

December 31, 2020

CALIFORNIA DEPARTMENT OF SOCIAL SERVICES

**EXECUTIVE SUMMARY**

**ALL COUNTY LETTER NO. 20-142**

This letter is to inform counties and tribes of updates to the Structured Decision Making (SDM®) Hotline tool. These updates incorporate existing requirements to screen allegations of child abuse and neglect in out-of-home foster care, allegations of commercial sexual exploitation of a child regardless of caregiver knowledge, and child maltreatment-related fatalities regardless of whether other children are reported in the home. These updates are being made to ensure the SDM® Hotline tools conform with existing laws, policies, and guidance, and to promote increased child safety throughout California.



**KIM JOHNSON**  
DIRECTOR

STATE OF CALIFORNIA—HEALTH AND HUMAN SERVICES AGENCY  
**DEPARTMENT OF SOCIAL SERVICES**  
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**GAVIN NEWSOM**  
GOVERNOR

December 31, 2020

ALL COUNTY LETTER NO. 20-142

**TO:** ALL COUNTY CHILD WELFARE DIRECTORS  
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS  
ALL CHIEF PROBATION OFFICERS  
ALL TITLE IV-E AGREEMENT TRIBES  
ALL COUNTY ER PROGRAM MANAGERS

**SUBJECT:** **UPDATES TO THE STRUCTURED DECISION MAKING (SDM®) HOTLINE TOOL FOR ALLEGATIONS REGARDING CHILDREN IN OUT-OF-HOME FOSTER CARE, COMMERCIAL SEXUALLY EXPLOITED CHILDREN (CSEC), AND CHILD MALTREATMENT-RELATED FATALITIES**

**REFERENCE:** [WELFARE AND INSTITUTIONS CODE \(WIC\) SECTIONS 224.1\(f\), 300\(b\)\(2\), AND 16501\(f\); PENAL CODE \(PC\) SECTION 11165 et. seq. \(CHILD ABUSE AND NEGLECT REPORTING ACT\); PUBLIC LAW \(PL\) 113-183; ALL COUNTY LETTER \(ACL\) NOS. 03-61, 05-09, 06-15, 16-49, 17-27, 17-28, AND 17-85; ALL COUNTY INFORMATION NOTICE \(ACIN\) NO. I-28-19; INTERIM LICENSING STANDARDS FOR SHORT-TERM RESIDENTIAL THERAPEUTIC PROGRAMS; CHILD WELFARE SERVICES \(CWS\) MANUAL OF POLICIES AND PROCEDURES \(MPP\) DIVISION 31-100 REGULATIONS; CALIFORNIA MPP TITLE 22 COMMUNITY CARE LICENSING REGULATIONS](#)

The purpose of this ACL is to notify counties of changes made to the Structured Decision Making (SDM®) Hotline tool to strengthen consistency between practice and existing statutory and regulatory requirements. These updates incorporate the existing requirements to apply the emergency response protocol to reports of child abuse and neglect involving a dependent or ward in out-of-home foster care, to allegations regarding commercial sexual exploitation of a child regardless of caregiver knowledge, and to child maltreatment-related fatalities regardless of whether other children are reported in the home.

## **REPORTS OF CHILD ABUSE OR NEGLECT OF DEPENDENTS OR WARDS IN OUT-OF-HOME FOSTER CARE**

The Manual of Policies and Procedures (MPP) [Division 31-100](#) regulations require counties to respond to all referrals alleging abuse or neglect of a child by completing the emergency response protocol to determine if an in-person investigation is necessary, or by conducting an in-person investigation. The ACLs [05-09](#), [06-15](#), and [17-28](#) reiterate this requirement applies to all incidents of suspected child abuse or neglect of a child placed in out-of-home foster care who is a dependent or a ward of the court. All California county child welfare agencies are expected to conduct and document an in-person investigation of allegations of child abuse or neglect (according to definitions in the [Child Abuse and Neglect Reporting Act \[CANRA\]](#) and Division 31-100 regulations) in these out-of-home foster care settings. The CWS agency should not determine or delay its response based on licensing authority ([ACL No. 03-61](#)).

