4

ASSESSMENTS AND INVESTIGATIONS

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ASSESSMENTS AND INVESTIGATIONS

4.1 Introduction

This section of guidance covers the specifics of the human trafficking assessment, family assessment and investigation tracks, and guidance common to all.

All complaints or reports of child human trafficking require the LDSS to complete a human trafficking assessment, unless during the course of the human trafficking assessment it is determined an investigation or family assessment is required by law or necessary to protect the safety of the child. The completion of a human trafficking assessment does not require the complaint or report meet the four validity criteria outlined in 22 VAC 40-705-50 B. The completion of an investigation or family assessment on a complaint or report alleging a child is a victim of human trafficking requires a valid complaint or report and each of the four validity criteria outlined in 22 VAC 40-705-50 B must be satisfied.

Every valid report of abuse or neglect shall receive either a family assessment or an investigation. The goals of both responses are to:

- Assess child safety.
- Strengthen and support families by focusing on their strengths, supports and motivation to change.
- Engage families in services that could enable them to better parent their children.
- Prevent child maltreatment.

4.1.1 Differential response

Differential response is a Child Protective Services (CPS) practice that allows for more than one method of responding to valid reports of child abuse and neglect.

The Virginia Administrative Code (VAC) 22 VAC 40-705-10 defines family assessment and investigation as follows:

> (22 VAC 40-705-10). "Family assessment" means the collection of information necessary to determine:

1. The immediate safety needs of the child;

2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;

3. Risk of future harm to the child; and

4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services. These arrangements may be made in consultation with the caretaker(s) of the child.

"Investigation" means the collection of information to determine:

1. The immediate safety needs of the child;

2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;

3. Risk of future harm to the child;

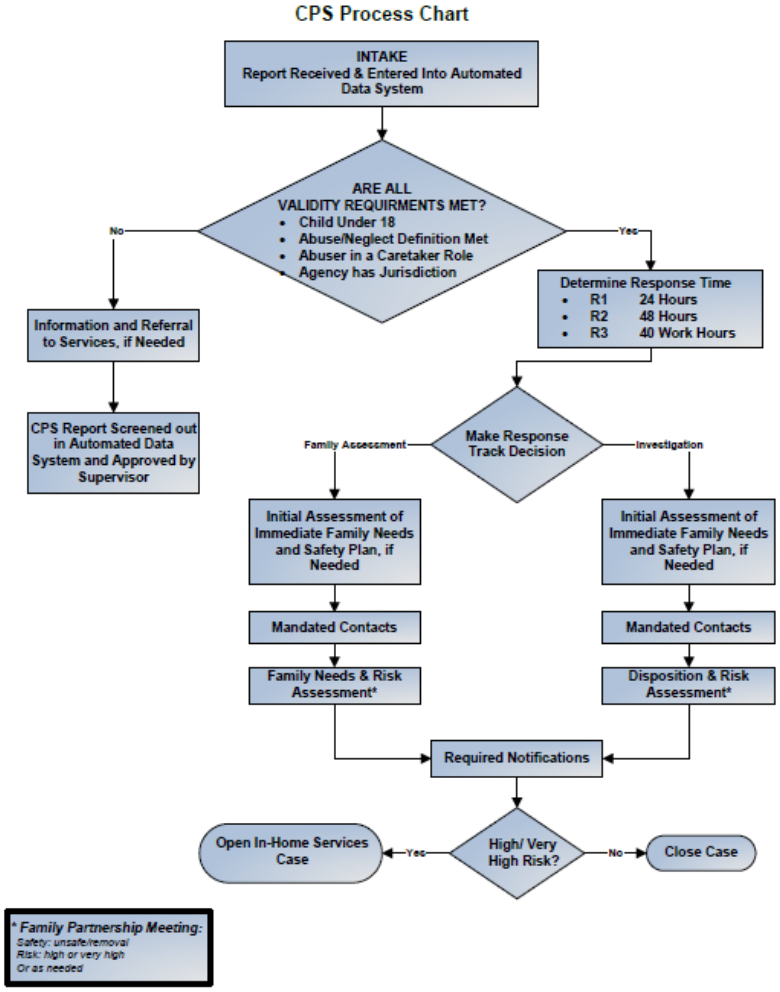
4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;

5. Whether or not abuse or neglect has occurred;

6. If abuse or neglect has occurred, who abused or neglected the child; and

7. A finding of either founded or unfounded based on the facts collected during the investigation.

The following charts show the CPS process and requirements for a Family Assessment and an Investigation.



CPS REQUIREMENTS FOR FAMILY ASSESSMENT AND INVESTIGATION

CPS REQUIREMENTS	FAMILY ASSESSMENT	INVESTIGATION
Conduct Safety Assessment*	YES	YES
Mandated contacts: • Child & siblings • Alleged Abuser	YES	YES

• Parent or Guardian • Collaterals • Non-custodial parent		
<u>Other Contacts, if relevant:</u> • Commonwealth Attorney – if criminal act is alleged or child fatality • Medical Examiner – if child fatality • Law Enforcement – if criminal act is alleged and joint response is needed, or child fatality • CPS Regional Specialist – if child fatality or near fatality and certain out-of-family reports	YES	YES
Observe family environment and/or site where alleged abuse occurred.	YES	YES
Enter the home if allowed to do so by an adult residing in the home.	YES	YES
Notify: • Parent if child interviewed at school or other setting. • Alleged abuser. • Non-custodial parent when that parent is not the subject of a report. • All parties of any extension of timeframe or suspended investigation. • All parties when family assessment or investigation is completed.	YES	YES
Refer children under age three (3) to Infant and Toddler Connection Program	IF ASSESSED NEED	YES in founded investigations
Complete Family Risk Assessment *	YES	YES
Complete Investigation Dispositional Assessment	NO	YES

Provide Services if risk is moderate, high, or very high* and services are needed for prevention of abuse or neglect.	YES	YES
Document all CPS requirements in child welfare information system.	YES	YES

*Convene Family Partnership Meeting at appropriate Safety and Risk decision points

4.1.2 Engaging families

Families can be better served, and children protected, by focusing more on establishing a partnership with them and less on the authoritarian approach. The *Family Services Specialist* cannot change families, but if they are approached through an assessment process that looks for strengths, support systems, motivation to change and supportive interventions, they will be more capable of providing safe care for their children.

Some key skills and strategies that can be used to engage families in a family assessment or an investigation include:

- Be respectful, genuine and non-judgmental
- Be transparent; clarify the role of the agency
- Actively listen to the family's story
- Inquire about and respect each family's culture
- Seek to develop a partnership with the family
- Support the family in identifying its own goals
- Provide concrete assistance to meet basic needs
- Recognize and build on family strengths
- Assist the family in building informal support networks

4.2 Human Trafficking Assessment

4.2.1 Track decision

> (§ 63.2-1506.1 A of the Code of Virginia). If a report or complaint is based upon information and allegations that a child is a victim of sex trafficking or severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C § 7102 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. 114-22), the local department shall conduct a human trafficking assessment, unless at any time during the human trafficking assessment the local department determines that an investigation or family assessment is required pursuant to §§ 63.2-1505 or 63.2-1506.

All complaints or reports alleging a child is a victim of human trafficking require the LDSS to complete a human trafficking assessment, unless during the course of the human trafficking assessment it is determined an investigation or family assessment is required by law or is necessary to protect the safety of the child. The completion of a human trafficking assessment does not require the complaint or report meet the four validity criteria outlined in 22 VAC 40-705-50 B. The completion of an investigation or family assessment on a complaint or report alleging a child is a victim of human trafficking requires a valid complaint or report and each of the four validity criteria outlined in 22 VAC 40-705-50 B must be satisfied.

4.2.2 Human trafficking definitions

The following words and terms when used in this section shall have the following meaning, unless the context clearly indicates otherwise:

Term	Definition
Commercial Sex Act	Commercial sex act means any sex act on account of which anything of value is given to or received by any person. (22 U.S.C. § 7102).
Commercial Sexual Exploitation of Children	Commercial sexual exploitation of children refers to a range of crimes and activities involving the sexual abuse or exploitation of a child for the financial benefit of any person or in exchange for anything of value (including monetary and non-monetary benefits) given or received by any person. It includes all nationalities of persons under the age of 18 years who are commercially sexually exploited. (18 U.S.C. §§ 1591, 2251, and 2423(c).)

Human Trafficking	Human trafficking refers to both sex and labor trafficking.
Severe Forms of Trafficking	Severe forms of trafficking in persons means: (A) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or (B) The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.
Sex Trafficking	Sex trafficking refers to "the recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a person for the purpose of commercial sex." While adults must be compelled to perform commercial sex by force, fraud, or coercion in order for it to be considered a severe form of trafficking in persons, this is not the case for children. By law, children under the age of 18 who are inducted to engage in a commercial sex act are considered victims of sex trafficking. In addition to a minor engaging in a sex act in exchange for money, examples of sex trafficking include a minor engaging in "survival" sex (i.e., the victim engages in sex in order to obtain basic needs such as food, shelter, or clothing, which are considered something of value) or participating in certain types of pornography. (22 U.S.C § 7102 and P.L. 114-22.)
Trafficker	Any person who is responsible for the human trafficking of a child under the age of 18. This term can be synonymous with the term "pimp."

The following is taken from Child Welfare and Human Trafficking: A Guide for Child Welfare Agencies (Child Welfare Information Gateway, 2017) and available here.

The words "victim" and "survivor" are both used to refer to children under the age of 18 years who have experienced or are experiencing human trafficking. The use of the

term “victim” has legal implications for foreign nationals in terms of their eligibility for services, legal standing, and rights, whereas the term “survivor” is frequently used to connote the strength and resilience of individuals who have been commercially sexually exploited. Although, the terms are frequently used interchangeably, this section will use the term “victim” while still acknowledging the strength and resiliency of those who have been trafficked.

4.2.3 Human trafficking assessment

The human trafficking assessment response to all complaints or reports alleging a child is a victim of human trafficking creates a uniform response by the child welfare system to the trafficking of children. The purpose of the human trafficking assessment is to assess both the safety and risk factors associated with the child victim and his family/caretaker(s) as well as the protective and rehabilitative service needs of the child victim and his family/caretaker(s).

> (§ 63.2-1506.1 B of the Code of Virginia). A human trafficking assessment requires the collection of information necessary to determine:
> 1. The immediate safety needs of the child;
> 2. The protective and rehabilitative services needs of the child and the child’s family that will deter abuse and neglect; and
> 3. Risk of future harm to the child.

The human trafficking assessment is short-term intervention designed to assess the safety and risk factors associated with the child victim and his family/caretaker(s). It should be child-centered and family-focused by providing protective and rehabilitative services to the child and family. The human trafficking assessment is not focused on the sex trafficker.

4.2.3.1 Jurisdiction

> (§ 63.2-1506.1 D of the Code of Virginia). In the event that the parents or guardians of the child reside in a jurisdiction other than that in which the report or complaint was received, the local department that received the report or complaint and the local department where the child resides with his parents or guardians shall work jointly to complete the human trafficking assessment.

If the city or county in Virginia where the alleged child victim of human trafficking resides and the city or county in Virginia where the alleged human trafficking is believed to have occurred or where it was discovered are different, the preferential local department of jurisdiction should be where the child and family/caretaker(s) reside to ensure the provision of services to the child and

family. Cooperation from the local department of jurisdiction where the alleged human trafficking occurred or is discovered will be required in some cases to ensure the immediate safety of the alleged child victim. The Code of Virginia § 63.2-1506.1 requires that local departments of jurisdiction work jointly together to ensure the completion of the human trafficking assessment.

The preferential local department of jurisdiction will have the primary assignment and the local department of jurisdiction where the alleged human trafficking occurred or is discovered will have the secondary assignment. The preferential local department of jurisdiction will be responsible for requesting the assistance and secondary assignment from the local department of jurisdiction in which the alleged human trafficking occurred or is discovered, if an immediate response is needed to ensure the immediate safety of the alleged child victim.

When the child and family/caretaker(s) reside outside of Virginia, the local department of jurisdiction shall be the city or county in Virginia where the alleged human trafficking is believed to have occurred or the city or county in Virginia where the alleged human trafficking was discovered. That local department has primary responsibility for ensuring the completion of the human trafficking assessment but may request the assistance of the local department in the city or county where the child and family/caretaker(s) reside outside of Virginia. If the local department outside of Virginia refuses to assist, the local department of jurisdiction in Virginia is responsible for the completion of the human trafficking assessment.

4.2.3.2 Entry of complaint

All complaints or reports of the alleged human trafficking of a child made to the VDSS or an LDSS shall be documented in the child welfare information system. The LDSS must document the complaint or report of the alleged human trafficking of a child in the child welfare information system immediately, regardless of the validity of the complaint. Timeliness of the initial response is calculated from the date and time the referral was received, not validated or assigned.

4.2.3.3 Opening a case

The LDSS must open all human trafficking assessment cases in the child welfare information system and select Human Trafficking Assessment as the case type. The LDSS must document all contacts with the child, family/caretaker(s), and collaterals in the case in the child welfare information system.

4.2.3.4 Timeliness of response

The LDSS must consider and analyze all the information collected at the time the complaint or report is made to determine the most appropriate response for the initiation of the human trafficking assessment to ensure the child's immediate safety. The timeliness of response guidelines for a human trafficking assessment will mirror the Response 1 (R1) and Response 3 (R3) priorities utilized by CPS on valid reports of child abuse or neglect.

- The LDSS must commence the human trafficking assessment **as soon as possible within 24 hours** (Response 1) of the date and time of the complaint or report when the safety of the child is in jeopardy or unknown at the time the report or complaint is made to VDSS or the LDSS. For example, when a child has been located by law enforcement and their parent/caretaker(s) is not present, an **immediate** response by the LDSS will be needed to ensure the child's immediate safety.

- When the safety of the child is not in jeopardy at the time the report or complaint is made to VDSS or the LDSS, the LDSS must commence the human trafficking assessment **as soon as possible within** 40 **working** hours (Response 3) of the date and time of the complaint or report. For example, when a child discloses an experience of human trafficking to their therapist and the trafficker no longer has access to the child and there are not immediate concerns about the child's safety, the human trafficking assessment should begin **as soon as possible within** 40 **working** hours.

The LDSS should document the timeliness of their response in the child welfare information system for each complaint or report involving the human trafficking of a child.

4.2.3.5 Contacts

In order to complete a human trafficking assessment, the LDSS should gather information from the following individuals:

- Alleged victim child.

- Parent(s) or Guardian(s) of the alleged victim child.

- Pertinent collaterals.

The information gathered from the contacts on a human trafficking assessment should allow the LDSS to determine:

- The immediate safety needs of the child.
- The protective and rehabilitative services needs of the child and the child's family that will deter abuse and neglect.
- The risk of future harm to the child.

The LDSS should observe the family home environment to determine the child's safety and the overall needs of the child and family. Whenever possible, home visits should be scheduled in advance with the family.

The LDSS should document all contacts and observations in the child welfare information system. The LDSS should document any contacts or observations that were not made or completed. The LDSS should include an explanation as to why the contacts or observations were not made or completed.

4.2.3.6 Safety assessment

A safety assessment is conducted at the beginning of a human trafficking assessment. The purpose of the initial safety assessment and safety plan is to:

- Assess whether the child is currently in immediate danger of serious physical harm that may require an intervention.
- Determine what interventions should be maintained or initiated to provide appropriate protection for the child.

A safety and risk field guide can be located in Appendix E.

4.2.3.6.1 Immediate safety considerations in human trafficking

The safety assessment for child victims of human trafficking should focus on several key considerations:

- Were the parent or guardian involved in any way in the human trafficking of child, including whether they were aware, participated in, or facilitated the trafficking of the child?
- Had the child run away from home prior to being trafficked? Did the child run away due to physical, mental, or sexual abuse at home?
- Had the parent or guardian done everything they knew how to do in order to prevent the child from running away or ensure the child's safe return?

- Can the parent or guardian protect the child from the trafficker?
- Is it safe for the child to return home?

4.2.3.6.2 Safety assessment tool

The Safety Assessment Tool provides structured questions concerning the danger of immediate harm or maltreatment to a child and is used to guide the development of a Safety Plan. This information guides the decision about whether the child may remain in the home with no intervention, may remain in the home with safety interventions in place, or must be removed from the home.

To ensure that the safety of the child is assessed timely in each human trafficking assessment, the LDSS must complete the process of the safety assessment at the first meaningful contact with the family and document the results on the Safety Assessment Tool in the child welfare information system **within 24 hours** of the first meaningful contact. See 4.5.7 and 4.6.16 for further guidance on first meaningful contact.

For accurate completion, it is critical to refer to the definitions provided on the Safety Assessment Tool, and decisions must be based on supporting narrative documented in the child welfare information system. The Safety Assessment Tool with definitions is located on the public DSS website.

4.2.3.6.3 Safety decision

After safety and protective factors have been assessed using the Safety Assessment Tool, the worker must make a decision about the safety of the child in the home. One of the following safety decisions must be determined using the Safety Assessment Tool and documented in the child welfare information system and shared with the family.

