listed below. ***For reference purposes only***, links are provided to view these CWS/CMS forms, where available.

Form Name	Form Number
241.1 Screening/Placement Referral	F063-25-734
241.1 Joint Assessment Hearing Notice	F063-25-735
Referral for Dual Consultation	F063-25-736

Brochures Brochures to distribute in conjunction with this policy may include:

Brochure Name	Brochure Number
None.	

LEGAL MANDATES

[Welfare and Institutions Code § 241.1](#) details the protocol to be developed between Probation and SSA, to coordinate assessments and recommendations when a child appears to come within the description of both WIC § 300 and WIC § 601 or 602.

[Welfare and Institutions Code § 241.1\(b\)](#) and [California Rule of Court 5.512](#) detail the 241.1 joint assessment, content of the 241.1 Joint Assessment Report, notice requirements and conduct of the 241.1 Joint Assessment hearing.

[Welfare and Institutions Code § 241.1\(e\)](#) authorizes Probation and SSA to create a protocol permitting dual status.

[Welfare and Institutions Code § 300](#) describes the conditions of abuse or neglect under which a child may be adjudicated a dependent of the Court.

[Welfare and Institutions Code §§ 601 and 602](#) describe delinquency issues under which a child may be adjudicated a ward of the Court.

[Welfare and Institutions Code § 656.2](#) details the rights of a victim concerning any petition filed pursuant to WIC § 602.

[California Rule of Court 5.520](#) provides the social worker has sole discretion to determine whether to file a petition under WIC § 300.

In Re Kaylee H. Cal. App. 4th (2012) provides the factors detailed in [California Rule of Court 5.516](#) be considered in determining whether to file a petition for a child who appears to come within the description of both WIC § 300 and WIC § 601 or 602.

[Welfare and Institutions Code § 16514](#) details placement restrictions for children adjudged wards of the Juvenile Court pursuant to WIC § 601 or 602.

In Re W.B., Jr., Cal. App. 4th (2012) details application of the Indian Child Welfare Act (ICWA) as it relates to dual status cases.

[Welfare and Institutions Code § 224.2](#) requires ICWA notice in dependency and delinquency proceedings, if the case qualifies as a “child custody proceeding.”

[Welfare and Institutions Code § 224.3](#) mandates a duty to inquire about a child's Indian status in dependency and delinquency proceedings.

[Welfare and Institutions Code § 340](#) provides if a dependent child runs away from a court-ordered placement, a protective custody warrant for the child may be issued.

[Welfare and Institutions Code Section 367\(b\)](#) mandates court hearings be held at least every fifteen days pending suitable placement of a dependent child.

[Penal Code § 14205](#) mandates law enforcement agencies accept missing person's reports without delay.

[PC § 11166\(a\)](#) describes reporting responsibilities for mandated reporters. [CDSS Eligibility and Assistance Standards \(EAS\) Regulation 45-201.4](#) identifies general requirements for Title IV-E funding, including service requirements of the agency responsible for placement and care of a child in foster care.

[CDSS Manual of Policies and Procedures \(MPP\), Division 31](#), identifies requirements for the administration of child welfare services, including requirements for Probation when a child is placed in out-of-home care.

[CDSS All County Information Notice \(ACIN\) I-05-06](#) provides guidance for dual status, as it relates to funding, services, placement, data entry, and the "lead agency" model.

[CDSS All County Letter \(ACL\) 11-18](#) provides compliance contacts completed by Probation and CFS be entered into CWS/CMS.

[Welfare and Institutions Code § 11404](#) and [42 United States Code § 672\(a\)\(2\)](#) require a written agreement between Probation and the SSA to claim Aid to Families with Dependent Children–Foster Care (AFDC-FC) funding for foster children supervised by Probation.

[CDSS Operations Manual, Chapter 29-400](#) and [CDSS ACL 99-96](#) address the written agreement mandated by WIC § 11404 to claim AFDC-FC for foster children supervised by Probation.

Memorandum of Understanding Between Orange County Social Services Agency and Orange County Probation Department Regarding Foster Care and Title IV-E Claims (August 29, 2011) establishes an agreement among Probation and SSA, to claim AFDC-FC for foster children supervised by Probation.

[Welfare and Institutions Code § 607.5](#) and [CDSS ACIN I-29-11](#) provide if jurisdiction is terminated over a ward who was previously in foster care as a dependent, the child be provided written notice of available benefits/services and proof of wardship/dependency.

[CDSS ACL 11-85](#) details how a ward that does not meet the criteria for WIC § 450 transition jurisdiction may have their delinquency status modified to dependency status.

[Welfare and Institutions Code § 827\(a\)](#) provides a juvenile case file may be inspected by persons or agencies providing treatment or supervision of the child, and authorizes its use in connection with a proceeding to declare a child a dependent or ward of the Court.

Orange County Juvenile Court Miscellaneous Order No. 520.4 and [Juvenile Court Administrative Order No. 12/003-903](#) authorize SSA and Probation to exchange information about dependents and wards, for case planning, eligibility, and/or services delivery.

Orange County Juvenile Court Miscellaneous Order No. 524.4 authorizes SSA and Probation to exchange information and have mutual access to files and records when formulating assessments and recommendations pursuant to WIC § 241.1.

Orange County Teen Court Protocol for Welfare and Institutions Code Section 241.1 Proceedings, dated October 2010, permits dual status for cases assigned to the Dependency Teen Courts.

Orange County Juvenile Court Protocol for Welfare and Institutions Code Section 241.1 Proceedings, dated October 8, 2015, permits dual status for cases assigned outside the Dependency Teen Courts.

Orange County Dual Handling Team Protocol (January 30, 2013) details the Dual Handling Team's provision of consultation services and involvement in the WIC § 241.1 joint assessment.

MOU Between Orange County Probation Department and Social Services Agency (August 7, 1990) details the responsibilities of Probation and SSA when a child appears to come within the description of both WIC § 300 and WIC § 601 or 602.