The SDM® hotline tools were originally implemented to screen allegations of child abuse and neglect in household settings involving either a legal caregiver, which includes Indian custodians, or substitute care provider, but were not intended to screen allegations of child abuse or neglect in congregate care settings such as group homes, Short-Term Residential Therapeutic Programs (STRTPs), institutions, or residential treatment facilities; such situations were instead captured in the pre-screening section of the tool, indicating that a review of the SDM® screening criteria were not required. The SDM® hotline tool preliminary screening, response, and response priority tools have now been modified to allow for the use of an expanded definition of “caregiver” that more closely aligns with [PC section 11165.5](#), and includes group home and STRTP licensees, administrators, and staff members. **This expanded definition of “caregiver” only applies to screening, response, and response priority tools; it does not apply to the safety, risk, reunification, or other SDM® assessments.**

When screening a report of maltreatment by an alleged perpetrator who is not the parent, guardian, or Indian custodian of a victim, such as a group home staff member, hotline workers should also inquire if the alleged perpetrator is a caregiver of children in their own household and generate any additional referrals, as necessary. Additionally, if the specific identity of the alleged perpetrator of abuse or neglect of a dependent, dual-status, or ward child in out-of-home foster care is unknown at the time of the report, the hotline worker should still screen the referral and open an investigation in accordance with [ACL No. 03-61](#). The naming convention used for unknown perpetrators is described in [ACL No. 05-09](#), which also provides guidance on how to document in the Child Welfare Services/Case Management System (CWS/CMS) if and why an interview of an alleged/unknown perpetrator did not take place.

Hotline workers must also continue cross-reporting allegations to law enforcement agencies and Community Care Licensing (CCL), as described in [ACL No. 17-85](#). Please see attachments for step-by-step instructions on how to input cross-reports to law enforcement and CCL into the CWS/CMS. However, cross-reports to the licensing authority should not be used to determine or delay the CWS or probation agency’s

response ([ACL No. 03-61](#)). It is the child welfare or probation agency's responsibility to assess the child's safety in their placement, whereas the licensing agency is responsible for assessing the facility's ability to provide adequate and safe care.

Emergency response investigations regarding dependent or ward children in out-of-home foster care must be conducted in accordance with the same requirements as investigations of all other referrals. Further guidance on investigation requirements for children in out-of-home foster care settings can be found in [ACL Nos. 17-27](#) and [17-28](#). Additionally, when the county receives a report of abuse or neglect of a ward in out-of-home foster care, the investigation must also be conducted in accordance with the local Memorandum of Understanding (MOU) between the child welfare agency and probation department ([ACL No. 06-15](#)). If a county CWS agency does not have an approved MOU with the probation agency, then child welfare is responsible for investigating allegations of abuse or neglect of probation wards in out-of-home foster care. If an MOU does exist and it states that the probation agency is responsible for investigating allegations of abuse or neglect, the county should assign the referral to the probation agency and keep the referral open until probation completes the investigation ([ACL No. 06-15](#)).

Social workers must complete an assessment of a child's immediate safety in placement during the initial in-person investigation. However, the SDM® Substitute Care Provider Safety Assessment tool was not designed for congregate care settings and should not be used to conduct or document this assessment in situations where the investigation involves caregivers who are licensees, administrators, or employees of group homes, STRTPs, other institutions, and residential treatment facilities.

Revisions to the SDM® Safety Assessment tool for use in out-of-home foster care investigations are currently planned to ensure workers are directed to the appropriate assessment structure for each household or care environment. Social workers conducting an initial in-person investigation of allegations in congregate care settings should continue to verify the immediate safety of the child and other children placed in the facility by assessing, at a minimum, the following:

- Direct actions by a facility administrator, staff, or other residents that may present immediate danger to the child, including, but not limited to:
  - Direct harm or threats of harm to the child caused by physical, emotional, or sexual abuse, including commercial sexual exploitation, by facility staff or residents.
  - Administering unauthorized medication or withholding necessary medication.