- SAFE. The child is not likely to be in immediate danger of serious harm at this time. No safety plan is required.
- CONDITIONALLY SAFE. Protective safety interventions have been taken and have resolved the unsafe situation for the present time. A safety plan is required to document the interventions.
- UNSAFE. Approved removal and placement was the only possible intervention for the child. Without placement, the child will likely be in danger of immediate serious harm. A court order is required to document intervention.

If the safety decision is “unsafe” and a removal occurs, the track must be changed immediately from a human trafficking assessment to an investigation.

4.2.3.6.4 Development of safety plan

When the child is determined to be “conditionally safe,” the worker must determine what services or actions need to occur by developing a safety plan in partnership with the family. A safety plan must be made to ensure the immediate protection of the child. The worker must determine what actions are necessary to assure the child's immediate safety. If the actions needed to assure the safety of the child cannot be put in place, alternative steps must be taken that can include court intervention.

Once available on the COMPASS Mobile Application, the safety plan must be completed in the child welfare information system and the worker’s efforts to develop the safety plan with the family must also be documented in the child welfare information system. The parent(s) or guardian(s) should sign the safety plan along with the worker to show agreement as to who will do what to prevent harm to the child in the immediate future. A copy of the safety plan must be left with the parent(s) or guardian(s). In the event of unforeseen technical difficulties, the *Family Services Specialist* must complete the safety plan template in the child welfare information system and provide an electronic or paper copy of the safety plan to the family **no later than 24 hours** after the first meaningful contact. The safety plan template is available in the child welfare information system and also on the public DSS website. Additional information on safety plan criteria and safety plan actions can be located in 4.5.12.1 and 4.5.12.2.

4.2.3.7 Risk assessment

A risk assessment must be completed in a human trafficking assessment. The worker must gather necessary information to accurately complete the risk assessment and determine the protective and rehabilitative needs of the child and family. The risk assessment does not predict recurrence but assesses whether a family is more or less likely to have an incident of abuse or neglect without intervention by the agency. The worker completes the risk assessment based on conditions that exist at the time the incident is reported and assessed as well as prior history of the family.

Risk is calculated in the Risk Assessment tool completed in the child welfare information system. The Risk Assessment tool with definitions is located on the public DSS website. For accurate completion, it is critical to refer to the

definitions. Selections made on the Risk Assessment tool must be based on supporting case narrative in the child welfare information system.

Assessed risk will be:

- LOW. The assessment of risk related factors indicates that there is a low likelihood of future abuse or neglect and no further intervention is needed.
- MODERATE. The assessment of risk related factors indicates that there is a moderate likelihood of future abuse or neglect and minimal intervention may be needed.
- HIGH. The assessment of risk related factors indicates there is a high likelihood of future abuse or neglect without intervention.
- VERY HIGH. The assessment of risk-related factors indicates there is a very high likelihood of future abuse or neglect without intervention.

Overrides, either by policy or discretionary, may increase risk one level and requires supervisory approval. The initial risk level may never be decreased.

The risk level helps inform the decision whether or not to open a case as follows:

- Low Risk: Close
- Moderate Risk: Open to Prevention services or close
- High Risk: Open to Prevention services
- Very High Risk: Open to Prevention services

The worker and supervisor should assess the decision to open a Prevention services case and document the decision in the child welfare information system. For more guidance on service planning in a case, refer to Chapter B Prevention Services.

4.2.3.8 Referrals for services

> (§ 63.2-1506.1 C of the Code of Virginia). When a local department responds to the report or complaint by conducting a human trafficking assessment, the local department may:
> 1. Consult with the family to arrange for necessary protective and rehabilitative services to be provided to the child and the child's family;

> 2. Petition the court for services deemed necessary; […]

Human trafficking is an extremely traumatic experience for the child and their family. To assist the child and family heal from the trauma they have experienced, the LDSS may need to arrange for necessary protective and rehabilitative services for the child and family. The LDSS may make referrals during the course of the human trafficking assessment to assist the child and family. Referrals for services should be made with the consent of the child or family.

Children and youth who have been victims of trafficking have many needs similar to those of children who enter the child welfare system because of substantiated abuse or neglect by their parents. The Child Welfare and Human Trafficking: A Guide for Child Welfare Agencies (Child Welfare Information Gateway, 2017) suggests consideration of the following service needs when dealing with children and youth who have been victims of trafficking:

- **Physical health**: Victims often have experienced physical abuse or neglect, mental abuse and/or sexual abuse. Associated with this maltreatment may be physical injuries including untreated internal or external injuries; sexually transmitted diseases, including HIV; and malnutrition. They may be addicted to drugs and/or alcohol either as a result of being forced to use substances by their trafficker or as a coping mechanism. Their overall health may show the consequences of long periods of poor or no medical or dental care. Child welfare workers can help by ensuring that victims have access to medical screenings and treatment to address both immediate and long-term concerns.

- **Mental health and trauma**: It is hard to overstate the complex mental health needs of trafficking victims. The traumatic experiences of being trafficked have often come at the expense of the youth's childhood. Severe abuse experiences may cause alterations in brain development, as the child or youth learns to operate from a "survival" mode. In addition, victims may not have experienced a secure and trusting relationship with a parent or other caretaker, which makes it difficult to build other relationships. In extreme maltreatment cases, such as being trafficked, a victim may experience posttraumatic stress syndrome.

  Most children who have been trafficked have a need for long-term, intensive mental/behavioral health services that can help them move forward into a new, healthier life. Research has suggested the benefits of cognitive-behavioral therapy for children who have been trafficked.

- **Education**: Trafficked youth will likely require educational screening and may require remedial services. Child welfare workers can help by collecting records, exploring education options and facilitating enrollment.

- **Legal services**: There are a number of circumstances that might require a trafficked youth to hire/need legal help. Victims may need legal help if they have been charged with prostitution or other crimes. They may need legal help to get protection for themselves from the trafficker(s).

- **Other needs**: Trafficked victims will often need help with basic life skills (e.g. opening a bank account, keeping medical records) as well as training for a job and basic job skills. For many youth, having a mentor or someone who is willing and available to provide guidance over the long-term is essential to ensure that the youth is able to pursue a life away from trafficking.

4.2.3.9 Notifications

4.2.3.9.1 Attorney for the Commonwealth and local law enforcement

Section § 63.2-1503 D of the Code of Virginia requires the LDSS report **immediately but within two hours** of receipt to the attorney for the Commonwealth and local law enforcement all complaints or reports involving:

- Any sexual abuse, suspected sexual abuse, or other sexual offense involving a child, including but not limited to the use or display of the child in sexually explicit visual material, as defined in the Code of Virginia § 18.2-374.1 et seq. This includes criminal acts of commercial sex trafficking as defined in the Code of Virginia § 18.2-357.1.

- Any report or complaint involving an injury (actual or threatened) that may have occurred as the result of a commission of a felony or a Class 1 misdemeanor.

The LDSS shall provide records and information, including reports related to any complaints of abuse or neglect involving the victim(s) or the alleged perpetrator, related to the investigation of the complaint. The LDSS must document the date and time of notification to the local attorney for the Commonwealth and the local law enforcement agency in the child welfare information system.

4.2.3.10 Prevention services case

The LDSS may offer a Prevention Services case to the child and family after the completion of the human trafficking assessment. Information on the provision of Prevention Services is located in Section 2 of Chapter B Prevention of the Child and Family Services Manual.

4.2.3.11 Legal authorities

Due to the emergent nature of a child being identified as a victim of human trafficking, the worker may need to interview the child or their siblings without the consent of the child's or siblings' parents or guardians. The decision to exercise the authority granted in § 63.2-1506.1 should be based on imminent concerns for the safety of child. If the worker talks to the child or the child's siblings without the parent's or guardian's prior knowledge, the worker must notify the parents or guardians concerning the interview as soon as possible.

> (§ 63.2-1506.1 G of the Code of Virginia). When conducting a human trafficking assessment pursuant to this section, the local department may interview the alleged child victim or his siblings without the consent and outside the presence of such child's or siblings' parent, guardian, legal custodian, or other person standing in loco parentis, or school personnel.

During the course of a human trafficking assessment, the worker may need to take custody of the child until the child's parents or guardians can be located in order to ensure the safety of the child.

> (§ 63.2-1517 C of the Code of Virginia). A child-protective services worker of a local department responding to a complaint or report of abuse and neglect for purposes of sex trafficking or severe forms of trafficking may take a child into custody and the local department may maintain custody of the child for up to 72 hours without prior approval of a parent or guardian, provided that the alleged victim child or children have been identified as a victim or victims of sex trafficking or a victim or victims of severe forms of trafficking as defined in the federal Trafficking Victims Protection Act of 2000 (22 U.S.C. § 7101 et seq.) and in the federal Justice for Victims of Trafficking Act of 2015 (P.L. **114-22**). After taking the child into custody, the local department shall notify the parent or guardian of such child as soon as practicable. Every effort shall be made to provide such notice in person. The local department shall also notify the Child-Protective Services Unit within the Department whenever a child is taken into custody.

It is imperative that LDSS seek legal counsel and advice when considering taking a child into custody under this Code section. The LDSS should work closely with their city or county attorney to develop protocols for these actions.

If the worker is unable to safely return the child to the custody of his parent or guardian **within 72 hours**, the LDSS shall obtain an emergency removal order pursuant to § 16.1-251 of the Code of Virginia.

> (§ 63.2-1517 D of the Code of Virginia). When a child is taken into custody by a child-protective services worker of a local department pursuant to subsection C, that child shall be returned as soon as practicable to the custody of his parent or guardian. However, the local department shall not be required to return the child to his parent or guardian if the circumstances are such that continuing in his place of residence or in the care or custody of such parent or guardian, or custodian or other person responsible for the child's care, presents an imminent danger to the child's life or health to the extent that severe or irremediable injury would be likely to result or if the evidence of abuse is perishable or subject to deterioration before a hearing can be held. If the local department cannot return the child to the custody of his parents or guardians within 72 hours, the local department shall obtain an emergency removal order pursuant to § 16.1-251.

When the LDSS is unable to safely return the child to the custody of his parent or guardian within 72 hours and files a petition for an emergency removal order, an investigation shall be opened pursuant to § 63.2-1505. The LDSS must immediately notify the parent or guardian that the response has changed from a human trafficking assessment to an investigation. See Section 4.6 for further guidance on conducting an investigation.

See Section 8—Judicial Proceedings for further guidance on the judicial process for proceedings involving the abuse or neglect of a child.

4.3 Authorities of *Family Services Specialists*

The Code of Virginia grants *Family Services Specialist*s the authority to conduct family assessments and investigations in response to a valid report of suspected child abuse or neglect. Generally, the power to enforce the worker's authority lies with the courts. For example, if an individual refuses to allow the worker to conduct the family assessment or refuses to talk to the worker, the worker may file a petition requesting that the court require the individual to cooperate. An individual's refusal to cooperate does not relieve the local department of social services (LDSS) of the responsibility to complete the family assessment or investigation because it has been initiated due to a valid report of abuse

or neglect. These authorities are applicable only during the conducting of the family assessment or investigation.

4.3.1 Authority to interview children

> (22 VAC 40-705-60). When responding to valid complaints or reports local departments have the following authorities:
> 1. To talk to any child suspected of being abused or neglected, or child's siblings, without the consent of and outside the presence of the parent or other caretaker, as set forth by § 63.2-1518 of the Code of Virginia.

If the *Family Services Specialist* talks to the child without the mother, father or guardian's prior knowledge, the *Family Services Specialist* must notify the mother, father or guardian concerning the interview as soon as possible.

While the authority to talk to a child without parental knowledge or permission is an authority granted by Code of Virginia, the decision to exercise that authority should be grounded in concerns for child safety. For example, when conducting a family assessment, there should not be a need to interview the child without prior consent because the family assessment track is intended for reports that do not indicate **immediate** safety concerns. When conducting an investigation, the need to exercise this authority is to be expected because the investigation track is assigned when the allegations in the report are required by statute or indicate there is serious abuse or neglect resulting in immediate or impending harm to the child.

4.3.1.1 Parent or guardian refuses to allow child to be interviewed

The worker may consult with local county/city attorney to determine whether to petition the court to request access to the child if denied access by the mother, father or guardian.

4.3.1.2 *Family Services Specialist* may exclude school personnel from interview

If the *Family Services Specialist* interviews the child at school, the *Family Services Specialist* may exclude school personnel from the interview in order to protect the family's right to privacy.

4.3.2 Authority to take/arrange for x-rays/photographs of the alleged victim

> (22 VAC 40-705-60). When responding to valid complaints or reports local departments have the following authorities:
> 2. To take or arrange for photographs and x-rays of a child who is the subject of a complaint without the consent of and outside the presence of the parent or other caretaker, as set forth in § 63.2-1520 of the Code of Virginia.

Photographs may be taken as part of an investigation or family assessment to document the nature and extent of injuries to the child. These photographs cannot be used in lieu of a medical examination.

X-rays of a child may be taken without the consent of the mother, father or guardian as part of a medical evaluation related to a CPS family assessment or investigation. All photographs or x-rays taken in accordance with the Code of Virginia § 63.2-1520 may be introduced into evidence in any subsequent court hearing. The court can impose any restrictions concerning the confidentiality of the photographs or x-rays.

4.3.2.1 LDSS may seek complete medical examination of the child

> (22 VAC 40-705-60 3d). The local department shall have the authority to have a complete medical examination made of the child including a written medical report and, when appropriate, photographs and x-rays pursuant to § 63.2-1520 of the Code of Virginia.

The Code of Virginia § 63.2-1524 grants authority to the court to order psychological, psychiatric and physical examinations of the child alleged to be abused or neglected or of the child's mother, father, guardians, caretakers or siblings. If the alleged victim child's mother, father, caretaker or other legal guardian refuses permission to have a complete medical examination of the child, the LDSS may consult with the county/city attorney to determine whether to seek a court ordered examination of the child.

4.3.2.2 Photographs of the child's environment

The *Family Services Specialist* must obtain verbal or written consent from the mother, father or guardian of the child prior to taking any photographs of the child's environment. Without the consent of parents or guardians, any photographs should only be taken under the direction and supervision of the attorney for the Commonwealth, or the city/county attorney for the LDSS.

Photographs may be taken to clarify statements made by witnesses, to document the circumstances surrounding the alleged abuse or neglect, to depict the environment where the alleged abuse or neglect occurred, and for any other legitimate purpose.[1]

[1] Campbell v. Commonwealth, 405 S.E.2d 1 (Va. Ct. App. 1991) ("A picture can speak a thousand words, and these do."); Diehl v. Commonwealth, 9 Va. App. 191, 385 S.E.2d 228, (1989); Kelly v. Commonwealth, 8 Va. App 359, 382 S.E.2d 270 (1989).

4.3.3 Authority to remove a child

The Code of Virginia § 63.2-1517 provides that a child may be taken into emergency custody when the circumstances present an imminent danger to the child's life or health to the extent that severe or irremediable injury would likely result before a hearing could be held and a court order was not immediately obtainable. The Code of Virginia § 63.2-1517 also allows a physician, a *Family Services Specialist*, or a law enforcement officer to assume custody of a child when the evidence of the abuse is perishable or subject to deterioration before a court hearing can be held.[2]

> (22 VAC 40-705-60). When responding to valid complaints or reports local departments have the following authorities:
> 3. To take a child into custody on an emergency removal under such circumstances as set forth in § 63.2-1517 of the Code of Virginia.

See Appendix N for information regarding best practices that can be used by the *Family Services Specialist* to lessen or reduce trauma during the course of a removal.

4.3.3.1 Persons who may take a child into custody

The following persons may take a child into emergency custody without prior approval of the child's mother, father or guardian:

- A physician;
- A *Family Services Specialist*; or
- A law enforcement officer when investigating a complaint of child abuse or neglect.

4.3.3.2 Mandatory consultation with supervisor prior to removing child

> (22 VAC 40-705-60 3a). A child protective services worker planning to take a child into emergency custody shall first consult with a supervisor. However, this

[2] Prior to the 1998 General Assembly, § 63.2-1517 of the Virginia Code specified certain circumstances that must exist for a child to be taken into custody by a physician, a child protective services worker or law-enforcement officer. The 1998 General Assembly amended § 63.2-1517 of the Virginia Code by incorporating language allowing a physician, a *Family Services Specialist* or a law-enforcement officer to assume custody of a child when the evidence of the abuse is perishable or subject to deterioration before a court hearing can be held.

> requirement shall not delay action on the child protective services worker's part if a supervisor cannot be contacted and the situation requires immediate action.

This consultation must be documented in the child welfare information system.

4.3.3.3 Immunity from liability

> (22 VAC 40-705-60 3c). Any person who takes a child into custody pursuant to § 63.2-1517 of the Code of Virginia, shall be immune from any civil or criminal liability in connection therewith, unless it is proven that such person acted in bad faith or with malicious intent.

4.3.3.4 Emergency removal requirements

These requirements apply to emergency removal of a child during a CPS family assessment or investigation. LDSS may consult with the county/city attorney to ensure these removals are conducted according to the Code of Virginia. See Section 8: Judicial Proceedings for all legal requirements.

