

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

Effective Date: January 9, 2003
Revision Date: March 2, 2022

Policy No.: A-0205

Sexual Abuse Allegations—Child Abuse Registry (CAR)

Purpose To provide guidelines for screening reports of alleged sexual abuse.

Approved This policy was approved by Christine Snapper, CFS Director.
Signature on file.

Most Recent Revision This revision of the Policy and Procedure (P&P) includes:

- Updated definitions for:
 - Sexual Abuse
 - Sexual Assault
 - Sexual Exploitation
- Removal of guidance no longer applicable
- Addition of the following definitions:
 - Emergency Response Protocol
 - Evaluated Out Report
 - Differential Response
 - Home-Based Care
 - Caregiver
 - Non-parent minor perpetrator
 - Commercial Sexual Exploitation
 - Sexual Trafficking
- Guidance for generating referrals where it has been reported by CDSS that a Registered Sex Offender (RSO) resides at a resource home monitored by Orange County
- Updated guidance for generating referrals for children alleged to be perpetrators
- Clarification of the following when assessing referrals involving sexual abuse allegations:

- Appropriate use of Path 1 referrals
 - Factors to consider when assessing response options
 - When reports of sexual activity between minors of dissimilar age may constitute general neglect
 - Guidance for generating referrals for unknown perpetrators
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Background

The Child Abuse Registry (CAR) is the initial point of contact for receiving allegations of child abuse and neglect, including allegations of sexual abuse. The decision whether to create a referral regarding alleged sexual abuse requires consideration of the complexities of human sexual behavior and the legal guidelines defining sexual abuse.

The legal guidelines for defining sexual abuse have evolved since California first enacted legislation defining acts of child abuse and the mandated reporting of child abuse in 1963. The initial legislation defined sexual abuse including acts of voluntary sexual activity (e.g., unlawful sexual intercourse, or statutory rape, as defined in Penal Code [PEN] Section [§] 261.5). In 1981, this legislation was amended to remove voluntary sexual activity from the definition of sexual abuse.

The Child Abuse and Neglect Reporting Act (CANRA), California's child abuse legislation was enacted in 1988. CANRA is the statutory authority defining allegations of sexual abuse, which includes defining certain voluntary sexual activities as sexual abuse.

CANRA consists of consists of PEN § 11164 through 11174.3, with PEN § 11165.1 providing the definition for sexual abuse.

CANRA has been revised multiple times, most recently providing clarification that sexual assault does not include voluntary conduct described in PEN § 286 (Sodomy), 287 (Oral Copulation), or 289 (Sexual Penetration), if there are no indicators of abuse, unless the conduct is between a person 21 years of age or older and a minor who is under 16 years of age. In addition, the following acts were included under the definition of sexual abuse:

- Sexual Assault of a Child
- Sexual Exploitation
- Commercial Sexual Exploitation

Refer to the CFS policy section "Definitions" for further information.

In October 2011, the California Department of Social Services (CDSS) provided guidance in the Resource Family Approval (RFA) Written Directives, for a monthly process to notify counties of potential RSO's residing in resource family homes and provided instructions on investigation and documenting investigation outcomes.

Definitions

For the purposes of this P&P and to assist in determination of appropriate disposition of a child abuse report, the following apply:

Caregiver: Defined to be an adult, parent, or guardian who provides care and supervision for a child. Pursuant to PEN § 11165.5, this includes a licensee, administrator, or employee of any facility licensed to care for children.

Commercial Sexual Exploitation (CSE): Per PEN § 11165.1(d):

- The sexual trafficking of a child, as described in PEN § 236.1(c)
- The provision of food, shelter, or payment to a child in exchange for the performance of any sexual act described in PEN § 236.1(c)

For further guidance regarding Commercial Sexual Exploitation refer to CFS P&P [Commercial Sexual Exploitation of Children \(M-0110\)](#).

Developmentally Appropriate: Developmentally appropriate exploration usually occurs in children who are of similar age, size, and developmental status. This activity is usually mutual between children in a friendship type relationship. The activity is limited in type and frequency and the child does not exhibit fear, shame, or guilt in their sexual play. Activities may include, but are not limited to, touching and looking at each other's bodies, playing doctor, self-stimulation, kissing, simulating intercourse, and, in some instances, engaging in sexual intercourse.