- Use of delayed egress devices, such as a locking feature that delays the opening of a door, that prevents a child from exiting a facility in case of emergency.
- Excessive use of isolation as a form of punishment in a manner that may pose an immediate danger.
- Involving the child in illegal activity, such as sex or drug trafficking.
- Use of physical or emotional harm as a punishment.
- Acts of omission by a facility administrator, staff, or other residents that may present immediate danger to the child, including, but not limited to:
  - Inadequate supervision to assure the mental health, developmental, behavioral, physical, or sexual safety of the child.
  - Significant delay or failure to report a child who may be a danger to themselves or others.
  - Significant delay or failure to report a child who has run away from the facility.
  - Significant delay or failure to report direct harm or threats of harm to the child caused by physical, emotional, or sexual abuse, including commercial sexual exploitation.
  - Failure to address gang activity in the facility.
  - Failure to address bullying by staff or residents.
- Hazardous or unsanitary facility conditions that may pose an immediate danger of injury or illness.

The social worker's assessment process should include questions that are framed around what has happened to the child in the congregate care facility to assess their immediate safety. The social worker should also consider whether a safety plan with protective interventions should be initiated to provide appropriate protection, or if a placement change is required. In the case of an Indian child, the social worker shall work with the child's Tribe(s) to assess for safety, develop a safety plan, and determine if interventions and/or a placement change is required. These factors should be assessed in the context of any child vulnerabilities that may include, but are not limited to:

- Intellectual/developmental or physical disability;
- Age/developmental stage;
- Significant mental health or behavioral problems;
- Significant health condition(s) that impact the child's ability to protect themselves.

If the social worker assesses that one or more children need immediate placement support as a result of one or more identified immediate safety concerns, the safety of all children in the facility should be assessed and necessary actions shall be taken to assure their immediate safety and to notify agencies responsible for their placement. Additionally, if while investigating an allegation of abuse or neglect in an out-of-home foster care setting a social worker suspects that other children are also being abused or neglected, the social worker must make a supplementary referral to the hotline for appropriate screening and response, as stated in [ACL No. 05-09](#).

Do not complete the SDM® Risk Assessment at the conclusion of out-of-home foster care investigations, as the risk assessment was not designed for this purpose. The investigating worker should, however, collaborate with the ongoing case worker to determine whether a safety plan is necessary and whether a child's case plan is adequate to meet the child's needs.

### **COMMERCIALLY SEXUALLY EXPLOITED CHILDREN (CSEC)**

Under [WIC section 300\(b\)\(2\)](#), state law was clarified to indicate that a child who is sexually trafficked or who receives food, shelter, or payment in exchange for sexual acts may fall within the jurisdiction of the juvenile dependency court if their parent failed to or was unable to protect them. This provision does not specify that a parent or guardian must have knowledge of the child's commercial sexual exploitation.

To address this clarification in statute, the revised SDM® Hotline tool now includes guidance that directs CWS agencies to assess all CSEC referrals regardless of caregiver knowledge. Even when a caregiver has no knowledge that a child is being victimized by commercial sexual exploitation, an in-person response may be necessary to ensure the parent or caregiver demonstrates the ability to protect the child from further exploitation ([ACL No. 17-85](#)). Hotline workers must screen and assess all CSEC allegations, regardless of caregiver knowledge, and determine an appropriate investigative response.

The sexual abuse decision tree contained in the SDM® Hotline tool has also been updated to direct county CWS agencies to fully screen CSEC referrals regardless of whether the report alleges caregiver knowledge of the exploitation. As part of the SDM® screening criteria, existing definitions under Failure to Protect include specific references to situations in which the child has been exploited by a third party perpetrator and the person responsible for the child's care is either aware of the exploitation and has failed to protect, or been unable to protect the child from being commercially sexually exploited and/or trafficked. In addition, existing definitions under "Sexual Abuse" and "Sexual Exploitation" include situations where a caregiver is actively involved in the sexual exploitation or trafficking of a child.

When a caregiver is alleged to be involved in the exploitation or trafficking of a child, an allegation of sexual exploitation should be applied while using the SDM® Hotline tool to both the caregiver and any third-party perpetrators (defined in [ACL No. 17-85](#)). However, when a child is exploited or trafficked by someone without caregiver involvement, an allegation of sexual exploitation should be applied only to the alleged third-party perpetrator. In these cases, the extent to which a caregiver is aware of the abuse is addressed in separate screening criteria for both “General neglect” and “Failure to protect.” The [ACL No. 16-49](#) explains in further detail how to document CSEC allegations in CWS/CMS.