4.3.3.4.1 Exigent circumstances exist

The Code of Virginia § 63.2-1517 requires that exigent circumstances exist for emergency removal of a child from the custody of his mother, father or guardian.

“Exigent circumstances” means a situation that demands immediate action. The following circumstances must exist to remove a child without prior approval of the mother, father or guardian:

- The circumstances of the child are such that continuing in his place of residence or in the care or custody of the parent, guardian, custodian or other person responsible for his care, presents an imminent danger to the child's life or health to the extent that severe or irremediable injury would be likely to result before a hearing can be held.
- A court order is not immediately obtainable.
- The court has set up procedures for placing children taken into immediate custody.

4.3.3.5 Factual circumstances warranting removal

The petition or accompanying affidavit for an Emergency Removal Order (ERO) must contain a specific statement or account of the factual circumstances necessitating the removal of the child.

4.3.3.5.1 Immediate threat to life or health of the child

> (§ 16.1-251 A1 of the Code of Virginia). [The petition, affidavit or sworn testimony must establish that] The child would be subjected to an imminent threat to life or health to the extent that severe or irremediable injury would be likely to result if the child were returned to or left in the custody of his parents, guardian, legal custodian or other person standing in loco parentis pending a final hearing on the petition.

The circumstances of the child are such that remaining with the parent, legal guardian, or caretaker presents an imminent danger to the child's life or health.

4.3.3.5.2 Reasonable efforts to prevent removal

> (§ 16.1-251 A2 of the Code of Virginia). [The petition, affidavit or sworn testimony must establish that] … reasonable efforts have been made to prevent removal of the child from his home and there are no alternatives less drastic than removal of the child from his home which could reasonably protect the child's life or health pending a final hearing on the petition…

Removal of a child should only occur after consideration of alternatives to out-of-home placement. The court must be presented with an affidavit or sworn testimony establishing that reasonable efforts have been made to prevent removal of the child from his home.

4.3.3.5.3 No alternatives less drastic than removal

> (§ 16.1-251 A2 of the Code of Virginia). [The petition, affidavit or sworn testimony must establish that]… there are no alternatives less drastic than removal of the child from his home which could reasonably protect the child's life or health pending a final hearing on the petition.

The safety of the child precludes provision of services to prevent placement because there are no alternatives less drastic than removal that could reasonably protect the child's life or health.

4.3.3.5.4 Alternatives less drastic than removal

> (§ 16.1-251 A2 of the Code of Virginia). [The petition, affidavit or sworn testimony must establish that]… the alternatives less drastic than removal may include but not be limited to the provision of medical, educational, psychiatric, psychological, homemaking or other similar services to the child or family or the issuance of a preliminary protective order pursuant to § 16.1-253.

4.3.3.5.5 No opportunity to provide preventive services

> (§ 16.1-251 A2 of the Code of Virginia). …when a child is removed from his home and there is no reasonable opportunity to provide preventive services, reasonable efforts to prevent removal shall be deemed to have been made.

Circumstances may occur when there is no reasonable opportunity to provide preventive services before removing a child from the home.

4.3.3.6 Notifications and written reports if child is taken into emergency custody

If a child is taken into emergency custody pursuant to the Code of Virginia § 63.2-1517, the service worker, physician, or law enforcement officer shall:

- Notify the child's mother, father or guardians as soon as possible that the child is in custody.
- Make a written report to the LDSS.
- Notify the court as soon as possible but in no event **more than 72 hours** the child is in custody depending on the court's availability.
    - If the 72-hour period for holding a child in custody and for obtaining a preliminary or emergency removal order expires on a Saturday, Sunday, or legal holiday or day on which the court is lawfully closed, the 72 hours shall be extended to the next day on which the court is open.
- File the petition for an emergency removal order **within four (4) hours** of taking custody of the child, or state the reasons for not filing within four hours in the affidavit or sworn testimony.

4.3.3.7 Information to be obtained when child is taken into emergency custody by CPS

The LDSS must obtain as much of the following information as possible for purposes of filing a petition:

- The name of the person who assumed emergency custody, his or her professional capacity and the telephone number where he or she can be reached.
- The child's name and birth date.
- Names of mother, father or guardians.

- Present or last known address of mother, father or guardians.
- Description of the child's condition in as much detail as possible.
- Any information known concerning the circumstances of the suspected abuse or neglect, including the petitioner's name and the nature of the complaint.
- The specific time and date emergency custody was taken.
- Reason(s) why services to prevent the need for removal were not successful or could not be delivered.

4.3.3.8 Placement requirements when CPS has assumed emergency custody of the child

The LDSS shall ensure that while in custody the child is placed in an appropriate approved setting which will assure the child's safety. The LDSS must consider relatives or fictive kin as a possible emergency agency-approved foster home for the child. If the child is to be placed in an agency-approved foster home, the *Family Services Specialist* should consult with the agency's foster care or resource family staff.

The following procedures shall be followed **prior to placing the child**:

4.3.3.8.1 Supervisory consultation to determine placement

The child's safety is the primary consideration in deciding whether to place the child on an emergency basis with a relative, neighbor, or friend. The *Family Services Specialist* in consultation with a supervisor makes a decision to place the child in the home of a relative, neighbor, or friend that is not an agency approved provider. The decision is based on the child's best interest and the appropriate local agency procedures are followed to make the placement.

4.3.3.8.2 Required background checks on individuals with whom an agency may place a child on an emergency basis

If the *Family Services Specialist* is considering a placement with a person that is not an agency approved provider, the Code of Virginia § 63.2-901.1 B requires CPS central registry checks and a written statement of affirmation disclosing any child abuse and neglect and criminal history in Virginia and any other state of residence in the past five years for each adult in the home. The *Family Services Specialist*, in consultation with a supervisor, shall evaluate and document in the child welfare information system the results of

the CPS Central Registry searches on every adult household member with whom the agency is considering placing the child. The Sworn Statement or Affirmation form is available on the DSS public website.

It is the *Family Services Specialist*'s responsibility to complete both the central registry search and state police criminal background check as soon as possible.

For further guidance on emergency placements refer to the VDSS Child and Family Services Manual, Chapter E, Foster Care, Section 4.

The worker and supervisor may also refer to the VDSS Child and Family Services Manual, Chapter D, Local Department Resource, Foster and Adoptive Family Home Approval Guidance .

The following procedures shall be followed **after placing the child:**

4.3.3.8.3 Post-emergency placement procedures

The Code of Virginia § 63.2-901.1 establishes that additional searches or procedures are required if the child is to remain in the emergency non-agency approved placement for more than **three days**. *Family Services Specialist*s should consult with agency foster care or resource family staff to ensure the requirements are met if the child is to remain in the emergency placement for longer than **three days**. The worker may refer to the VDSS Office of Background Investigations for additional information regarding criminal background checks.

4.3.3.8.4 Convene family partnership meeting around emergency removal

The LDSS should schedule a family partnership meeting (FPM) when the worker assesses the child's safety to be in jeopardy or at risk of removal or out of home placement. However, safety concerns are paramount and necessary action to address safety issues shall not be delayed. The FPM should be scheduled **within 24 hours** after safety issues have been identified and the agency is considering removal, and occur before the five-day court hearing in cases after the emergency removal. Emergency removal prompts the need to convene a FPM. This meeting provides the opportunity for family and community participation in the decision-making process for the child. Engaging the relatives and natural support of the family will be crucial to a successful meeting. The purpose of the meeting is to facilitate planning to determine whether:

- The agency should file for custody and facilitate placement;

- The child can remain home safely with services, or the child return safely home with services; or

- There will be voluntary placement of the child by the mother and father with provision of services and a safety plan.

The *Family Services Specialist* should conduct the face to face interview with the alleged victim child and the parent/caretaker prior to the FPM since the purpose of the meeting is not to interview caretakers, alleged victims, or other collaterals.

The worker and supervisor should discuss the convening and timing of a FPM at this critical decision point. All FPMs must be documented in the child welfare information system. For guidance on FPMs please refer to the VDSS Child and Family Services Manual, Chapter A, Family Engagement.

4.3.3.8.5 Locating and notifying relatives or other potential caretakers

Due diligence should be made to locate all maternal and paternal grandparents and other adult relatives at the time of removal. All efforts to locate relatives shall be documented in the child welfare information system. The *Family Services Specialist* may contact relatives without the family's consent, written release or court order when it is determined that disclosure of information is in the child's best interests and the person has a legitimate interest. The *Family Services Specialist* has authority to contact parents, grandparents, or any other individuals that the LDSS considers a potential caretaker for the child being removed. For additional information, see the VDSS Child and Family Services Manual, Chapter C, Section 9, Confidentiality, on Release of Information to Legitimate Interests.

Within 30 days after removing a child from the custody of the parent/guardian(s), the LDSS shall provide written notice to all maternal and paternal grandparents and other adult relatives that the child is being removed or has been removed from the custody of the parent/guardian(s). When feasible, this should be done **within five days.**

Additionally, notification shall be given to all parents, including biological, adoptive and step-parents that have legal custody of any siblings to the child who has been removed. Siblings are defined as two or more children having one or more parents in common.

The purpose of this notice is to explain options the relative has to participate in the care and placement of the child in an effort to establish permanency for the child.

The LDSS may determine it is not in the child's best interest to notify relatives involved in family or DV or who are listed on the Virginia State Police Sex Offender Registry. Additional guidance regarding DV and its impact on children can be found in Appendix F of the VDSS Child and Family Services Manual, Chapter H, Domestic Violence.

A copy of the written communication shall be kept in the record, and a notation of the agency send date and relative response date, if any, must be recorded in the child welfare information system. For additional guidance on notification of relatives refer to Section 2.3 of the VDSS Child and Family Services Manual, Chapter E, Foster Care.

> (Social Security Act, Title IV, § 471 (a) (29) [42 USC 671])…within 30 days after the removal of a child from the custody of the parent or parents of the child, the State shall exercise due diligence to identify and provide notice to all adult grandparents and other adult relatives of the child (including any other adult relatives suggested by the parents), subject to exceptions due to family or domestic violence, that—…. "(B) explains the options the relative has under Federal, State, and local law to participate in the care and placement of the child, ..

4.3.3.8.6 Documentation in the child welfare information system

Information for every child who enters foster care shall be entered into the child welfare information system as soon as possible. The CPS investigation associated with the removal should be connected to the foster care case through the use of the case connect function in the child welfare information system. This will help to ensure the case is opened in the family name. Placement information shall be entered in the foster care case **within** five **working days of the removal**. For additional guidance on opening a foster care case refer to the VDSS Child and Family Services Manual, Chapter E, Foster Care, section 4.

4.3.3.9 Authority to obtain immediate medical or surgical treatment for child

The VAC explains the Code of Virginia § 54.1-2969 granting this authority.

> (22 VAC 40-705-60 3e). When a child in emergency custody is in need of immediate medical or surgical treatment, the local director of social services or his designee may consent to such treatment when the parent does not provide consent and a court order is not immediately obtainable.

When an LDSS has assumed emergency custody of a child and that child is in need of immediate medical or surgical treatment, the LDSS must take the following actions as listed below:

- If a child is in need of immediate medical treatment and the parent is unwilling or unable to consent, the LDSS should first attempt to obtain a court order for treatment.

- If a court order is not immediately obtainable, authority to consent to surgical or medical treatment, tantamount with that of a parent, is confirmed upon the local director of the LDSS, or that person's designee.

4.3.3.9.1 Local director may designate certain persons to provide consent

The local director may designate no more than two persons to act on his or her behalf in authorizing surgical or medical treatment. Those persons must be chosen from:

- Assistant director;

- Casework supervisor;

- Senior service worker; or

- Service worker.

4.3.3.9.2 Parents or guardians of child shall be notified as soon as practicable

Any authorized person who consents to emergency surgical or medical treatment of a child shall make every reasonable effort to notify the child's mother, father or guardian as soon as practicable.

4.3.3.9.3 Establish protocol with local hospitals for obtaining consent

Each LDSS should establish protocol with local hospitals for obtaining consent when surgical and medical treatment is necessary for a child under emergency custody. This agreement should include:

- A list of persons who may sign the consent form.

- A statement that the parents or guardians of the child refuse to give consent or are unavailable to give consent.

- A statement that a court order for such treatment is not immediately obtainable.

- A statement from the attending physician as to what treatment is necessary.

4.3.3.9.4 Payment for surgical and medical treatment

The LDSS should attempt to obtain payment for surgical or medical treatment from the child's mother, father or the child's legal guardians if appropriate. If the parents or legal guardians are unable to pay for the treatment, the LDSS shall explore the possibility that the child may be eligible for Medicaid, Medicare, or other funding.

4.3.3.9.5 LDSS cannot provide consent if child is not in custody

> (22 VAC 40-705-60 3f). When a child is not in the local department's custody, the local department cannot consent to medical or surgical treatment of the child.

4.3.4 Emergency removal of an Indian child

The emergency removal and emergency placement of an Indian child into a foster home is allowed only as necessary to prevent imminent physical damage or harm to the child. This applies to Indian children regardless of whether they live on a reservation or not. The only exception is if the child is removed from a reservation where the tribe exercises exclusive jurisdiction. See Section 1, Appendix A: Indian Child Welfare Act and Section 1, Appendix B: Tribal Resources for more information.

Emergency removal of any Indian child must be as short as possible. The LDSS must:

- Diligently investigate and document whether the removal is proper and continues to be necessary to prevent imminent physical damage or harm to the child;

- Promptly hold a hearing to hear evidence and evaluate whether the removal continues to be necessary whenever new information is received or assertions are made that the emergency situation has ended; and

- Immediately terminate the emergency removal once the court possesses sufficient evidence to determine that the emergency has ended.

If the LDSS conducts an emergency removal of a child whom the LDSS knows or has any reason to think is an Indian child, the LDSS must:

- Treat the child as an Indian child until it is determined that the child is not an Indian child;
- Conduct active efforts to prevent the breakup of the Indian family as early as possible, including when possible, before the removal of the child;
- Immediately take and document all practical steps to confirm whether the child is an Indian child and to verify the Indian child's tribe;
- Immediately notify the child's parents or Indian custodians and the Indian tribe of the removal of the child;
- Take all practical steps to notify the child's parents or Indian custodians and the Indian tribe about any hearings regarding the emergency removal of the child; and
- Maintain records that detail the steps taken to provide any required notifications.

4.3.4.1 Affidavit

In addition to statements of the facts that necessitated the emergency removal, the affidavit that accompanies a petition for an emergency removal of an Indian child must specifically include:

- Name, age, address for the Indian child;
- Name and address of the child's parents and/or Indian custodians;
- If unknown, a detailed explanation of what efforts have been made to locate the child's parents and/or Indian custodian, including notice to the appropriate Bureau of Indian Affairs Regional Director;
- If residence is on Indian reservation, the name of the reservation;
- Tribal affiliation of the child and parents and/or Indian custodians;
- A statement of the specific active efforts that have been taken to assist the parents or Indian custodians so the child may safely be returned to their custody.

4.3.4.2 Temporary custody

Temporary emergency custody should not be continued for more than 30 days. Temporary emergency custody may be continued for more than 30 days only if:

- A hearing is held and results in a determination by the court, supported by clear and convincing evidence and testimony of at least one qualified expert witness, that the custody of the child by the parent or Indian custodian is likely to result in imminent physical damage or harm to the child; or

- Extraordinary circumstances exist.

4.3.4.3 Expert witness

A qualified expert witness should have knowledge of the Indian tribe's culture and customs. The court or any party to the proceedings may request the assistance of the Indian child's tribe or the Bureau of Indian Affairs agency serving the Indian child's tribe in locating persons qualified to serve as expert witnesses.

4.3.4.4 Additional resources

- Section 1: Introduction to CPS, Appendix A of this manual for additional information regarding The Indian Child Welfare Act (ICWA).

- Section 8: Judicial Proceedings, Appendix D of this manual for additional information on court proceedings for removal of an Indian child.

- Additional resource: The Federal Register: Guidelines for State Courts and Agencies in Indian Child Custody Proceedings, a notice by the Indian Affairs Bureau on 2/25/2015.

4.3.5 Release child's location

Pursuant to §§ 63.2-1505 and 63.2-1506 of the Code of Virginia, LDSS, upon request, must disclose to the child's parent or guardian the location of the child, provided that:

- The investigation or family assessment has not been completed;

- The parent or guardian requesting disclosure of the child's location has not been the subject of a founded report of child abuse or neglect;

- The parent or guardian requesting disclosure of the child's location has legal custody of the child and provides to the local department any records or other information necessary to verify such custody;

- The local department is not aware of any court order, and has confirmed with the child's other parent or guardian or other person responsible for the care of the child that no court order has been issued, that prohibits or limits contact by

the parent or guardian requesting disclosure of the child's location with the child, the child's other parent or guardian or other person responsible for the care of the child, or any member of the household in which the child is located; and

- Disclosure of the child's location to the parent or guardian will not compromise the safety of the child, the child's other parent or guardian, or any other person responsible for the care of the child.