There is no single standard for assessing such behavior. Each instance must be assessed based on the characteristics of the child, the nature of the sexual behavior, and the context in which it occurred.

Developmentally Inappropriate: Sexual behaviors that are developmentally inappropriate may include, but are not limited to,

sexual conduct that exhibits one or more of the following characteristics:

- Sexual knowledge that is advanced for the child's age
- Anger
- Preoccupation with sexual topics or activities
- Coercion
- Violence
- Manipulation
- Secrecy
- Evidence of distress or fear

The behavior may persist over time despite consequences and to the exclusion of normal childhood activities. Additionally, these behaviors may be carried out with another child who is of dissimilar chronological or developmental age, or where there is a power differential within the relationship. Examples include, but are not limited to:

- A five-year-old sexually penetrating another five-year-old with an object
- A kindergartner repeatedly and obsessively masturbating in the classroom, even after being redirected several times for the behavior

Differential Response (DR): An alternative response system that enables CFS to respond in multiple ways to allegations of abuse or neglect. Orange County CFS has three systems, or “paths,” for responses: Path 1 (community response); Path 2 (dual response between CFS and community based organizations); Path 3 (CFS only initial response).

For further guidance, refer to CFS P&P [Child Abuse Registry \(CAR\) \(M-0109\)](#).

Dissimilar Age: Age difference of four or more years. Considers developmental age as well as chronological age.

Emergency Response Protocol (ER Protocol): Developed from regulations outlined in CDSS Division MPP Division 31-105, the ER Protocol is used by child welfare agencies receiving a referral of alleged child abuse or neglect to determine whether or not an in-person investigation is required. The ER Protocol specifies the minimum information that must be gathered to determine if an in-person investigation is required. For further guidance, refer to CFS P&P [Child Abuse Registry \(CAR\) \(M-0109\)](#).

Evaluate Out (E/O) Report: Report taken when the information provided by the RP meets the legal definition of child abuse or neglect, however, an in-person response by CFS is not warranted. An E/O report may be cross-reported to another agency that has jurisdiction to investigate (e.g., law enforcement or Community Care Licensing). E/O reports are also used to document a report from a mandated reporter that is a duplicate to a prior report from a different mandated reporter that has already been or is currently being investigated. For further guidance, refer to CFS P&P [Child Abuse Registry \(CAR\) \(M-0109\)](#).

Home-Based Care: Includes Resource Family Homes, County Licensed Homes, Approved Relative/Non-Relative Extended Family Members (NREFM) and Court Specified Placements.

Non-Parent Minor Perpetrator: Per ACL 17-85, defined as a non-parent under the age of 18.

Sexual Abuse: Per PEN § 11165.1, the victimization of a child by sexual activities, including, but not limited to sexual assault, sexual exploitation, and commercial sexual exploitation (CSE).

Sexual Assault: Per PEN § 11165.1(a) conduct in violation of one or more of the following:

- PEN § 261—Rape
- PEN § 261.5—Unlawful Sexual Intercourse with a person under 18 years
- PEN § 264.1—Rape in Concert
- PEN § 285—Incest
- PEN § 286—Sodomy
- PEN § 287—Oral Copulation
- PEN § 288—Lewd or Lascivious Acts Upon a Child
- PEN § 289—Sexual Penetration
- PEN § 647.6—Child Molestation

Note: Sexual assault does not include voluntary conduct including sodomy, oral copulation or sexual penetration if the activity is voluntary and there are no indicators of abuse, unless the conduct is between a person 21 years of age or older and the child is under 16 years of age.

Per PEN § 11165.1 includes, but is not limited to:

- Penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is the emission of semen.
- Sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person.
- Intrusion by one person into the genitals or anal opening of another person, including the use of an object for this purpose, except that, it does not include acts performed for a valid medical purpose.
- The intentional touching of the genitals or intimate parts, including the breasts, genital area, groin, inner thighs, and buttocks, or the clothing covering them, of a child, or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that it does not include acts which may reasonably be construed to be normal caretaker responsibilities; interactions with, or demonstrations of affection for, the child; or acts performed for a valid medical purpose.
 - The intentional masturbation of the perpetrator's genitals in the presence of a child.