Investigations involving only allegations of a third-party alleged perpetrator should not use the SDM® Safety Assessment and SDM® Risk Assessment. These assessments were not designed for use in these situations. Additionally, when an in-person assessment demonstrates that the caregiver had no prior knowledge or involvement with the exploitation and has the ability to protect the child from further abuse, the SDM® Safety Assessment and Risk Assessment should not be completed.

Until standardized tools are available for use in investigations involving third-party perpetrator allegations, CWS agencies should investigate CSEC referrals when indicated by these updated emergency response protocols using the following approaches. Social workers should ask questions that are open ended and not assuming of the child’s exploitive history. Exploiters often use coercive tactics, which cause children to believe they are voluntarily choosing to be exploited. This is important to keep in mind, as it may take some children a significant amount of time to recognize they are being victimized. They will likely deny exploitation or state they are willfully participating, even if evidence indicates otherwise. If the child describes the alleged exploiter as their significant other/romantic partner, the social worker should ask additional questions about the relationship and the significant other/romantic partner themselves such as:

- How did they meet?
- What did they do together?
- How often did they see each other?
- What does the child like and dislike about them?
- What do you do when you leave the house? How do you spend your time?
- Can you tell me more about your (insert material item)? Was it a gift? Who gave it to you?
- What makes you feel safe?
- Is there anything in your life that doesn't make you feel safe?

Assessment of safety and risk when investigating alleged commercial sexual exploitation by a third-party perpetrator should also consider the following factors (this is not an exhaustive list):

- Physical evidence of trafficking:
  - Evidence of physical abuse from an exploiter or purchaser (e.g. bruises, marks, or evidence of branding/tattoos indicative of being someone's property).
  - Child possesses multiple phones, hotel key cards, a large amount of cash, or other material items not typical of a child their age.
  - Child appears tired or malnourished and, when prompted, states they have limited access to regular meals.
  - Child expresses sexual/reproductive health concerns.
  - Evidence of substance use.
  - Child uses terms commonly associated with commercial sexual exploitation (e.g. “the life,” “daddy,” “trick,” “track,” and/or “date.”)
  - Child experiences unstable housing arrangements (e.g. periods of homelessness and/or multiple foster/group home placements).
  - Child or caregivers report that the child comes and goes frequently and/or is gone for extended periods of time.
  - Child has irregular school attendance.
- Exploiter’s relationship with the child:
  - If the alleged third-party perpetrator is known to the child.
  - Take note of the way the child describes the third-party perpetrator (e.g. the child references them as their significant other/romantic partner.)
  - Appears to be a large age gap between the child and the third-party perpetrator.
- Caregiver knowledge:
  - If caregivers are aware of the third-party perpetrator’s identity.
  - If caregivers are able to provide adequate supervision, support, and/or access to services to increase the child’s safety.
  - If caregivers demonstrate a willingness to intervene and take necessary steps to address the child’s exploitation.
- Child has access to other supportive services (e.g. a family resource center, community center, counseling, or mentorship program).

Social workers should use the responses to these questions and the information gathered, considering the above risk factors, to determine if the child may be described under [WIC section 300\(b\)\(2\)](#) or any other applicable subdivision of WIC 300.



Additionally, during the investigation, social workers should consider utilizing a harm reduction approach, as described in [ACIN No. I-28-19](#), when engaging with children who have experienced commercial sexual exploitation. Best practice indicates that engagement and safety planning should be ongoing and evolve, recognizing short term incremental gains are the path to long-term safety and stability. Involving the child in this way allows them to define what safety means to them so the social worker can adequately address their needs and well-being. Safety planning using a harm reduction approach should include, but is not limited to:

- The child identifying a safe person they can connect with.
- Agreeing upon how frequently the child will contact the social worker.
- Identifying safe places the child can go in the community at any time of day if they are absent from care and feel unsafe.
- Identifying coping strategies for complex emotions.

For children who are actively being exploited, safety plans should also include how children may access contraceptives and how they will maintain their physical safety while engaging with purchasers.