4.4 Responsibilities of *Family Services Specialists*

4.4.1 *Family Services Specialist* may enter the home

(22 VAC 40-705-90 A). In conducting a family assessment or an investigation, the child protective services worker may enter the home if permitted to enter by an adult person who resides in the home. Only in those instances where the child protective services worker has probable cause to believe that the life or health of the child would be seriously endangered within the time it would take to obtain a court order or the assistance of a law enforcement officer, may a child protective services worker enter the home without permission. A child protective services worker shall document in detail in the record and discuss with supervisory personnel the basis for the decision to enter the house without permission.

4.4.1.1 Entering the home

When conducting a family assessment or an investigation, the *Family Services Specialist* should explain the purpose of the visit and enter the home when allowed to do so by an adult who resides in the home.

4.4.1.2 *Family Services Specialist* may enter home without permission if there is probable cause to believe exigent circumstances exist

The *Family Services Specialist* cannot enter the home without permission unless there is probable cause to believe that the circumstances are such that the life or health of the child would be seriously endangered within the time it would take to obtain a court order or the assistance of a police officer.

The assistance of a police officer does not, in and of itself, provide the authority for a *Family Services Specialist* to enter the home without permission. There must be probable cause to believe that "exigent circumstances" exist.

"Probable cause" means the reasonable belief in the existence of facts on which the complaint is based.[3] "Exigent circumstances" means situations that demand unusual or immediate action. They are emergency-like circumstances in which the *Family Services Specialist* must act immediately to protect the safety of a child or preserve the evidence in an investigation. [4]

4.4.1.3 *Family Services Specialist* shall consult with supervisor and document decision to enter a home without permission

If the circumstances are such that the *Family Services Specialist* must enter the home without permission of an adult residing in the home, the *Family Services Specialist* shall record in the child welfare information system the reason for this action. The *Family Services Specialist* shall consult with a supervisor to make this decision.

4.4.1.4 Adult residing in home refuses to allow *Family Services Specialist* to enter a home

If a person residing in the home refuses to allow the *Family Services Specialist* into the home and there are no exigent circumstances demanding that the *Family Services Specialist* act immediately, the *Family Services Specialist* must consider alternate plans such as seeking court assistance to gain access to the home. The *Family Services Specialist* may consult with county/city attorney to determine if court intervention is appropriate. For a further discussion of alternatives to entering the home when permission is denied, see Appendix B.

4.4.1.4.1 Exception: Conducting joint investigation with law enforcement

If, during a joint investigation, a law-enforcement officer or the Commonwealth's Attorney Office objects to the *Family Services Specialist* informing the person of his right to refuse entry, the LDSS should consider that objection as an exception to 22 VAC 40-705-90 A.

The objection is only valid during a joint investigation with law enforcement when the investigation involves criminal charges. The objection must be premised upon not compromising the criminal investigation. The *Family Services Specialist* shall document the objection in the child welfare information system.

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[3] Black's Law Dictionary 1321 (9th ed. 2009).

[4] Black's Law Dictionary 277 (9th ed. 2009).

4.4.2 Transporting children

(22 VAC 40-705-90 C). The child protective services worker may transport a child without parental consent only when the local department has assumed custody of that child by virtue of the emergency removal authority pursuant to § 63.2-1517 of the Code of Virginia, by an emergency removal court order pursuant to § 16.1-251 of the Code of Virginia, or by a preliminary removal order pursuant to § 16.1-252 of the Code of Virginia.

4.4.3 Request consent to substance abuse screening

(22 VAC 40-705-90 D). When a child protective services worker has reason to believe that the caretaker in a valid report of child abuse or neglect is abusing substances and such behavior may be related to the matter being investigated or assessed, the worker may request that person to consent to substance abuse screening or may petition the court to order such screening.

4.4.3.1 LDSS must develop substance abuse guidelines

(22 VAC 40-705-90 D1). Local departments must develop guidelines for such screening.

(22 VAC 40-705-90 D2). Guidelines may include child protective services worker administration of urine screening.

The LDSS should seek the assistance of the office of the attorney for the Commonwealth, the local city/county attorney, or the court to develop these guidelines.

4.4.4 Reasonable diligence

The Code of Virginia § 63.2-1503 F mandates the LDSS to use reasonable diligence in locating the subjects of a report or complaint of abuse or neglect.

(22 VAC 40-705-50 H3). The local department shall use reasonable diligence to locate any child for whom a report or complaint of suspected child abuse or neglect has been received and determined valid and persons who are the subject of a valid report if the whereabouts of such persons are unknown to the local department, pursuant to § 63.2-1503 F of the Code of Virginia.

4.4.4.1 Document use of reasonable diligence in locating child and family

(22 VAC 40-705-50 H4). The local department shall document its attempts to locate the child and family.

The LDSS shall document in the child welfare information system all attempts to locate the alleged victim child and the family.

4.4.4.2 Use of reasonable diligence in locating alleged victim child

The Code of Virginia § 63.2-1503 F requires the LDSS to use reasonable diligence to locate children for whom a report of suspected child abuse or neglect has been received and is receiving a family assessment or investigation.

4.4.4.3 Reasonable diligence shall be used to locate subjects of the family assessment or investigation

Reasonable diligence shall also be used by the LDSS to locate persons who are the subject of a CPS family assessment or investigation, if the whereabouts of such persons are unknown to the LDSS.

4.4.4.4 Subjects of the family assessment or investigation

The subjects of the family assessment or investigation include:

- Any child for whom a report of suspected abuse or neglect has been received and is under investigation.
- Persons named as the alleged abuser or neglector of a report that is under investigation.

4.4.4.5 What constitutes reasonable diligence

The LDSS shall document reasonable and prompt attempts to locate the child and family including checking the following, when applicable:

- Child welfare information system.
- Postal Service for last known address.
- Postal Service for forwarding address.
- Neighbors, landlords, known relatives.
- School records.
- Department of Motor Vehicles.
- Department's Division of Support Enforcement.
- Department of Corrections, Probation and Parole.

- Law Enforcement.
- Telephone and utility companies.
- Employer.
- Personal locator tool and/or SPIDeR searches.
- Internet searches including generic search engines such as Google, Yahoo, Bing, etc.
- Social networks such as Facebook, Instagram or Twitter.
- Other appropriate contacts.

The LDSS must document in the child welfare information system all attempts to locate the child and family and the results of the attempts.

4.4.4.6 When the alleged victim child is not found

> (22 VAC 40-705-50 H5). In the event the alleged victim child or children cannot be found after the local department has exercised reasonable diligence, the time the child cannot be found shall not be computed as part of the 45-60 day time frame to complete the investigation, pursuant to subdivision B5 of § 63.2-1505 of the Code of Virginia.

When the alleged victim child cannot be located, despite the LDSS's efforts, the time frame for completing the investigation or family assessment will be suspended. The LDSS must document the suspension in the child welfare information system and the reasoning for the suspension.

- *In a family assessment, the documentation will occur on the assessment summary screen and the assessment status will indicate Missing Suspend Assessment.*
- *In an investigation, the documentation will occur on the disposition screen and a disposition of Missing Child-Suspend Investigation will be selected.*

While the family assessment or investigation is suspended, the local agency should not approve the assessment summary or disposition screens in the child welfare information system.

4.4.4.7 LDSS must notify child welfare information system

When the alleged victim child is not located, the LDSS must notify the child welfare information system that the family assessment or investigation is suspended and pending.

4.4.4.8 LDSS must continue periodic checks for missing child

If the alleged victim child is not found, the LDSS must establish a timetable for making periodic checks for the missing child. The LDSS shall document the timetable in the case record and the results of the periodic checks. The LDSS must document their reasonable diligence efforts to locate the missing child each month for at least 90 days until the LDSS is satisfied with the resolution of the case. *At the conclusion of the 90 days, if the child is not found* the LDSS must document in the child welfare information system the resolution of the referral.

- *In a family assessment, the documentation will occur on the assessment summary screen and the assessment status will indicate Unable to Complete Assessment.*
- *In an investigation, the documentation will occur on the disposition screen and a disposition of Unable to Complete Investigation will be selected.*

The local agency must then approve the assessment summary or disposition screens in the child welfare information system.

4.4.4.9 If missing child is found

If a family assessment or an investigation was suspended and the missing child is subsequently located, the LDSS must resume the assessment or investigation of the original complaint or report and update the child welfare information system. Upon locating the missing child, a new 45 *or 60* -day time frame will commence.

4.4.5 Screen all children for sex trafficking

Federal law, specifically Title 1 of the Preventing Sex Trafficking and Strengthening Families Act (HR 4980), requires child welfare agencies to identify, document and determine appropriate services for children and youth at risk of sex trafficking. While research indicates that youth in foster care are one of the most vulnerable populations, all children who experience abuse or neglect are at risk. All children must be screened to determine if they are a victim of sex trafficking and the results must be documented in the child welfare information system.

4.4.5.1 Indicators of sex trafficking

Signs that a child is a victim of sex trafficking may include but are not limited to:

- History of emotional, sexual or other physical abuse;
- Signs of current physical abuse and/or sexually transmitted diseases;
- History of running away or current status as a runaway;
- Inexplicable appearance of expensive gifts, clothing, cell phones, tattoos or other costly items;
- Presence of an older boyfriend or girlfriend;
- Drug addiction;
- Withdrawal or lack of interest in previous activities; or
- Gang involvement.

4.4.5.2 When sex trafficking is identified

If the LDSS identifies or receives information that a child has been a victim of sex trafficking, they shall notify local law enforcement **within 24 hours** of identifying or receiving such information and document such notification in the child welfare information system.

The LDSS may contact the National Human Trafficking Resource Center (NHTRC) at 1-888-3737-888 if they suspect sex trafficking of a minor. NHRTC operates a 24 hour hotline to help identify and coordinate with local organizations that protect and serve victims of trafficking.

4.4.5.3 Safety considerations for sex trafficking victims

The following questions are helpful when assessing safety of sex trafficking victims and the answers should help inform the safety plan:

- Where is the sex trafficker right now?
- Is the child living under any current threats or fears?
- Is the child afraid someone will be looking for them?

- Is the child concerned for their own safety? If yes, what is the basis of this concern?
- Does anyone else know about their current situation?

Safety considerations may include developing a plan with the child victim to include:

- What would they do if they encounter the trafficker?
- What will they do if the trafficker calls or emails them?

4.4.5.4 Additional information

See Appendix M for information regarding screening for victims of human trafficking, which includes sex trafficking. Additional information regarding sex trafficking can be found in the on-line course, CWSE4000: Identifying Sex Trafficking in Child Welfare. This course is available on the VDSS public website.

4.4.6 LDSS shall not purchase certain services

The Code of Virginia § 63.2-1503 does not permit the LDSS to purchase CPS investigation or family assessment services from private or other public non-social services departments.

An LDSS may contract with another LDSS to provide these services.

4.4.7 Obtain and consider child abuse and neglect central registry check

Sections 63.2-1505 and 63.2-1506 of the Code of Virginia require the LDSS obtain and consider the results of a search of the Central Registry of the alleged abuser or neglector in a family assessment or investigation when there is evidence of child abuse or neglect and the LDSS is evaluating the safety of the home and whether a removal is needed to protect the child.

4.4.8 Obtain and consider criminal history record check

Sections 63.2-1505 and 63.2-1506 of the Code of Virginia allow the LDSS to obtain and consider the results of a search of the Central Criminal Records Exchange of the alleged abuser or neglector in a family assessment or investigation when there is evidence of child abuse or neglect and the LDSS is evaluating the safety of the home and whether a removal is needed to protect the child.

4.4.9 Inquire if alleged abuser or neglector has resided in another state

Sections 63.2-1505 and 63.2-1506 of the Code of Virginia require the LDSS inquire whether the alleged abuser or neglector in a family assessment or investigation has resided in another state within the last five years, and if they have resided in another state, the LDSS shall request a search of the child abuse or neglect registry or equivalent registry maintained by the state(s). The LDSS must document the results of such inquiry in the child welfare information system.

4.4.10 Information about the Office of Children's Ombudsman

Section 2.2-445 of the Code of Virginia requires the LDSS provide information to biological parents, prospective adoptive parents and foster parents about the Office of the Children's Ombudsman.

4.5 Family assessment

The family assessment response is one of two approaches that can be used to respond to a valid CPS complaint. The Family Assessment track is an essential part of the transformation of services and supports the strengthening of families within Virginia.

The family assessment is a process of gathering and evaluating information and formulating conclusions regarding family functioning specific to child abuse/neglect, the presenting complaint allegations, and family needs related to child safety and risk of future abuse or neglect.

The VAC 22 VAC 40-705-10 defines family assessment as follows:

> (22 VAC 40-705-10). "Family assessment" means the collection of information necessary to determine:
>
> 1. The immediate safety needs of the child;
>
> 2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;
>
> 3. Risk of future harm to the child; and
>
> 4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services. These arrangements may be made in consultation with the caretaker of the child.
>
> (22 VAC 40-705-70 B).
> B. When completing a human trafficking assessment or family assessment, the local department shall gather all relevant information in collaboration with the family, to the degree

> possible, in order to determine the child and family services needs related to current safety or future risk of harm to the child.

The family assessment is a child-centered, family-focused, participatory process that is done with the family. The family assessment builds on family strengths. It identifies parental capacities and resources within the family and the community. The process is designed to incorporate parent/caretaker perceptions of child safety, address the presenting complaint, and determine service needs related to potential maltreatment of the child. The family assessment can and should include the active involvement of all members of the family and significant others in the extended family or community, as appropriate.

4.5.1 Time frames to complete family assessment

Section 63.2-1506 of the Code of Virginia requires the LDSS to complete and document the family assessment within 60 calendar days of receipt of the complaint or report.

4.5.2 Notify family of family assessment

The VAC 22 VAC 40-705-90 B requires the *Family Services Specialist* to explain the CPS family assessment process to the mother, father or involved caretakers.

> (22 VAC 40-705-90 B). Before conducting a family assessment or investigation, the child protective services worker shall explain the responsibilities and authorities of child protective services so that the parent or other caretaker can be made aware of the possible benefits and consequences of completing the family assessment or investigation. The explanation must be provided orally and in writing.

The *Family Services Specialist* must notify the family verbally and in writing that a report of suspected abuse or neglect has been received and that a family assessment will be conducted in response to the report. The written notification is the brochure "Child Protective Services: A Guide to Family Assessment". The *Family Services Specialist* must make the family aware of the possible benefits and consequences of having a family assessment conducted with their family. The *Family Services Specialist* shall document this notification in the child welfare information system.

This notification may occur when the *Family Services Specialist* contacts the family to arrange the initial home visit.

4.5.3 Home visits

Families who are treated with respect can contribute more concretely to the identification of the family and children needs. When families are a part of the process,

they are more likely to participate in the assessment and cooperate with service recommendations.

Some advantages of using announced visits include:

- Demonstrates respect.
- Sends the message that we want them involved.
- Helps the family prepare for the visit and decide who they would want present.
- Gives them a voice in scheduling.
- Family feels heard and recognized as a partner.

Appropriate uses of unannounced visits include:

- Unannounced home visits should be made when there is a concern for safety and/ or the child is perceived to be in imminent danger.
- Unannounced visits are also appropriate when phone calls are not returned or an appearance of non-compliance with scheduled meetings.
- Unannounced visits are common in the investigation track due to presenting safety concerns and the need to gather evidence to make a dispositional assessment as to whether the abuse or neglect has occurred.
- Families can agree to unannounced visits as part of a safety plan.

One of the critical differences between an investigation and a family assessment is there is no finding of abuse or neglect in a family assessment. Family assessments are typically reports which do not involve serious safety factors. The family assessment centers on assessing the family strengths and needs in collaboration with the family and an effective assessment depends on the extent of family engagement in the process. Engagement begins with the first contact and should continue throughout the family assessment process.

The LDSS is ultimately responsible for the decision to conduct announced or unannounced home visits.

4.5.4 Notify non-custodial parent

> (§63.2-1503 of the Code of Virginia) The local department shall notify the custodial parent and make reasonable efforts to notify the noncustodial parent as those terms are defined in § 63.2-1900 of a report of suspected abuse or neglect of a child who is the subject of an

> investigation or is receiving family assessment, in those cases in which such custodial or noncustodial parent is not the subject of the investigation.

Pursuant to § 63.2-1503 O of the Code of Virginia, the LDSS shall make reasonable efforts to notify the non-custodial parent when that parent is not the subject of the child abuse or neglect report. Not only does the non-custodial parent have a right to know about the report involving his/her child, that parent may be a resource to the child and should be invited to any FPM scheduled. However, if there is reason to believe that such notification would be detrimental to the child, the LDSS may take that concern into account. The response to the report should not be delayed if the non-custodial parent is unreasonably difficult to contact. The LDSS should document all reasonable efforts to locate and notify the non-custodial parent about the report. Conversely, the LDSS should document why reasonable efforts were not made to notify the non-custodial parent.

4.5.5 Document all contacts and observations

The *Family Services Specialist* shall document all contacts and observations required by regulation in a family assessment in the child welfare information system. It is equally important that the worker document reasons why any mandated contacts or observations were not made or completed. For example, if three phone messages were left or two home visits made with no one answering the door, those attempts should be documented in the child welfare information system and may be considered as the initial response.