Sexual Exploitation: PEN § 11165.1(c) defines “Sexual Exploitation” as:

- Conduct involving matter depicting a minor engaged in obscene acts in violation of PEN § 311.2 (preparing, selling, or distributing obscene matter) or PEN § 311.4(a) (employment of minor to perform obscene acts).
- A person who knowingly promotes, aids, or assists, employs, uses, persuades, induces, or coerces a child, or a person responsible for a child's welfare, who knowingly permits or encourages a child to engage in, or assist others to engage in, prostitution or a live performance involving sexual conduct, or to either pose or model alone or with others for purposes of preparing a film, photograph, negative, slide, drawing, painting, or other pictorial depiction, involving obscene sexual conduct.
- A person who depicts a child in, or who knowingly develops, duplicates, prints, downloads, streams, accesses through any electronic or digital media, or exchanges, a film, photograph, videotape, video recording, negative, or slide in which a child is engaged in an act of obscene sexual conduct, except for those activities by law enforcement and prosecution agencies and other persons described PEN § 311.3(c) and (e).

Sexual Trafficking: Pursuant to [22 U.S.C. § 7102](#) (12), refers to the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.

Similar Age: Age difference of less than four years. Considers developmental as well as chronological age.

Unlawful Sexual Intercourse: Pursuant to PEN § 261.5, an act of sexual intercourse with a person who is not the spouse of the perpetrator, if the person is a minor.

Voluntary or Mutual: Behavior that is not forced, coercive, or unwelcome.

POLICY

Referral Response Options- General Considerations

The Child Abuse Registry (CAR) Senior Social Worker (SSW) will assess all Child Abuse Reports including those regarding alleged sexual abuse to, determine whether an in-person investigation is required. The CAR SSW will complete the ER Protocol process outlined in CFS P&P [Child Abuse Registry \(CAR\) \(M-0109\)](#). Referral response options include:

- Create a referral and assign to Emergency Response (ER) for an in-person investigation
- Create a referral and evaluate out to another agency (e.g. law enforcement)
- Document referral as “Information Only” with no further action
- Not document the report

The CAR SSW will utilize SDM screening and priority tools and consult with a CAR Senior Social Services Supervisor (SSSS) to determine level of response required and/or response time. Refer to CFS P&P [Child Abuse Registry \(CAR\) \(M-0109\)](#) for further guidance.

Referral— Accept for ER Investigation

A. Sexual Abuse Allegations

The CAR SSW will create a referral with an allegation of sexual abuse and process for ER investigation regardless of the age of the child or partner, or the alleged voluntary nature of the sexual contact when the following are alleged:

- Any sexual act on a child by an adult caregiver or other adult household member, or unable to rule out household member as the alleged perpetrator
- Physical, behavioral, or suspicious indicators consistent with sexual abuse
- Sexual act(s) among siblings or other children living in the home
- Sexual exploitation
- Threat of sexual abuse

Refer to CFS P&P [Structured Decision Making \(D-0311\)](#) and CFS P&P [Child Abuse Registry \(CAR\) \(M-0109\)](#) for further guidance.

B. **General Neglect Allegations**

The CAR SSW will create a referral with an allegation of general neglect by the parent(s)/legal guardian(s) or caregiver and process for ER investigation when either of the following apply:

- The alleged sexual assault involves:
 - An out-of-home perpetrator (**Note:** Pursuant to Policy section “Referral-Evaluate Out to Law Enforcement” below, the sexual abuse allegation by the alleged out-of-home perpetrator will be evaluated out to law enforcement)

—And/Or—

- Unlawful Sexual Intercourse per PEN § 261.5 and/or sexual activity between children of dissimilar age is alleged. Refer to policy section ‘Definitions’ for further guidance.

—And/Or—

- The Parent(s)/Legal Guardians(s) or Caregiver(s) knew or reasonably should have known about the sexual activity and is unwilling and/or unable to protect the child. Refer to [Attachment 1—Factors to Consider When Assessing Failure to Protect Related to Sexual Abuse Allegations](#) for further guidance.

Refer to policy section “Third Party Perpetrators and Failure to Protect” for further guidance.

Note: An allegation of General Neglect by the parent(s), legal guardian(s), or adult caregiver(s) will not be generated when it is reported that the parent(s)/legal guardian(s)/adult caregiver(s) were not aware of the sexual activity or there is insufficient information to determine this.

The CAR SSW will consult with a CAR Senior Social Services Supervisor (SSSS) as necessary when assessing whether to take a referral regarding an allegation of General Neglect.