Exploitation does not solely involve the presence of a trafficker. Exploitation can also occur when a child engages in survival sex, in which an adult purchases sex from a child in exchange for meeting the child's basic material or monetary needs (e.g. clothing, food, a place to sleep). Social workers should be mindful of whether a child's basic needs are being met, including those needs they themselves define as "basic." Males, LGBTQ+ (lesbian, gay, bisexual, transgender, queer, and questioning) children, and homeless children are at an increased risk for engagement in survival sex.

The SDM® Safety and Risk Assessments should be conducted to assess a caregiver's household only when there is an allegation involving the caregiver, including instances in which an allegation involving the caregiver has been added during the investigation (e.g., there is no allegation involving a caregiver at the time of the report, but during the course of the investigation there is suspicion that a caregiver failed to or was unable to protect the child). If a new allegation of failure or inability to protect regarding a caregiver is added during the course of an investigation, then SDM® Safety and Risk Assessments should be conducted to assess the caregivers' household and document threats to child safety, as well as the caregivers' ability to protect the child from third-party exploitation.

## **CHILD MALTREATMENT-RELATED FATALITIES REGARDLESS OF WHETHER OTHER CHILDREN ARE REPORTED IN THE HOME**

In accordance with the Child Fatality Reporting and Disclosure requirements set forth in the MPP Division [31-502](#) regulations, all California counties are expected to generate a referral in CWS/CMS and respond to suspected child maltreatment-related fatalities by completing the Emergency Response Protocol and/or conducting an in-person investigation, as outlined in the Division [31-101](#) and [31-105](#) regulations.

In 2015, the California Department of Social Services (CDSS), Evident Change (formerly the National Council on Crime & Delinquency [NCCD] Children's Research Center), and the California SDM® Core Team collaboratively worked to revise the SDM® Hotline tool (SDM® 3.0). Revisions to the tool included a preliminary screening section intended to improve the utility of the tool but did not change CDSS policy. As part of those revisions, the decision was made to place some of the preliminary screening items under the "evaluate out" category that appeared in a section under a separate category named "review of criteria not required" in prior versions of the tool (2008, 2010, and 2013). Specifically, SDM® 3.0 places "No child under age 18" in the "Evaluate out" category in the Preliminary Screening section and instructs hotline workers that if this item is selected, "the screening decision has been made and the assessment is completed. No further SDM assessments are required." The "No child under age 18" criterion only applies when a report involves a victim or at-risk individual who is not a child and not subject to investigation by the child welfare services agency. This criterion was not intended to be marked and is not applicable in cases where the report involves the maltreatment-related death of a child. The SDM® Hotline tool has been updated to reflect this.

Counties must respond to all child fatalities that are suspected to be the result of abuse and/or neglect. During an in-person investigation, the emergency response social worker must verify there are no other children in the home, as the initial hotline report may not have complete or accurate information regarding the household composition or other children to which the perpetrator may have access and pose a safety threat. Additional protocols to ensure child safety, assess for any potential safety concerns, and appropriately document the child maltreatment-related fatality in CWS/CMS include, but are not limited to, the following:

- Following up with law enforcement on child maltreatment-related fatalities.
- Making collateral contacts with those who may have more information on the family and/or perpetrator.
- Reviewing child welfare history in CWS/CMS.
- Ensuring the allegations against the perpetrator and circumstances of the fatality are recorded in the CWS/CMS record.
- Ensuring the perpetrator is reported to the Child Abuse Central Index (CACI) when the county CWS agency's active investigation results in a substantiation. Additional information on what constitutes an "active" investigation for CACI reporting purposes can be found in [ACL No. 17-85](#).

- Contact and work with the Indian child's Tribe to gather, assess, and share information.

The SDM® Hotline tool has been updated to assign an automatic 24-hour response priority any time there is a child fatality suspected to be the result of abuse or neglect. Additionally, language has been added to remind CWS agencies that hotline workers should not apply the "No child under age 18" item or evaluate out reports alleging the suspected abuse or neglect-related death of a child, regardless of whether other children are reported in the household. A forthcoming ACL will provide additional details regarding the investigation and documentation requirements for child fatalities when there are no other children reported in the home.