A FPM does not fulfill the requirement for any mandated contact interview during a family assessment as the purpose is not to interview alleged victims, parents/caretakers, and collaterals. The *Family Services Specialist* should conduct the face to face interview with the alleged victim child, siblings, and the parent/caretaker prior to any FPM.

4.5.6 Mandated contacts for family assessment

> (22 VAC 40-705-80 A1-5). During the course of the family assessment, the child protective services worker shall document in writing in the state automated system the following contacts and observations.
>
> 1. The child protective services worker shall conduct a face-to-face interview with and observe the alleged victim child within the determined response time.
>
> 2. The child protective services worker shall conduct a face-to-face interview with and observe all minor siblings residing in the home.
>
> 3. The child protective services worker shall conduct a face-to-face interview with and observe all other children residing in the home with parental permission.

> 4. The child protective services worker shall conduct a face-to-face interview with the alleged victim child's parents or guardians or any caretaker named in the report.
>
> 5. The child protective services worker shall observe the family environment, contact pertinent collaterals, and review pertinent records in consultation with the family.

A face-to-face interview with any child must be documented as a "worker visit" in the child welfare information system.

4.5.6.1 The family interview

The first contact with the family sets the tone for how the *Family Services Specialist* will engage with the family, how the family will learn about CPS expectations, and how the family will learn what CPS can provide.

When it is possible, practical, and places no family member in danger, a pre-arranged, announced or scheduled family interview should be conducted. This type of interview allows the *Family Services Specialist* to observe interaction among family members that may contribute to the family needs assessment. When a family interview is conducted, the *Family Services Specialist* must document each of the individual required contacts in the child welfare information system.

The family assessment approach is one of engaging and partnering with the family as a whole. Factors to consider when making a decision to do a family interview include whether or not the report mentions allegations of current or recent DV (in which case the *Family Services Specialist* may want to interview the DV victim and children first and separately from the DV perpetrator); whether the reporter states that the child expressed fear of parental response; and whether there is a past history of significant child maltreatment.

Additional guidance regarding interviewing the family, children, DV victims and DV perpetrators can be found in sections 1.5.1 through 1.5.4 of the VDSS Child and Family Services Manual, Chapter H, Domestic Violence.

Interviewing the family together can provide vital information about family dynamics and may trigger discussions that otherwise may not be held. Attention should be paid to verbal and non-verbal cues from the child that might lead the *Family Services Specialist* to assess a need to interview the child in a different setting. This might be in another room on the same day or at school on another day. Each child should be interviewed in the way that will best provide safety and build rapport with the family for future services.

Additional resources for conducting family assessments can be found in Appendix F.

4.5.6.2 Interviewing the child

The *Family Services Specialist* shall conduct a face-to-face interview with the alleged victim child and shall conduct this worker visit **within the response priority level assigned**. Timeliness of the face-to-face interview with the alleged victim child is essential to assessing safety. A face-to-face interview with the alleged victim child shall be completed:

Response Priority	Response Time
Response 1 (R1)	**Within 24 hours** of the date and time of the referral
Response 2 (R2)	**Within 48 hours** of the date and time of the referral
Response 3 (R3)	Within 40 work hours of the date and time of the referral

No child should be interviewed in such a manner that compromises their safety. It is expected that a child will be interviewed in private if necessary to ensure their safety. If the child is interviewed alone, it is important to explain to the caretakers prior to or immediately after why a separate interview with the child is important. The *Family Services Specialist* should try to gain the caretaker's permission.

During the interview, the *Family Services Specialist* should inform the child what will occur during the family assessment process. The *Family Services Specialist* should observe the child and document the child's recollection and perception of the allegations, bearing in mind that the main focus of the family assessment is not to determine if the abuse or neglect has occurred but rather assessing for the services that will ensure child safety, permanency and well-being. The *Family Services Specialist* should note the child's emotional and physical condition. If the report alleged the child had marks or injuries, the *Family Services Specialist* should observe them as part of the family assessment.

The *Family Services Specialist* should learn about the child's needs and capabilities for the purposes of risk assessment, strengths and needs assessment and service planning.

Electronic recording of children is not required in a family assessment. The use of electronic recording does not meet the purpose of the family assessment.

The *Family Services Specialist* shall document all interviews and attempted interviews in the child welfare information system. While it is important to document all attempted interviews to show reasonable diligence, it should be noted that attempted contacts do not satisfy the requirement to interview the alleged victim child within the determined response priority.

4.5.6.3 Interviewing siblings

The *Family Services Specialist* shall interview and observe minor siblings residing in the home of the alleged victim child in order to determine whether they have experienced abuse or neglect and to more fully evaluate the family strengths and needs.

No child should be interviewed in such a manner that compromises their safety. It is expected that a sibling will be interviewed in private if necessary to ensure their safety. If the sibling is interviewed alone, it is important to explain to the caretakers prior to or immediately after why a separate interview with all of the children is important. The *Family Services Specialist* should try to gain the caretaker's permission.

4.5.6.4 Non-verbal children

In reports that involve a non-verbal child, the *Family Services Specialist* shall document in detail in the child welfare information system the observations of the child interacting with his or her family members and environment. The *Family Services Specialist* should learn about the child's needs and capabilities from involved caretakers, or siblings for the purposes of safety assessment, strengths and needs assessment, safety and service planning and risk assessment.

4.5.6.5 Other children in the home

The *Family Services Specialist* shall interview other children living in the home as collaterals. They may have information which would help assess safety, strengths and needs of the family. Such contact should be made with prior consent of the non-victim child's parent or guardian. If the situation warrants contact with the non-victim child prior to such consent being obtained, the parent or guardian should be informed as soon as possible after the interview takes place.

4.5.6.6 Interviewing the mother, father or involved caretakers

The *Family Services Specialist* shall conduct a face-to-face interview with the mother, father or involved caretakers. Whenever possible and appropriate, these interviews should be scheduled in advance. When calling to schedule a home

visit or at the home visit, they shall be informed of the allegations and the assessment process. The *Family Services Specialist* must notify the family in writing and orally that a report of suspected abuse or neglect has been received and that a family assessment will be conducted in response to the report. The written notification is the brochure “Child Protective Services: A Guide to Family Assessments”. The *Family Services Specialist* must document this notification in the child welfare information system.

This interview may be part of the family interview or done separately. The *Family Services Specialist* shall document their responses and knowledge about the allegations bearing in mind the emphasis of the family assessment is not determining whether the abuse or neglect occurred. Showing respect and partnering with the family are essential to engage the family.

The *Family Services Specialist* must advise the subject of a family assessment of his responsibility to notify the LDSS prior to changing his place of residence and provide the LDSS with his new address. The LDSS must document in the child welfare information system when the alleged abuser or neglector provides such notification to the LDSS.

The *Family Services Specialist* must advise the mother, father or other involved caretaker of their rights against self-incrimination if they have been criminally charged. If the *Family Services Specialist* does not advise them of their rights against self-incrimination, any of the statements made to the *Family Services Specialist* are not admissible in criminal proceedings; however, the *Family Services Specialist* may use their statements for assessing risk and service planning.

For the purposes of risk assessment and service planning, the *Family Services Specialist* should identify the caretakers' needs and capabilities. If they refuse to be interviewed, the *Family Services Specialist* must inform them that the family assessment must be completed to ensure child safety.

4.5.6.7 Observe family environment

The *Family Services Specialist* shall observe the family environment and determine the effect of the environment on the child’s safety and the overall family needs related to caring for the children. Whenever possible and appropriate, home visits should be scheduled in advance with the family.

4.5.6.7.1 Safe sleep environment and practices

The *Family Services Specialist* should assess the sleep environment and sleep practices with all families who have infants *and children* less than *two*

years of age *at every home and site visit. The Family Services Specialist must share safe sleep information with all families who have infants and children less than two years of age. The Family Services Specialist must document their assessments of the sleep environment, sleep practices, and that safe sleep information was provided in the child welfare information system.*

Research has shown that several factors place infants at a higher risk for Sudden Infant Death and other sleep-related causes of infant death. The following are some of the 18 recommendations from the American Academy of Pediatrics that can be discussed with caretakers:

- Infants should be placed to sleep on their backs.
- Infants should sleep on a firm sleep surface.
- Bed sharing with infants is not recommended.
- Soft objects and loose bedding should not be in the infant's sleep area.
- Avoid exposing infant to smoke, alcohol and illicit drugs.
- Breastfeeding of infants is recommended.
- Pacifiers are recommended.
- Avoid overheating the infant.

A Safe Sleep for Babies Tip Card is available from the Virginia Department of Health. Additional resources, including free brochures, are available at the Safe to Sleep Public Education Campaign.

4.5.6.8 Identifying relatives and family supports

During the course of the family assessment, the worker must gather information to identify maternal and paternal relatives and the kinship network providing support and resources to the family and child. Many families identify non-relatives as kin, such as godparents, friends, and others with whom they have a family-like relationship. The early identification of adult family members and supports is critical for initial assessments when identifying protective factors, strengths, and needs. When appropriate, these individuals may become resources in protective interventions, FPMs, and case planning during the CPS process or any future case involvement. Resources and tools for relative search and family engagement are available on the DSS public website under Family Engagement Toolkit.

4.5.6.9 Contacting collaterals

> (22 VAC 40-705-80 A3). [continued]. The child protective services worker shall… contact pertinent collaterals, and review pertinent records in consultation with the family.

As part of the family assessment, the *Family Services Specialist* may need to contact collaterals to evaluate the circumstances of the alleged abuse or neglect and the needs of the family. The VAC defines collateral.

> (22 VAC 40-705-10). "Collateral" means person whose personal or professional knowledge may help confirm or rebut the allegations of child abuse or neglect or whose involvement may help ensure the safety of the child.

The *Family Services Specialist* should ask the family for contact information for any collateral that may have pertinent information. The *Family Services Specialist* shall contact any collaterals perceived to have pertinent information. The *Family Services Specialist* may involve collaterals to help ensure the safety of the child. Contact with the child's other caretakers, such as babysitters or day care providers, is encouraged. The *Family Services Specialist* should try to gain the permission to speak with all collaterals. If the parent refuses to give permission, the *Family Services Specialist* should discuss their reason for refusal. If that discussion fails to gain permission, the *Family Services Specialist* should determine if the collateral contact is essential to a thorough assessment of safety and risk. If so, the *Family Services Specialist* may make collateral contacts without the family's consent in order to complete the family assessment, but consent and collaboration with the family is encouraged. The family assessment should be developed mutually with the family to the degree possible.

4.5.6.10 Interviewing the non-custodial parent

The *Family Services Specialist* should interview the non-custodial parent in a family assessment. The non-custodial parent has a right to know about the report involving their child and may be an additional resource to the child. If there is reason to believe that such an interview would be detrimental to the child, the LDSS may take that concern into account. They should be invited to any FPM scheduled. The LDSS should document all reasonable efforts to locate, notify and interview the non-custodial parent. Conversely, the LDSS should document why reasonable efforts were not made to locate, notify, or interview the non-custodial parent.

4.5.6.11 Other contacts may be required

The *Family Services Specialist* must contact the local office of the attorney for the Commonwealth and law enforcement to report suspected criminal activity.

4.5.7 First meaningful contact in family assessments

The first meaningful contact in the family assessment provides pertinent information relevant to the family assessment and the safety of the child. It is a face-to-face contact with the family and usually occurs after the completion of the face-to-face interview with the alleged victim. During this face-to-face contact with the family, the *Family Services Specialist* completes the Safety Assessment Tool in the child welfare information system and develops a safety plan with the family if the child is determined to be conditionally safe. The first meaningful contact must be documented as such in the child welfare information system and the *Family Services Specialist* must include "safety assessment" as one of the purposes of the contact. The *Family Services Specialist* should confer with a supervisor if there is any doubt about which contact constitutes the first meaningful contact. Note: The completion of the initial interview with the alleged victim does not satisfy a first meaningful contact.

4.5.8 Safety in family assessments

4.5.8.1 Initial safety assessment and safety plan in family assessments

> (22 VAC 40-705-110 A). In both family assessments and investigations the child protective services worker shall conduct an initial safety assessment of the child's circumstances and threat of danger or harm, and where appropriate shall make a safety plan to provide for the protection of the child.

An initial safety assessment is conducted at the beginning of a family assessment. The purpose of the initial safety assessment and safety plan is to:

- Assess whether any children are currently in immediate danger of serious physical harm that may require a protecting intervention.
- Determine what interventions should be maintained or initiated to provide appropriate protection.

Safety Assessments differ from Risk Assessments in that the purpose is to assess a child's present or immediate danger and the interventions currently needed to protect the child. In contrast, Risk Assessment evaluates the likelihood of future maltreatment.

A safety and risk field guide can be located in Appendix E. This field guide may be used by the *Family Services Specialist* in the field to help guide interviews as

it provides the safety factors, protective capacities and risk factors that should be identified in every assessment. This field guide must be used in conjunction with the definitions provided for the safety and risk assessment tools.

4.5.8.2 Immediate child safety and family needs

Safety assessment is both a process and a document. Safety information is gathered and assessed from the very first contact at intake and until the case is closed. Safety must be determined for each child and the safety conclusion based on the least safe child if there is more than one (1) child in the family. To ensure that the safety of the child is appropriately assessed in each family assessment, the LDSS must complete the process of an initial safety assessment at the first meaningful contact with the family and any time safety changes and document the results in the CPS Safety Assessment Tool in the child welfare information system **within 24 hours** of the first meaningful contact or any time safety changes. For accurate completion, it is critical to refer to the definitions provided on the Safety Assessment Tool, and decisions must be based on supporting narrative documented in the child welfare information system. The Safety Assessment Tool with definitions is located on the DSS public website.

The Safety Assessment Tool provides structured questions concerning the danger of immediate harm or maltreatment to a child and is used to guide the development of a Safety Plan. This information guides the decision about whether the child may remain in the home with no intervention, may remain in the home with safety interventions in place, or must be removed from the home. This is an appropriate time for the LDSS to consider convening a FPM if necessary to address ongoing safety planning.

For example, a three (3) year old child may be more vulnerable and more threatened with severe harm by an out-of-control parent than a 13 year old, but even the three (3) year old may be deemed safe if the parent has just been taken away by the police and a responsible adult is available – so there is no severe nor imminent threat of harm to the vulnerable child.

4.5.8.3 Assess immediate danger to the child

The initial safety assessment focuses on the child and the child's immediate needs. Factors to consider when assessing the immediate situation of the child include:

- Whether the child has sustained a mental or physical injury warranting immediate attention or care.

- Whether an emergency or crisis situation exists meriting immediate action to protect the child.
- Whether the child is at risk of serious abuse or neglect in the near future.

4.5.8.4 Assess immediate needs of the family

After assessing the immediate safety needs of the child, the worker must evaluate the immediate needs of the family. Factors to consider include:

- If the child has been injured or harmed, whether the family has the capabilities or capacity to protect the child from further harm.
- Whether an emergency or crisis situation exists and the family's ability to cope.
- Whether any other family members are at risk of harm or danger.
- What are the family's capabilities to ensure the safety of the child or children in the near future?

4.5.8.5 Assess protective capacities

The *Family Services Specialist* should assess the family's protective capacities if any safety factors are identified. Protective capacity means being protective towards ones' children. Protective capacities are cognitive, behavioral, and emotional qualities which support vigilant protectiveness of children. Protective capacities are fundamental strengths which prepare and empower a person to protect. All adults living in the home should be assessed for protective capacities. Capacities must be strong enough to control or manage the specific threats of danger that have been identified. Protective capacities should be used when determining the protective intervention and development of a safety plan.

4.5.8.5.1 Cognitive protective capacities

Cognitive protective capacity refers to knowledge, understanding, and perceptions contributing to protective vigilance. Cognitive capacities can be demonstrated when the caretaker:

- Plans and articulates a plan to protect the child.
- Is aligned with the child.
- Has adequate knowledge to fulfill care giving responsibilities and tasks.

- Is reality orientated; perceives reality accurately.
- Has accurate perception of the child.
- Understands their protective role.
- Is self-aware as a parent/caretaker

4.5.8.5.2 Behavioral protective capacities

Behavioral protective capacity refers to actions, activities and performance that result in protective vigilance. Behavioral aspects show it is not enough to know what must be done or recognize what might be dangerous to a child but rather require the caretaker to take action. Behavioral capacities can be demonstrated when the caretaker:

- Has a history of protecting others.
- Takes action to correct problems or challenges.
- Demonstrates impulse control.
- Is physically able.
- Demonstrates adequate skill to fulfill care giving responsibilities.
- Possesses adequate energy.
- Sets aside their needs in favor of a child.
- Is adaptive and assertive.
- Uses resources necessary to meet the child's basic needs.

4.5.8.5.3 Emotional protective capacities

Emotional protective capacity refers to feelings, attitudes and identification with the child and motivation resulting in protective vigilance. Emotional capacities can be demonstrated when the caretaker:

- Is able to meet their emotional needs.
- Is emotionally able to intervene to protect the child.

- Realizes the child cannot produce gratification and self-esteem for them as caretaker.
- Is tolerant as a parent/caretaker.
- Displays concern for the child and the child's experience and is intent on emotionally protecting the child.
- Has a strong bond with child and is clear that the number one priority is the well-being of the child.
- Expresses love, empathy and sensitivity toward the child; experiences empathy with the child's perspective and feelings.