The CAR SSW will encourage the Reporting Party (RP) to share information about the alleged sexual abuse or voluntary sexual activity with the parent(s)/legal guardian(s)/adult caregiver(s) and, if the RP indicates the intent to do so, document this in the Screener Narrative.

**Referral—
Evaluate Out
(E/O)
To Law
Enforcement**

The CAR SSW will create a referral in CWS/CMS and evaluate out to law enforcement when the allegation of sexual abuse meets the statutory definition pursuant to PEN § 11165.1 (refer to policy section ‘Definitions’ for further guidance), and any of the following criteria are met:

- The alleged perpetrator is the child’s school personnel-

–Or–

- The alleged perpetrator does not reside with the child (out-of-home perpetrator)-

–And–

- There is sufficient information to determine that the parents are aware of the sexual activity- and the parents are able and willing to protect

**No Referral/
Information
Only Referral**

The CAR SSW will assess reports received which contain allegations of sexual abuse to determine whether to accept the report.

Further, the CAR SSW will take a referral and Evaluate Out as “Information Only” (if the report is received from a mandated reporter) when:

- A minor mother, aged 16 or 17, is pregnant or has a child with another minor with whom she is residing under adult supervision (e.g., the parents and/or adult family members of the other minor with whom she's residing).

–Or–

- Two minors are living together under adult supervision (e.g., the parents and/or adult family members of one of the minors) with consent of their parents and they do not have a child.

–And–

- A. The minors' parents have made provisions for their support.
- B. There is no domestic violence alleged in the minors' relationship.

Note: The CAR SSW will generate a referral alleging general neglect, but not sexual abuse, when there is no provision for the minors' support and/or there is domestic violence in their relationship.

Registered Sex Offender

Per Resource Family Approval (RFA) Written Directives, (Version 7.0), ACL 13-64, and All County Information Notice (ACIN) I-19-14, counties are required to confirm whether a RSO resides in, or has significant contact with, one or more dependent children or NMDs in Home-Based Care.

If a report is received confirming the presence of an RSO in the placement of a dependent child in Home-Based Care, the CAR SSW will:

- Generate an Immediate Response referral for General Neglect by the Caregiver per CFS P&P CAR (M-0109)
- Document the presence of an alleged RSO in the Resource Family Home in CWS/CMS

Refer to the [Registered Sex Offender \(RSO\) Protocol](#) within the Resource Family Approval (RFA) Desk Guide contained on the CFS Desk Guides and Protocols page of the CFS Intranet for further guidance.

Voluntary Sexual Activity

Voluntary sexual activity involving minors may require a Child Abuse Report. The CAR SSW will consider factors as detailed in the chart below when assessing whether to create a referral regarding

voluntary sexual activity, consulting as appropriate with a CAR SSSS per CFS P&P [Child Abuse Registry \(CAR\) \(M-0109\)](#).

Age of Child	Age of Partner	Type of Activity	Generate Sexual Abuse Referral
Under 14 years	Similar age	Developmentally appropriate	No
		Developmentally inappropriate	Yes (Sexual Abuse by unknown perpetrator)
	Dissimilar age	Any sexual activity	Yes
14 years-16 years	Similar age	Any sexual activity	No
	Dissimilar age	Any sexual activity	Yes
16 years-18 years	Similar age	Any consensual sexual activity	No
	Dissimilar age (over 21 years of age)	Any consensual sexual activity	Yes (Not appropriate for an in-person response) and Evaluate Out sexual abuse allegation to law enforcement.

Child as Alleged Perpetrator

The CAR SSW will list a child of any age as an alleged perpetrator of sexual abuse when there is credible information that the alleged child perpetrator's behavior is consistent with the definitions of sexual abuse described in PEN § 11165.1.

A Child Abuse Report regarding sexual behavior between children that is not age appropriate may be taken as a Companion-to-Case referral of "sexual abuse by an unknown perpetrator" if the information obtained indicates credible concern (i.e. developmentally inappropriate sexual behavior) that the alleged child perpetrator has been the victims of sexual abuse by an unknown party. This decision will be made in consultation with a CAR SSSS and/or County Counsel as appropriate.

Refer to CFS policy section 'Companion-to-Case (C-to-C)' below for further guidance.