### **COLLABORATION WITH TRIBES**

In the case of an Indian child, when investigating allegations of child abuse or neglect, including incidents occurring in out-of-home foster care, commercial sexual exploitation of a child, and child maltreatment-related fatalities, the social worker shall work with the child's Tribal representative(s) to communicate and coordinate, as outlined in the active efforts requirement of the Indian Child Welfare Act (ICWA) under [WIC section 224.1\(f\)](#). Collaborating, obtaining input from, and teaming with the Tribe(s) includes, but is not limited to, the following:

- Partnering in the investigation.
- Determination of the knowledge and involvement of caregivers in CSEC.
- Use of the SDM® tools.
- Interviewing and assessment of the child and caregivers.
- Development of safety plans and interventions.
- Placement change decisions.

It is important that the Tribal representative(s) be included in information gathering, assessment, and key decisions. Tribal representatives often have the most cultural knowledge about their members.

If CWS agencies have any questions or need further assistance regarding this letter, please contact the Child Welfare Policy and Program Development Bureau at (916) 651-6160 or by sending an email to [childprotection@dss.ca.gov](mailto:childprotection@dss.ca.gov). For questions specific to CSEC, please email [csecprogram@dss.ca.gov](mailto:csecprogram@dss.ca.gov).

Sincerely,



GREGORY E. ROSE

Deputy Director

Children and Family Services Division

c: County Welfare Directors Association

Attachment

## **ATTACHMENT**

### **INSTRUCTIONS IN A REFERRAL TO ENTER A CROSS REPORT TO CCL**

1. Click on **Opening Existing Referral Folder (A)**
2. Select client and click **OK**
3. Click on **Referral Management button (green) (B)**
4. Click on **Open Existing Cross Report button (police car) (C)**
5. Check off the **Community Care Licensing box (D)**

The screenshot shows a software window titled "Client Services - Referral [E. Benjamin] - Cross Report [03/25/2019]". The menu bar includes "File", "Edit", "Search", "Attachments", "Window", "Help", and "Tools". The toolbar contains several icons, with three highlighted by callouts: (A) "Opening Existing Referral Folder", (B) "Referral Management", and (C) "Open Existing Cross Report".

The main form area is divided into several sections:

- Identification:** Fields for Date (03/25/2019), Time (am), Staff Person (S. Owen), and Cross Report Type (Telephone Report).
- Send To:** A grid of checkboxes and dropdown menus for selecting the recipient. The "Community Care Licensing" checkbox is checked and highlighted with callout (D). Other options include Department of Justice, County Licensing, District Attorney, Probation, In-State Law Enforcement, and Out of State Law Enforcement.
- Narrative Description:** A large text area for entering details.

The status bar at the bottom reads "Ready | [E. Benjamin] - Cross Report [03/25/2019]".

## **INSTRUCTIONS IN A REFERRAL TO ENTER A CROSS REPORT TO LAW ENFORCEMENT**

1. Click on **Opening Existing Referral Folder (A)**
2. Select client and click **OK**
3. Click on **Referral Management button (green) (B)**
4. Click on **Open Existing Cross Report button (police car) (C)**
5. Check off the **In-State Law Enforcement box (D)**

The screenshot shows a software window titled "Referral Management" with a menu bar (File, Edit, Search, Process, Attach/Detach, Window, Help, Tools) and a toolbar. The toolbar contains several icons, with callouts A, B, and C pointing to specific buttons. Callout A points to the "Opening Existing Referral Folder" button, B points to the "Referral Management" button, and C points to the "Open Existing Cross Report" button. Below the toolbar is a form with the following fields and options:

- Identification:**
  - Date: 10/26/2019
  - Time: am
  - Staff Person: G. Owsen
  - Cross Report Type: Telephone Report
- Law Enforcement Official Contacted:** Title, Phone Number, Fax
- Sadge Number:** Reference #, Cross Report Number
- Send To:**
  - Department of Justice
  - County Licensing
  - District Attorney
  - In-State Law Enforcement
  - Probation
  - [Other options]
- Narrative Description:** [Empty text area]

The status bar at the bottom reads "Referral Management - Cross Report (10/26/2019)".