4.5.9 Protective interventions and safety services

When a safety factor has been identified, the *Family Services Specialist* shall consider the resources available to the family and the community that might help to keep the child safe. Protective interventions should directly address identified threats to safety. The interventions should be implemented immediately as they address immediate threats to child safety.

Consider the following protective interventions which can allow children to remain in the caretaker's custody:

- Use of family resources, neighbors or other individuals in the community to develop and implement a safety plan.
- Use of community agencies or services.
- Involved caretaker leaves the home.
- Non-maltreating caretaker leaves the home with child(ren).
- Caretaker voluntarily places child outside of the home.
- Legal action, such as a preliminary protective order, is initiated.

Protective interventions may also be safety services provided during the family assessment.

Safety Services are formal or informal services provided to or arranged for the family with the explicit goal of ensuring the child's safety. These services must be immediately available and accessible and may be provided by professionals, family members, or other willing parties as long as each involved individual understands their

role and responsibility. The safety services must be clearly documented (i.e. safety plan, service plan, court order, SDM plan, etc.) for the involved parties and in the case record. Examples of safety services may include: child care, cleaning supplies, safety equipment, transportation, etc.

As with all aspects of case planning, the family should be engaged in providing input and joint decision making throughout the process of identifying, implementing, and evaluating these interventions and safety services. Documentation of safety services in the child welfare information system must clearly demonstrate how the actions taken provide the child with immediate protection from the safety issues and how each safety service contributes to addressing or eliminating the safety matters specific to the child. Safety services should be documented on the Safety Assessment Tool in the child welfare information system. Additional information about safety services can be found in the eLearning FSWEB1027: Safety Services: Swift & Savvy available in the VLC.

4.5.10 DV and substance abuse as safety and/or risk assessment issues

Two family issues that can have a major impact on safety and risk are DV and drug and/or alcohol involvement by the child's caretakers.

LDSS are required to develop guidelines for evaluating substance or drug abuse. The CAGE-AID tool (CAGE is derived from the four questions of the tool: Cut down, Annoyed, Guilty and Eye-opener. CAGE-AID is the CAGE instrument and is Adapted to Include Drugs) is one tool that provides questions that can be worked into the interviews with the primary caretakers, and a "yes" to any question may indicate a need for an AOD (alcohol or other drug) evaluation in order to complete the risk assessment. A copy of this tool is in Appendix D.

There are several evidence based tools that can be used to screen for DV depending on who is being interviewed. The "HITS" (Hurt, Insult, Threaten, Scream) screening tool may be used to screen for DV with collaterals such as family members, professionals, service providers and mandated reporters. The Women's Experience with Battering Tool (WEB) is designed to be used with potential victims of DV. These screening tools and additional guidance regarding screening for DV can be found in section 1.4 of the VDSS Child and Family Services Manual, Chapter H. Domestic Violence.

Additional information about DV can be found on the DSS public website.

4.5.11 Safety decision

After safety and protective factors have been assessed using the Safety Assessment Tool, the *Family Services Specialist* must make a decision about the safety of the

child(ren) in the home. The safety decision should be made on the basis of the needs of the least safe child in the home, if there is more than one (1) child. One of the following safety decisions must be determined using the Safety Assessment Tool and documented in the child welfare information system and shared with the family.

- **SAFE**. There are no children likely to be in immediate danger of serious harm at this time. No safety plan is required.

- **CONDITIONALLY SAFE**. Protective safety interventions have been taken and have resolved the unsafe situation for the present time. A safety plan is required to document the interventions.

- **UNSAFE**. Approved removal and placement was the only possible intervention for the child(ren). Without placement, the child(ren) will likely be in danger of immediate serious harm. A court order is required to document intervention.

  If the safety decision is unsafe and a removal occurs, the track must be changed immediately from a family assessment to an investigation.

4.5.11.1 Safety decision and family partnership meeting

The LDSS should schedule a FPM when the worker assesses the child's safety to be in jeopardy or at risk of removal or out of home placement. However, safety concerns are paramount and necessary action to address safety issues shall not be delayed. The FPM should be scheduled **within 24 hours** after safety issues have been identified and the agency is considering removal, and occur before the five-day court hearing in cases after the emergency removal. Emergency removal prompts the need to convene a FPM and changing the track from a family assessment to an investigation. This meeting provides the opportunity for family and community participation in the decision-making process for the child. Engaging the relatives and natural support of the family will be crucial to a successful meeting. The purpose of the meeting is to facilitate planning to determine whether:

- The agency should file for custody and facilitate placement;

- The child can remain home safely with services, or the child may return safely home with services; or

- There will be voluntary placement of the child by the mother and/or father with provision of services and a safety plan.

The *Family Services Specialist* should conduct the face-to-face interview with the alleged victim child and the mother, father or caretaker prior to the FPM since

the purpose of the meeting is not to interview caretakers, victims, or other collaterals.

The worker and supervisor should discuss the convening and timing of a FPM at this critical decision point. Additional guidance for holding a FPM when there is DV can be found in section 1.9 of the VDSS Child and Family Services Manual, Chapter H. Domestic Violence.

All FPMs must be documented in the child welfare information system. For guidance on FPMs please refer to the VDSS Child and Family Services Manual, Chapter A, Family Engagement. *To avoid duplication, if there is an active CPS referral and an open case, the FPM should be documented in the case.*

4.5.12 Develop a safety plan

When the child is determined to be conditionally safe or unsafe, the *Family Services Specialist* must determine what services or actions need to occur by developing a safety plan in partnership with the family.

The VAC 22 VAC 40-705-10 defines safety plan:

> (22 VAC 40-705-10). "Safety plan" means an immediate course of action designed to protect a child from abuse or neglect.

A safety plan must be made to ensure the immediate protection of the child. When possible, the worker needs to develop the safety plan with the cooperation of the child's mother, father or guardian(s). The *Family Services Specialist* must determine what actions are necessary to assure the child's immediate safety. If the actions needed to assure the safety of the child cannot be put in place, alternative steps must be taken that can include court intervention.

Once available on the COMPASS Mobile Application, the safety plan must be completed in the child welfare information system and the worker's efforts to develop the safety plan with the family must also be documented in the child welfare information system. The parent(s) or guardian(s) should sign the safety plan along with the worker to show agreement as to who will do what to prevent harm to the child in the immediate future. A copy of the safety plan must be left with the parent(s) or guardian(s). In the event of unforeseen technical difficulties, the *Family Services Specialist* must complete the safety plan template in the child welfare information system and provide an electronic or paper copy of the safety plan to the family no later than 24 hours after the first meaningful contact. The safety plan template is available in the child welfare information system and also on the public DSS website.

Additional guidance on safety planning with both children and DV victims can be found in section 1.6.1 and 1.6.2 of the VDSS Child and Family Services Manual, Chapter H. Domestic Violence.

4.5.12.1 Safety plan criteria

Safety plans should meet the following criteria:

- The plan controls or manages immediate threats of danger.
- The safety plan must have an immediate effect in controlling threats. Strategies resulting in long term change, such as parenting education, do not belong in a safety plan.
- The *Family Services Specialist* must assess the parent(s), guardian, or custodian and make a professional judgment as to their willingness and capability to agree to and abide by the terms of the safety plan.
- People and services identified in the safety plan must be accessible and available when threats are present.
- The safety plan should employ the least restrictive strategies possible while assuring child safety.

4.5.12.2 Safety plan actions

The following are sample safety plan actions that may be included in a safety plan:

- Cooperate with the LDSS to include returning phone calls, advising of address changes and keeping any scheduled appointments;
- Refrain from the use of any illegal drugs or substances while caring for the child(ren);
- Provide age appropriate supervision consistent with child's development;
- Obtain an appropriate child care provider;
- Provide non-abusive and age appropriate discipline;
- Refrain from the use of physical discipline or corporal punishment;
- Refrain from engaging in physical altercations or acts of DV;

- Ensure no contact with specified individual;
- Maintain a home environment that is safe and free of health and safety hazards;
- Ensure safe sleep practices are followed for all children in the home;
- Sign necessary release of information forms with service providers;
- Provide protection from and further maltreatment by a specified individual;
- Ensure child(ren) receive all medical and/or therapeutic treatment as recommended.

These actions should remain in effect until a new safety plan is developed; a service plan is developed; or the family assessment or case is closed, whichever comes first.

4.5.12.3 Safety plan signatures

Whenever possible, the caretaker(s) should sign the safety plan along with the worker, so that this document can be used as an agreement as to who will do what to prevent harm to the children in the immediate future. Other parties to the agreement, such as service providers, may also sign the form.

4.5.13 Reassessing safety

Safety assessment is both a process and a document. The process of assessing child safety is ongoing throughout the life of the CPS referral and ongoing case as information is gathered with each contact. The initial safety decision and safety plan are documented in the child welfare information system, and all subsequent changes in safety assessed in referrals or ongoing cases in the following circumstances should also be documented in a new Safety Assessment Tool in the child welfare information system **within 24 hours** of:

- A change in family circumstances such that one or more safety factors previously present are no longer present;
- A change in information known about the family in that one or more safety factors not present before are present now; or
- A change in ability of safety interventions to mitigate safety factors and require changes to the safety plan.

When safety is reassessed, the safety plan should be reviewed and revised accordingly. A FPM may be considered if safety concerns escalate.

4.5.14 Changing the initial track

After the referral is accepted as a family assessment, it may be switched to an investigation in very limited circumstances; however, a referral may not be switched from an investigation to a family assessment. If the family assessment has not yet been completed and new information causes the situation to meet the statutory guidelines for an investigation, the family assessment must be closed and an investigation initiated. The LDSS may consider changing tracks if significant safety factors are present. A referral may not be switched from a family assessment to an investigation simply because of lack of cooperation on the part of the caretaker. The caretaker's action or inaction that causes the child to be deemed unsafe may result in an action such as petitioning the court for a protective order to increase child safety.

All the requirements of an investigation are in effect and a new 45-day period begins in order to complete the investigation process. Supervisory approval is required to change tracks in the child welfare information system. The alleged abuser shall be notified immediately that the response of the agency has changed from a family assessment to an investigation.

Refer to Section 3, Complaints and Reports, of this guidance manual for guidance on track decision.

4.5.14.1 Changing track if an emergency removal occurs

> (22 VAC 40-705-60 3b). When circumstances warrant that a child be taken into emergency custody during a family assessment, the report shall be reassigned immediately as an investigation.

At any time before the completion of the family assessment, if circumstances require that emergency custody be taken of one (1) or more children in the family, the alleged abuser shall be notified immediately that the response of the agency has changed from a family assessment to an investigation. Supervisory approval is required to change tracks in the child welfare information system.

4.5.15 Determine risk level in family assessment

> (22 VAC 40-705-110 B). In all completed family assessments and investigations, the child protective services worker shall conduct a risk assessment to determine whether or not the child is in jeopardy of future abuse or neglect and whether or not intervention is necessary to protect the child.

A Family Risk Assessment must be completed in a family assessment.

The *Family Services Specialist* must gather information in order to complete the Family Risk Assessment which includes assessing the following risk factors:

- **Caretaker related**
  - History of childhood maltreatment.
  - History of mental health issues.
  - History of substance abuse.
  - History of criminal activity (adult or juvenile).
  - DV incidents in past year.
  - History of prior CPS; ongoing or foster care services.
- **Child related**
  - Developmental or physical disability.
  - Medically fragile or failure to thrive.
  - Substance exposed newborn.
  - Delinquency.
  - Mental health or behavioral problem.
  - Prior injury as result of abuse or neglect.
- **Caretaker and child relationship**
  - Blames child.
  - Justifies maltreatment.
  - Provides insufficient emotional or psychological support.
  - Uses excessive or inappropriate discipline.
  - Domineering.
  - Provides physical care inconsistent with child needs.
- **Other**
  - Housing is unsafe.

- Family is homeless.

Based on the information gathered during the family assessment, the *Family Services Specialist* must determine the likelihood of any occurrence or recurrence of abuse or neglect by completing a Family Risk Assessment. The Family Risk Assessment does not predict recurrence but assesses whether a family is more or less likely to have an incident of abuse or neglect without intervention by the agency. The Family Risk Assessment is completed based on conditions that exist at the time the incident is reported and assessed as well as prior history of the family. Risk is calculated in the Family Risk Assessment tool completed in the child welfare information system. For accurate completion, **it is critical to refer to the definitions**. The Family Risk Assessment tool with definitions is located on the DSS public website. Selections made on the Family Risk Assessment tool must be based on supporting narrative in the child welfare information system.

Assessed risk will be:

- **Low**. The assessment of risk related factors indicates that there is a low likelihood of future abuse or neglect and no further intervention is needed.
- **Moderate**. The assessment of risk related factors indicates that there is a moderate likelihood of future abuse or neglect and minimal intervention may be needed.
- **High**. The assessment of risk related factors indicates there is a high likelihood of future abuse or neglect without intervention.
- **Very High**. The assessment of risk-related factors indicates there is a very high likelihood of future abuse or neglect without intervention.

Overrides, either by policy or discretionary, may increase risk one level and require supervisor approval. The initial CPS risk level may never be decreased.

4.5.15.1 Risk level guides decision to open a case

When risk is clearly defined and objectively quantified, resources are targeted to higher-risk families because of the greater potential to reduce subsequent maltreatment. The risk level helps inform the decision whether or not to open a case as follows:

Low Risk:	Close
Moderate Risk:	Open to In-Home Services or close
High Risk:	Open to In-Home Services
Very High Risk:	Open to In-Home Services

The worker and supervisor should assess the decision to open a case for services and document in the child welfare information system the decision not to open a case. For more guidance on service planning in a case, refer to Section 2, Chapter B. Prevention, VDSS Child and Family Services Manual Section 2.

4.5.15.1.1 Low/moderate risk cases open for prevention services

The LDSS may offer prevention services for families involved in a family assessment when risk is assessed as low or moderate. The following conditions should be met to open a case to prevention services:

- LDSS has received a current, valid CPS referral AND
- LDSS has conducted a family assessment or investigation AND
- The family has been assessed at low or moderate risk of future maltreatment but could benefit from voluntary services AND
- The family agrees to services.

See the Section 2, Chapter B. Prevention, VDSS Child and Family Services Manual for further guidance.

4.5.15.2 Risk level determines need to convene FPM

A FPM should be scheduled by the LDSS when the worker assesses a child to be at "very high" or "high" risk of abuse or neglect and the child is at risk for out-of-home placement in those families who will be or are receiving services. This meeting is scheduled to develop the plan and services to prevent the out-of-home placement and identifies the circumstances under which a removal might be considered. The meeting should convene **within 30 days** of initiating services and prior to the development of the ongoing service plan. The FPM must be documented in the child welfare information system. For guidance on conducting the FPM, refer to the VDSS Child and Family Services Manual, Chapter A, Family Engagement. *To avoid duplication, if there is an active CPS referral and an open case, the FPM should be documented in the case.*

4.5.16 Assessment summary of strengths and needs

When completing a family assessment, the *Family Services Specialist* must address and document in the child welfare information system the strengths and needs as related to all of the children, mother, father or caretakers, home environment and family support systems. Each family assessment may have circumstances warranting more or less details and information.

The examples listed under each factor can be used as a guide for the *Family Services Specialist* to elicit relevant information and identify family needs, strengths, and supports. A comprehensive family assessment should address the family's strengths and needs in four areas, including but not limited to the areas listed below:

- **Children**. Age and developmental capacity; number of children; behavioral/emotional factors; medical/physical factors; ability to self-protect/vulnerability; perception of caretaker; roles in family system; prior history of abuse/neglect; sex/gender; alleged abuser's continued access; and support system.

- **Parent/caretaker**. Mental health factors; substance use/abuse factors; domestic violence; prior history of abuse/neglect as a child; involvement in the criminal justice system; medical/physical factors; perception of alleged victim child(ren); perception of alleged victim's role in family; parenting style; overall ability to care for children (past and present); ability to protect children; sense of personal responsibility of alleged child maltreatment; engagement with CPS; willingness to care for and protect children; and support system.

- **Environment**. Access to necessary utilities (heat, water, electricity, etc.); maintenance of the inside and outside of the home environment; hazardous living conditions; cleanliness of inside of home environment; safety concerns in the environment; and positive factors present in the environment.

- **Support Systems**. Informal and formal supports; level of isolation or engagement in community; institutional supports (faith-based, educational, recreational, paid, etc.); access to needed supports; past and present utilization of supports; cultural appropriateness of supports, previous involvement with formal services; and barriers to utilization of supports.

- **Summary.** Determination if current allegation was substantiated; severity of maltreatment; frequency and chronicity of maltreatment; concerns about premeditation; caretaker impulsivity; family response to CPS intervention; risk assessment determination; services recommended; and family's response to services. **The summary** must **include the rationale for why the LDSS is not opening a case if the risk assessment is determined to be high or very high risk.**

There is a tool in Appendix E that may assist *Family Services Specialist*s in evaluating the impact of possible substance abuse.

See Appendix I of the VDSS Child and Family Services Manual, Chapter H. Domestic Violence for additional guidance regarding supporting children and youth exposed to DV.