At-Risk, Sibling Abused Allegation

The CAR SSW will assess whether to include an allegation of At Risk, Sibling Abused for the sibling of a child for whom there is an allegation of sexual abuse pursuant to CFS Dispatch [Use of At Risk, Sibling Abused Allegation \(A-0206-D\)](#).

Companion-to-Case (C-to-C) Referrals

The CAR SSW will create a referral with an allegation of sexual abuse for a child with a different mother than the primary alleged victim of sexual abuse when:

- The alleged perpetrator has had access to that child

–And–

- There is a reasonable suspicion that the alleged perpetrator may have sexually abused that child

–And–

- Allegations regarding the primary victim are:
 - Not yet investigated
 - Inconclusive or substantiated

Commercial Sexual Exploitation of Children (CSEC)

The CAR SSW, pursuant to PC § 11165.9, will accept reports of suspected child abuse and neglect, including allegation of CSE, from mandated and non-mandated reporters. Refer to CFS P&P [Commercial Sexual Exploitation of Children \(CSEC\) \(M-0110\)](#) for further guidance.

CAST Forensic Interviews/Medical Exams

Child Abuse Services Team (CAST) forensic interviews and medical exams may be scheduled by law enforcement when an interview or medical exam is needed for criminal, forensic, or child protective reasons.

If law enforcement does not request CAST services or is not involved in the child abuse investigation, CFS staff may request an interview or an exam for child protective services, refer to CFS P&P [Child Abuse Services Team \(CAST\) \(A-0401\)](#) for further guidance.

Structured Decision Making

The CAR SSW will complete Structured Decision Making (SDM) for allegations of sexual abuse pursuant to CFS P&P [Structured Decision Making \(D-0311\)](#).

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.
	<ul style="list-style-type: none"> • Attachment 1—Factors to Consider When Assessing Failure to Protect Related to Sexual Abuse Allegations

	<ul style="list-style-type: none"> • Data Entry Standard (DES) Registered Sex Offender Special Project Codes

Hyperlinks

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

- CFS Dispatch [Use of At Risk, Sibling Abused Allegation \(A-0206-D\)](#)
- CFS P&P [Structured Decision Making \(D-0311\)](#)
- CFS P&P [Child Abuse Registry \(M-0109\)](#)
- CFS P&P [Commercial Sexual Exploitation of Children \(CSEC\) \(M-0110\)](#)
- CFS P&P [Child Abuse Services Team \(CAST\) \(A-0401\)](#)
- CDSS Resource Family Approval [Written Directives Version 7.0](#)
- [Structured Decision Making \(SDM\) Policy and Procedures Manual](#)
- [Registered Sex Offender \(RSO\) Protocol](#)

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

None.

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**

None.

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**

None.

Brochures

Brochures to distribute in conjunction with this policy may include:

Brochure Name**Brochure Number**

None.

LEGAL MANDATES

[Penal Code \(PEN\) § 11165.1](#): Defines “sexual abuse” as “sexual assault” or “sexual exploitation”.

[PEN § 11165.1\(a\) and \(b\)](#): Defines "sexual assault".

[PEN § 11166](#): Defines mandatory reporting requirements.

[All County Information Notice \(ACIN\) I-62-16](#): Describes changes made to SDM screening tools.

[ACIN 1-19-14](#): Informs counties of statutory change in the Penal Code (PEN), adding PEN § 3003.6 stating anyone required to register as a sex offender under PEN § 290 is prohibited from residing, (except as a client), working, or volunteering in licensed or approved homes where dependents of the juvenile court reside.

[ACL 13-64](#): Provides clarifying instructions to counties regarding procedures to protect minor and Non-Minor Dependents (NMD) from having contact with a Registered Sex Offender (RSO) in a relative, Non-Related Extended Family Member (NREFM) or court specified placement.

[ACL 17-85](#): Provides guidance for assessing and investigating referrals involving 3rd Parties.

[ACL 17-91](#): Provides clarification as to how to document and respond to call that do not require an in-person response.

[ACL 20-142](#): Provides guidance regarding reports of child abuse or neglect of dependents or wards in out-of-home foster care.

[Penal Code § 11165.1\(c\)](#) defines “sexual exploitation” of a child.

REVISION HISTORY

Since the Effective Date of this P&P, and prior to the Current Revision Date, the following revisions of this P&P were published:

July 25, 2006

November 18, 2011