**PROTECTION AND PERMANENCY MEMORANDUM, 11-02**

**TO:** Service Region Administrators

 Service Region Administrator Associates

 Service Region Clinical Associates

 Regional Program Specialists

 Family Services Office Supervisors

**FROM:** Michael Cheek, Director

 Division of Protection and Permanency

**DATE:**  March 9, 2011

**SUBJECT:**  Identification of a Perpetrator in an Alternate Care Investigation

Upon completion of an APS investigation in an alternate care facility, the SSW makes a written report of the investigative findings and if possible identifies a perpetrator. The SSW documents a substantiated investigative finding as follows:

* Substantiated – Substantiated means that a SSW determined that a resident of an alternate care facility was the victim of abuse, neglect, or exploitation. A substantiated finding is made as a result of a personal interview with the resident and one of the following conditions:
* An interview with the alleged perpetrator, if conducting the interview does not pose a threat to the victim, in which the individual admits to abusing, neglecting, or exploiting the resident;
* The presence of evidentiary or supportive facts, such as medical evidence, observation of injuries, or witness testimony that reveals a preponderance of evidence. These examples are combined with other strong collaborating facts and documented; or
* A systems failure that may have contributed to the occurrence of abuse, neglect or exploitation.

A systems failure should only be cited as a precipitating factor in a substantiated finding when:

* It is clearly evidenced and demonstrable that the impact of the failure has contributed to the abuse, neglect or exploitation of a resident or residents;
* The failure is widespread; or
* Has occurred over a protracted time frame.

The SSW should only identify the direct care staff responsible for the maintenance and administration of the system as a perpetrator of abuse, neglect or exploitation of a resident. A facility administrator or designee not having responsibility for direct care to residents, should not be identified as a perpetrator unless it is clearly evidenced and demonstrable that the facility administrator or designee was aware of the systems failure and did not take any action or measures to correct such. A facility administrator is not identified as a perpetrator by default when a perpetrator’s identity cannot be determined. In these circumstances, “unknown facility staff” should be identified as the perpetrator.

Please refer to [SOP 20.9 Determining the Findings of an Alternate Care Investigation](https://manuals.sp.chfs.ky.gov/chapter20/Pages/2010DeterminingtheFindingsofanAlternateCareInvestigation.aspx) for more information regarding this matter.

If you have any questions regarding this memorandum, please contact, via e-mail, sarah.cooper@ky.gov or by telephone at (502) 564-2147 ext. 4494.