4.5.17 Services needed

The assessment summary must include any identified service needs of the family to reduce or prevent child abuse or neglect.

There is a sample Family Service Agreement on the VDSS public website that can be used to document service needs with the family. The Family Services Agreement is the service application for voluntary services. As with the Safety Plan, development of an agreement for services should occur mutually with the family to the degree possible, and they should receive a copy of the agreement. The need for services should be documented in the child welfare information system.

4.5.17.1 Family refuses services

> (§ 63.2-1506 A4 of the Code of Virginia). Families have the option of declining the services offered as a result of a family assessment. If the family declines the services, the case shall be closed unless the local department determines that sufficient cause exists to re-determine the case as one that needs to be investigated. In no instance shall a case be re-determined as an investigation solely because the family declines services.

If the family refuses recommended services, the reason for the refusal must also be included in the written notification to the family and in the child welfare information system.

The Family Service Agreement form can be photocopied and used to record the agreed upon actions by all parties or to note that these services were recommended but not agreed to by the family.

4.5.18 Notifications in family assessments

> (22 VAC 40-705-140 B5). No disposition of founded or unfounded shall be made in a family assessment. At the completion of the family assessment the subject of the report shall be notified orally and in writing of the results of the assessment. The child protective services worker shall notify the individual against whom allegations of abuse or neglect were made of the procedures set forth in § 63.2-1514 of the Code of Virginia regarding reports or complaints alleged to be made in bad faith or with malicious intent.

4.5.18.1 Written and verbal notification to the family

The *Family Services Specialist* shall provide written and verbal notification to the family that summarizes the family needs assessment, recommendations for services, the length of time the family's name will remain in the CPS child welfare information system and the right to review information about themselves in the record. It should outline the conclusions of the assessment and any services to

be obtained by the family and/or provided to the family. If continuing services are needed, it should be clear who will do what and by when, and what outcome is expected. A copy of the notification must be included in the case record. The worker must document in the child welfare information system the date the verbal notification took place or the reason the verbal notification did not occur.

4.5.18.2 Inform involved caretaker(s) of legal recourse if complaint is malicious.

In all family assessments, the *Family Services Specialist* shall inform the person who is the subject(s) of the family assessment that they may petition the court to obtain the identity of the complainant if they feel the complaint was made in bad faith or maliciously. The *Family Services Specialist* may provide the involved caretaker(s) with a copy of the Code of Virginia § 63.2-1514 pertaining to reports or complaints made in bad faith or maliciously.

4.5.18.3 Notification to the complainant

> (22 VAC 40-705-140 D3). When a family assessment is completed, the child protective services worker shall notify the complainant, when known, that the complaint was assessed and necessary action taken.

4.5.18.4 Notification to military personnel (Family Advocacy Program)

The Code of Virginia § 63.2-1503 N establishes authority for the LDSS to share CPS information about completed family assessments with family advocacy representatives of the United States Armed Forces.

> (§ 63.2- 1503 N of the Code of Virginia) Notwithstanding any other provisions of law, the local department, in accordance with Board regulations, shall transmit information regarding reports, complaints, family assessments, and investigations involving children of active duty members of the United States Armed Forces or members of their household to family advocacy representatives of the United States Armed Forces.

In all completed family assessments regardless of whether services are needed and the victim child is a dependent of an active duty member of the United States Armed Forces or members of their household, the *Family Services Specialist* shall provide information regarding the family assessment and any recommended services based on risk to the appropriate Family Advocacy Program. These notifications allow for coordination between CPS and the Family Advocacy Program and are intended to facilitate identification, treatment and service provision to the military family.

For additional information about the Family Advocacy Program, contact information for a particular branch of the military or a specific installation, click here.

4.5.18.4.1 Written notification that Family Advocacy Program has been notified

> (22VAC40-705-140 E2) The military member shall be advised that this information regarding the founded disposition or family assessment is being provided to the Family Advocacy Program representative and shall be given a copy of the written notification sent to the Family Advocacy Program representative.

The military member shall be advised that this information is being provided to the Family Advocacy Program and shall be given a copy of the written notification sent to the Family Advocacy Program representative.

4.5.19 Referral to early intervention programs for children under age three

The LDSS shall refer any child in a family assessment under the age of three (3) for early prevention services to the local Infant and Toddler Connection of Virginia who:

- Is identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure; or
- Has a physical or mental condition that has a high probability of resulting in developmental delay.

All localities are served by an Infant & Toddler Connection of Virginia program. This referral is required by the Child Abuse Prevention and Treatment Act (CAPTA).

LDSS are encouraged to meet with the local Infant and Toddler program to learn about any referral issues that should be explained to the parent. LDSS are also encouraged to develop procedures with the Infant & Toddler Connection of Virginia program to make referrals of certain children under age three (3). Recommended elements of these procedures should include:

- As soon as possible but no later than **seven (7) calendar days** of completing the investigation the LDSS should send a referral to the local Part C Early Intervention program using the local referral form.

The LDSS should:

- Send a referral as soon as possible when a child has been identified as exposed prenatally to an illegal substance or has withdrawal symptoms at birth.

- Send a referral as soon as possible when a child has been identified as having a physical or mental condition which has a high probability of resulting in a developmental delay.

- Send a copy of the referral to the family. The parent should also be informed verbally of the referral and have an opportunity to discuss the referral process.

- Request the family to sign a release form allowing the exchange of information between the Infant and Toddler Connection Program and the LDSS regarding the referral.

- Document the notification and referral in the state child welfare information system.

More information on the Infant & Toddler programs in Virginia can be found on the Infant & Toddler Connection of Virginia website and in the Memorandum of Agreement issued by the Commissioners of the Department of Social Services and Department of Behavioral Health and Developmental Services and other agencies involved with implementation of Part C of the Individuals with Disabilities Education Act (IDEA) dated May 2013 located on the VDSS internal website.

4.5.20 Supervisor approval required

All completed family assessments should be reviewed and approved in the child welfare information system by the *Family Services Specialist*'s supervisor **within five (5) working days of the worker's request for approval**.

4.6 Investigations

Some of the steps involved in an investigation are similar or even the same as in a family assessment. There are statutory mandates for the investigation track. There are other serious situations which may be appropriate for the investigation track. The immediate danger to the child and the severity of the alleged abuse or neglect are crucial factors considered at intake when making the track decision.

4.6.1 Defining an investigation

The VAC 22 VAC 40-705-10 defines an investigation as follows:

> "Investigation" means the collection of information to determine:
> 1. The immediate safety needs of the child;
>
> 2. The protective and rehabilitative services needs of the child and family that will deter abuse or neglect;

3. Risk of future harm to the child;

4. Alternative plans for the child's safety if protective and rehabilitative services are indicated and the family is unable or unwilling to participate in services;

5. Whether or not abuse or neglect has occurred;

6. If abuse or neglect has occurred, who abused or neglected the child; and

7. A finding of either founded or unfounded based on the facts collected during the investigation.

4.6.2 Time frames to complete investigations

The Code of Virginia requires the LDSS to complete and document the investigation within 45 calendar days of receipt of the complaint or report. There are three (3) exceptions for not completing an investigation within 45 days. *The LDSS must ensure the most appropriate exception for not completing an investigation is selected as the use of multiple exceptions is not permitted.*

4.6.2.1 Fifteen-day extension to complete investigation

(22 VAC 40-705-120 A). The local department shall promptly notify the alleged abuser or neglector and the alleged victim's parents or guardians of any extension of the deadline for the completion of the family assessment or investigation pursuant to § 63.2-1505 B5 or § 63.2-1506 B3 of the Code of Virginia. The child protective services worker shall document the notifications and the reason for the need for additional time in the case record.

Upon written justification by the LDSS, based on locally determined guidelines, the investigation can be extended for **15 calendar days**.

4.6.2.2 Extension of joint investigations with law enforcement agency

The Code of Virginia, § 63.2-1505 B5 allows for investigations which are being conducted in cooperation with a local law enforcement agency to be extended an additional 45 days, not to exceed 90 days. This must be agreed upon by both the LDSS and the law enforcement agency. This extension applies only to investigations.

4.6.2.3 Notification of extension

If an investigation is extended, the alleged abuser/neglector shall be notified. The notification to the alleged abuser/neglector or involved caretakers should include a brief explanation of the reason for the extension. If written notification is made, a copy of the notification must be included in the LDSS's record. If notification is made verbally, then the LDSS must document the notification in the child welfare information system. The LDSS must document the justification in the child welfare information system for the additional time needed to complete the investigation.

Sample letters for notification of an extension of an investigation are located in Appendix H.

4.6.2.4 Suspension of certain investigations

> (22VAC40-705-120 B) Pursuant to § 63.2-1505 B5 of the Code of Virginia, when an investigation involving the death of a child or alleged sexual abuse of a child is delayed because of the unavailability of the records, the deadlines shall be suspended. When such unavailability of records occurs, the local department shall promptly notify the alleged abuser or neglector and the alleged victim's parents or guardians that the records are unavailable and the effect of the unavailability on the completion of the investigation. The child protective services worker shall document the notifications and the reason for the suspension in the case record. Upon receipt of the records necessary to make a finding, the local department shall complete the investigation.

The Code of Virginia § 63.2-1505 B5 grants exceptions to completing certain investigations under specific conditions. In any child death investigation or sexual abuse investigations which require reports or records generated outside the local department in order to complete the investigation, the time needed to obtain these reports or records shall not be counted towards the 45 days. These records must be necessary to complete the investigation and not available due to circumstances beyond the control of the local department. When the LDSS receives the reports or records, the 45 day timeframe resumes where it had left off, it does not start over.

The decision to suspend making a disposition within 45 days in these cases should be approved by a supervisor and documented in the child welfare information system.

4.6.2.5 Notification of suspension

The LDSS should notify the alleged abuser/neglector or involved caretakers and the alleged victim's parents or guardians when suspending an investigation. The notification to the alleged abuser/neglector or involved caretakers should include a brief explanation of the reason for the suspension. If written notification is made, a copy of the notification must be included in the LDSS's record. If notification is made verbally, then the LDSS must document the notification in the child welfare information system. The LDSS must document the justification in the child welfare information system for the additional time needed to complete the investigation.

4.6.2.6 Contact while investigation is suspended

As long as the investigation remains open, the LDSS retains all authorities and responsibilities of an investigation. The LDSS should document monthly updates in the child welfare information system until such time that the necessary reports or records to complete the investigation have been received.

4.6.3 Notify family of investigation

The VAC 22 VAC 40-705-90 B requires the *Family Services Specialist* to explain the CPS investigation process to the alleged abuser or neglector.

> (22 VAC 40-705-90 B). Before conducting a family assessment or investigation, the child protective services worker shall explain the responsibilities and authorities of child protective services so that the parent or other caretaker can be made aware of the possible benefits and consequences of completing the family assessment or investigation. The explanation must be provided orally and in writing.

The *Family Services Specialist* must notify the family in writing and orally that a report of suspected abuse or neglect has been received and that an investigation will be conducted in response to the report. The written notification is the brochure "Child Protective Services: A Guide to Investigative Procedures". The *Family Services Specialist* must document this notification in the child welfare information system.

4.6.3.1 Notify non-custodial parent

Pursuant to § 63.2-1503 O of the Code of Virginia, the LDSS shall make reasonable efforts to notify the non-custodial parent when that parent is not the subject of the child abuse or neglect report. Not only does the non-custodial parent have a right to know about the report involving his/her child, that parent may be a resource to the child and should be invited to any FPM scheduled. However, if there is reason to believe that such notification would be detrimental

to the child, the LDSS may take that concern into account. The response to the report should not be delayed if the non-custodial parent is unreasonably difficult to contact. The LDSS should document all reasonable efforts to locate and notify the non-custodial parent about the report. Conversely, the LDSS should document why reasonable efforts were not made to notify the non-custodial parent.

4.6.3.2 Notify Interstate Compact on the Placement of Children (ICPC)

If the alleged victim is in the custody of another state and has been placed in Virginia through ICPC, immediately notify the Virginia ICPC office and the state agency which has custody of the child. The *Family Services Specialist* shall document this notification in the child welfare information system.

4.6.4 Document all contacts and observations

> (22 VAC 40-705-80 B). During the course of the investigation, the child protective services worker shall document in writing in the state automated system the following contacts and observations. When any of these contacts or observations is not made, the child protective services worker shall document in writing why the specific contact or observation was not made.

The *Family Services Specialist* shall document all contacts required by regulation in the child welfare information system. It is equally important that the worker document reasons why any mandated contacts or observations were not made or completed. For example, if three phone messages were left or two home visits made with no one answering the door, those attempts should be documented in the child welfare information system.

A face-to-face interview with a child must be documented as a "worker visit" in the child welfare information system.

4.6.5 Mandated contacts in investigation

Mandated contacts to conduct an investigation are similar to the mandated contacts to conduct a family assessment. There are additional requirements related to electronic recording of interviews of the alleged victim and alleged abuser/neglector. The LDSS shall follow these additional requirements.

> (22 VAC 40-705-70 A). When conducting an investigation the local department shall seek first-source information about the allegation of child abuse or neglect. When applicable, the local department shall include in the case record: police reports; depositions; photographs; physical, medical and psychological reports; and any electronic recordings of interviews.

A FPM does not fulfill the requirement for any mandated contact interview during an investigation as the purpose is not to interview alleged victims, parents/caretakers, and collaterals. The *Family Services Specialist* should conduct the face to face interview with the alleged victim child, siblings, and the parent/caretaker prior to any FPM.

4.6.6 Face-to-face interview with the alleged victim child

> (22VAC40-705-80 B) During the course of the investigation, the child protective services worker shall document in writing in the state automated system the following contacts and observations. When any of these contacts or observations is not made, the child protective services worker shall document in writing why the specific contact or observation was not made.
> 1. The child protective services worker shall conduct a face-to-face interview with and observation of the alleged victim child within the determined response time.

The *Family Services Specialist* shall conduct at least one (1) face-to-face interview (worker visit) with the alleged victim child and shall conduct this face-to-face contact **within the determined response time**.

The *Family Services Specialist* shall observe the child and document the child's recollection and perception of the allegations. Information regarding the allegations may be obtained during the *Family Services Specialist*'s observation of victim interviews conducted by other members of the investigative team including, but not limited to, law-enforcement officers, forensic nurses, physicians or other community professionals trained as forensic interviewers. When possible, it is important to not only observe the interview but also have the ability to ask additional questions as needed. If the *Family Services Specialist* is not the primary interviewer, the *Family Services Specialist* is still responsible for interviewing the child to gather any additional information regarding the allegations and to ensure that the child understands the role of the *Family Services Specialist* and what will occur during the investigation. The *Family Services Specialist* must review all electronically recorded victim interviews to determine if additional interviews are necessary to comply with CPS guidance.

The *Family Services Specialist* must still conduct a face-to-face interview with the child if the *Family Services Specialist* is not the primary interviewer of the child regarding the allegations. This contact shall be **within the determined response time**.

When a Family Services Specialist who specializes in CPS needs to complete a face-to-face contact with a child prior to a forensic interview, because the forensic interview cannot be scheduled within the determined response priority, the Family Services Specialist who specializes in CPS must conduct a minimal facts interview. The focus of the minimal facts interview is the safety of the child and immediate needs; not details about the allegations. If an initial interview with the victim child covers detailed information about

the alleged abuse/neglect, the Child Advocacy Center may be unable to schedule a forensic interview for that child/allegation. As a reminder, it does not align with Child Advocacy Center best practices to re-interview the child about the same incident/allegations.

During the child interview, the *Family Services Specialist* should inform the child about the investigation and what will occur during the investigation. The *Family Services Specialist* should note the child's emotional and physical condition (including any injury). The *Family Services Specialist* should learn about the child's needs and capabilities for the purposes of safety and risk assessment and service planning.

The *Family Services Specialist* shall document all observations and interviews involving the victim child in the child welfare information system. If the face-to-face worker visit with the victim child is not made within the determined response time, this shall be documented in the child welfare information system. While it is important to document all attempted interviews to show reasonable diligence, it should be noted that attempted contacts do not satisfy the requirement to interview the alleged victim child within the determined response priority.

4.6.6.1 Alleged victim child must be electronically recorded

In 2005, the Virginia Supreme Court of Appeals issued a ruling to affirm the regulatory requirement that victim interviews in an investigation must be electronically recorded according to 22 VAC 40-705-80 or clearly document the specific and detailed reasons for not recording victim interviews as well as the documentation that the decision was made in consultation with a supervisor. A copy of this decision, known as the West Decision, is available on the website of the Virginia Court of Appeals case #2144042.

> (22 VAC 40-705-80 B1). The child protective services worker shall conduct a face-to-face interview with and observation of the alleged victim child within the determined response time. All interviews with alleged victim children must be electronically recorded …

4.6.6.1.1 Exceptions to electronically recording interviews with the alleged victim child

> (22 VAC 40-705-80 B1). All interviews with alleged victim children must be electronically recorded except when the child protective services worker determines that:
> a. The child's safety may be endangered by electronic recording his statement;

> b. The age or developmental capacity of the child makes electronic recording impractical;
> c. A child refuses to participate in the interview if electronic recording occurs;
> d. In the context of a team investigation with law-enforcement personnel, the team or team leader determines that electronic recording is not appropriate; or
> e. The victim provided new information as part of a family assessment and it would be detrimental to re-interview the victim and the child protective services worker provides a detailed narrative of the interview in the investigation record.

The VAC provides five (5) exceptions to electronic recording of an interview with an alleged victim child. Before electronically recording an interview with a child, the *Family Services Specialist* must assess the circumstances surrounding the allegations of abuse or neglect and determine whether any of the five (5) exceptions precluding electronically recording the interview apply. Adequately considering the circumstances may include assessing the complaint or report; speaking with the mother, father or guardians of the child; speaking with collateral witnesses; and conducting an assessment of the child.

The *Family Services Specialist* shall consult with the supervisor when the decision is made to not electronically record an interview with an alleged victim child. The consultation and the specific reasons why electronic recording is not done in the specific investigation shall be documented in the child welfare information system.

- **Exception**: The child's safety may be endangered by electronic recording.

If the child's safety is endangered or may be endangered by electronically recording the interview, then the interview must not be electronically recorded. The *Family Services Specialist* may need to conduct a brief assessment of the child to determine the risk of any harm that may occur to the child as a result of electronically recording the interview. The *Family Services Specialist* may be able to assess any potential harm to the child by speaking with the child's mother, father or guardians, or collateral witnesses. If the interview is not electronically recorded, the *Family Services Specialist* shall carefully document the details of the interview in writing for the case record.

- **Exception**: The age or developmental capacity of the child makes electronic recording impractical.

The *Family Services Specialist* must assess the mental and physical capacities of the child. The age or development of the child may preclude electronically recording the interview. It may be appropriate to electronically record the questions being asked by the *Family Services Specialist* and to describe, either verbally or in writing, the child's responses.

- **Exception**: The child refuses to participate in the interview if electronic recording occurs.

The interview with the child should not be jeopardized because the child refuses to be electronically recorded. If the child refuses to be electronically recorded, the *Family Services Specialist* should explore the child's reasons and discuss those reasons with the child. If the child still refuses to participate in an electronically recorded interview, then the *Family Services Specialist* must not electronically record the interview. The *Family Services Specialist* shall document the reasons why the child refused to be electronically recorded.

- **Exception**: In the context of a team investigation, the team or team leader determines that electronic recording is not appropriate.

If a complaint or report of abuse or neglect is being investigated in conjunction with a multidisciplinary team, then the multidisciplinary team should make the decision to electronically record the interview with the alleged victim child based on the specific child and referral. A team investigation includes a joint investigation with the Commonwealth's Attorney office or law enforcement.

- **Exception**: The victim provided new information as part of a family assessment.

If the victim provides new information during a family assessment resulting in an investigation and it would be detrimental to re-interview the victim, the *Family Services Specialist* shall provide a detailed narrative of the interview in the investigation record and document this exception to electronically recording the victim interview.

4.6.6.2 Each interview with the alleged victim child must be electronically recorded

Each interview with the alleged victim child must be electronically recorded unless one of the above mentioned exceptions to electronically recording the interview applies. When an interview is not electronically recorded for any reason, the *Family Services Specialist* shall complete a detailed summary of the interview, including the reasons for not recording the interview and the

supervisory consultation for this decision and enter the information into the automated case record.

4.6.6.3 Notify the child's parents or caretakers that interview was electronically recorded

While there is no provision in the Code of Virginia or the VAC that requires an LDSS to inform the child's parents that the interview was electronically recorded, the LDSS should notify the mother, father or guardians of the alleged victim child about the interview and that the interview was electronically recorded.

The LDSS should explain to the mother, father or guardians that the Code of Virginia allows the *Family Services Specialist* to interview the alleged victim child without the consent of the parents and the VAC requires the interview to be electronically recorded.[5]

4.6.6.4 Parents or caretakers object to electronically recorded interview

There is no provision in the VAC allowing an exception to electronic recording when the mother, father or guardians object to the LDSS electronic recording the interview of the alleged victim child. The *Family Services Specialist* should explore the foundation for the parents' objection. The objection to the electronic recording may satisfy one of the enumerated exceptions to electronic recording.

4.6.6.5 Equipment malfunction

22 VAC 40-705-80 B1 provides that a CPS finding may be based on the written narrative should equipment failure occur. If an interview of an alleged victim child is not electronically recorded because of equipment malfunction, then the *Family Services Specialist* shall write a detailed narrative of the interview and include that narrative in the record.

4.6.7 Interview with child's mother, father or guardians

> (22 VAC 40-705-80 B5). The child protective services worker shall conduct a face-to-face interview with the alleged victim child's parents or guardians.

The *Family Services Specialist* shall conduct a face-to-face interview with the child's mother, father or guardians to obtain information about the child and about the

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[5] VA Code § 63.2-1518 provides any person required to make a report of abuse or neglect with the authority to talk to a child suspected of being abused or neglected outside the presence of the child's parents, guardian, other person standing in loco parentis or school personnel. 22 VAC 40-705-80 B requires that any interview by a *Family Services Specialist* with an alleged victim child be electronically recorded.

parents' or guardians' knowledge of the allegations. The *Family Services Specialist* should inform the mother, father or guardians about the investigative process and provide sufficient information to involve them in planning and support for the child.

4.6.8 Face-to-face interview with alleged abuser or neglector

> (22 VAC 40-705-80 B4). The child protective services (CPS) worker shall conduct a face-to-face interview with the alleged abuser or neglector.

The *Family Services Specialist* shall conduct a face-to-face interview with the alleged abuser or neglector. The *Family Services Specialist* shall inform the alleged abuser or neglector of the allegations and the investigative process. The *Family Services Specialist* must document the alleged abuser or neglector responses about the allegations. If the alleged abuser or neglector refuses to be interviewed, the *Family Services Specialist* must inform the alleged abuser or neglector that the investigation must continue and a disposition will be made.

When the alleged abuser or neglector is under 18 years of age, the *Family Services Specialist* should provide oral and written notification to the parent or legal guardian of the alleged abuser or neglector. The parent or legal guardian of the alleged abuser or neglector must consent to the face-to-face interview and may be present for the interview. The parent or legal guardian of the alleged abuser or neglector may also obtain legal counsel on behalf of the alleged abuser or neglector.

The *Family Services Specialist* must advise the alleged abuser or neglector of his responsibility to notify the LDSS prior to changing his place of residence and provide the LDSS with his new address. The LDSS must document in the child welfare information system when the alleged abuser or neglector provides such notification to the LDSS.

4.6.8.1 Inform alleged abuser or neglector of right to electronically record interview

> (22 VAC 40-705-80 B4a). The *Family Services Specialist* shall inform the alleged abuser or neglector of his right to electronically record any communication pursuant to § 63.2-1516 of the Code of Virginia.

4.6.8.2 Law enforcement or Commonwealth's Attorney objects to informing the alleged abuser or neglector of his right to audio record the interview

A law enforcement officer or the attorney for the Commonwealth may object to the LDSS informing the alleged perpetrator of his right to electronically record an

interview. If a law enforcement officer or an attorney for the Commonwealth objects, then the LDSS shall not advise the alleged perpetrator of that right. This objection applies when the attorney for the Commonwealth or the law enforcement officer believes that the instruction will compromise the investigation of any criminal charges.

This objection must be documented in the child welfare information system.

4.6.8.3 LDSS shall provide recording equipment upon request

> (22 VAC 40-705-80 B4b). If requested by the alleged abuser or neglector the local department shall provide the necessary equipment in order to electronically record the interview and retain a copy of the electronic recording.

The *Family Services Specialist* must be prepared to provide the equipment should the alleged abuser or neglector elect to electronically record the interview. The LDSS must provide a copy of the electronically recorded interview to the alleged abuser or neglector upon request.

4.6.8.4 Use of statements as evidence

The Code of Virginia § 63.2-1503 M provides that statements made by the alleged abuser or neglector to the investigating *Family Services Specialist* after the alleged abuser or neglector has been arrested are not admissible in any criminal proceedings unless the alleged abuser or neglector was advised of his rights against self-incrimination. If a person suspected of abuse or neglect is arrested, that person must be advised of his rights against self-incrimination or any subsequent statements made by the person cannot be used during the criminal proceedings. This section of the Code of Virginia only pertains to the admissibility in criminal proceedings of statements made by the alleged abuser or neglector after that person has been arrested. This section of the Code of Virginia does not pertain to the use of any statements made by the alleged abuser or neglector in determining whether the complaint or report is founded or unfounded. While certain statements made by the alleged abuser or neglector may not be admissible in a court of law, there is no specific exclusion to the LDSS using those statements in determining a founded or unfounded disposition.

4.6.9 Face-to-face interview with siblings

> (22VAC40-705-80 B2) The child protective services worker shall conduct a face-to-face interview and observe all minor siblings residing in the home.

The *Family Services Specialist* shall interview or observe minor siblings residing in the home of the alleged victim child in order to determine whether they have experienced abuse or neglect and to more fully evaluate the family strengths and needs.

4.6.10 Other children in the home

> (22VAC40-705-80 B3) The child protective services worker shall conduct a face-to-face interview with and observe all other children residing in the home with parental permission.

The *Family Services Specialist* shall interview other children living in the home as collaterals. They may have information which would help assess safety, strengths and needs of the family. Such contact should be made with prior consent of the non-victim child's parent or guardian. If the situation warrants contact with the non-victim child prior to such consent being obtained, the parent or guardian should be informed as soon as possible after the interview takes place.

4.6.11 Observe environment where child lives and visit site where alleged abuse or neglect occurred

> (22 VAC 40-705-80 B6). The child protective services worker shall observe the environment where the alleged victim child lives.
>
> (22 VAC 40-705-80 B7). The child protective services worker shall observe the site where the alleged incident took place.

4.6.11.1 Safe sleep environment and practices

The *Family Services Specialist must* assess the sleep environment and sleep practices with all families who have infants *and children* less than *two years* of age *at every home and site visit*. *The Family Services Specialist must share safe sleep information with all families who have infants and children less than two years of age. The Family Services Specialist must document their assessments of the sleep environment, sleep practices, and that safe sleep information was provided in the child welfare information system.*

Research has shown that several factors place infants at a higher risk for Sudden Infant Death and other sleep-related causes of infant death. The following are some of the 18 recommendations from the American Academy of Pediatrics that can be discussed with caretakers:

- Infants should be placed to sleep on their backs.
- Infants should sleep on a firm sleep surface.
- Bed sharing with infants is not recommended.

- Soft objects and loose bedding should not be in the infant's sleep area.
- Avoid exposing infant to smoke, alcohol and illicit drugs.
- Breastfeeding of infants is recommended.
- Pacifiers are recommended.
- Avoid overheating the infant.

A Safe Sleep for Babies Tip Card is available in English and Spanish from the Virginia Department of Health. Additional resources, including free brochures are available at the Safe to Sleep Public Education Campaign.

4.6.12 Identifying relatives and family supports

During the course of the investigation, the *Family Services Specialist* must gather information to identify maternal and paternal relatives and the kinship network providing support and resources to the family and child. Many families identify non-relatives as kin, such as godparents, friends, and others with whom they have a family-like relationship. The early identification of adult family members and supports is critical for initial assessments when identifying protective factors, strengths, and needs. When appropriate, these individuals may become resources in protective interventions, FPMs, and case planning during the CPS process or any future case involvement. Resources and tools for relative search and family engagement are available on the DSS public website under Family Engagement Toolkit.

4.6.13 Interview collaterals

> (22 VAC 40-705-80 B8). The child protective services worker shall conduct interviews with collaterals who have pertinent information relevant to the investigation and the safety of the child.
>
> (22 VAC 40-705-10). "Collateral" means person whose personal or professional knowledge may help confirm or rebut the allegations of child abuse or neglect or whose involvement may help ensure the safety of the child.

The *Family Services Specialist* shall contact any collaterals perceived to have pertinent information. The *Family Services Specialist* may involve collaterals to help ensure the safety of the child. Contact with the child's other caretakers, such as babysitters or day care providers, is encouraged. The *Family Services Specialist* may make collateral contacts without the family's consent in order to complete an investigation, but consent and collaboration with the family is encouraged.

The *Family Services Specialist* shall interview non-victim children as collaterals if it is determined that they may have information which would help in determining the finding in the complaint. Such contact should be made with prior consent of the child's parent, guardian or agency holding custody. If the situation warrants contact with the child prior to such consent being obtained, the parent, guardian, or agency holding custody should be informed as soon as possible after the interview takes place.

4.6.14 Interview with non-custodial parent

The *Family Services Specialist* should interview the non-custodial parent. The non-custodial parent has a right to know about the report involving his/her child and may be a resource to the child. They may have important information that relates to the allegations. If there is reason to believe that such an interview would be detrimental to the child, the LDSS may take that concern into account. They should be invited to any FPM scheduled. The LDSS should document all reasonable efforts to locate, notify and interview the non-custodial parent. Conversely, the LDSS should document why reasonable efforts were not made to locate, notify, or interview the non-custodial parent.

4.6.15 Other contacts may be required

The *Family Services Specialist* may be required to contact other professionals depending on the type of CPS report. They include:

- Notify the local Commonwealth Attorney if a criminal act is alleged.
- Notify the Regional Medical Examiner and the CPS Regional Consultant if there is a child fatality.
- Notify local law enforcement if there is an alleged criminal act and a joint response is needed.

4.6.16 First meaningful contact in an investigation

The first meaningful contact in the investigation provides pertinent information relevant to the investigation and the safety of the child. It is a face-to-face contact with the family and usually occurs after the completion of the face-to-face interview with the alleged victim. During this face-to-face contact with the family, the *Family Services Specialist* completes the Safety Assessment Tool in the child welfare information system and develops a safety plan with the family if the child is determined to be conditionally safe. The first meaningful contact must be documented as such in the child welfare information system and the *Family Services Specialist* must include “safety assessment” as one of the purposes of the contact. The *Family Services Specialist* should confer with a supervisor if there is any doubt about which contact

constitutes the first meaningful contact. Note: The completion of the initial interview with the alleged victim does not satisfy a first meaningful contact.

4.6.17 Investigation of medical neglect of disabled infants with life-threatening conditions

After receiving a complaint or report involving the withholding of medical treatment of an infant, the LDSS should initiate contact with the designated person in the hospital. The LDSS should arrange with the local hospital for naming a contact person or liaison. Upon receipt of the complaint or report, the *Family Services Specialist* should immediately:

- Verify the child's presence at the hospital by contacting the hospital's liaison.
- Verify the child's status.

4.6.17.1 Contact physician or hospital staff

The LDSS should arrange to meet with the attending physician or the Infant Care Review Panel and conduct a visit to the hospital to verify the child's situation.

4.6.17.2 Determine who is responsible for the child

The *Family Services Specialist* should make a site visit and determine who is responsible for the child. This will usually be the child's parents, unless the parents have abdicated their authority. Situations when the parents are not responsible include, but are not limited to:

- When parents permanently voluntarily entrust the child to an agency.
- When a third trimester abortion results in a live birth.[6]

4.6.17.3 Seeking court assistance

When treatment appears necessary and the court is available to act on a petition, the worker can:

[6] § 18.2-74 of the Code of Virginia provides that in any termination of human pregnancy aided or assisted by a licensed physician subsequent to the second trimester, measures for life support for the product of such abortion or miscarriage must be available and utilized if there is any clearly visible evidence of viability. The physician would be responsible for providing that the life sustaining measures were provided in these instances.

- Petition the court for custody so that treatment can be provided.
- Petition the court for a Protective Order specifying that treatment be provided.

When emergency treatment is necessary and the court is unavailable, the worker should consider taking the child into custody pursuant to The Code of Virginia § 63.2-1517.

4.6.18 Safety in an investigation

4.6.18.1 Initial safety assessment and safety plan in an investigation

> (22 VAC 40-705-110 A). In both family assessments and investigations the child protective services worker shall conduct an initial safety assessment of the child's circumstances and threat of danger or harm, and where appropriate shall make a safety plan to provide for the protection of the child.

An initial safety assessment is conducted at the beginning of an investigation. The purpose of the initial safety assessment and safety plan is to:

- Assess whether any children are currently in immediate danger of serious physical harm that may require a protecting intervention.
- Determine what interventions should be maintained or initiated to provide appropriate protection.

Safety Assessments differ from Risk Assessments in that the purpose is to assess a child's present or immediate danger and the interventions currently needed to protect the child. In contrast, Risk Assessment evaluates the likelihood of future maltreatment.

A safety and risk field guide can be located in Appendix E. This guide may be used by the *Family Services Specialist* in the field to help guide interviews as it provides the safety factors, protective capacities and risk factors that should be identified in every assessment. This field guide must be used in conjunction with the definitions provided for the tools.

4.6.18.2 Immediate child safety and family needs

Safety assessment is both a process and a document. Safety information is gathered and assessed from the very first contact at intake and until the case is closed. Safety must be determined for each child and the safety conclusion based on the least safe child if there is more than one (1) child in the family. To ensure that the safety of the child is appropriately assessed in each investigation,

the LDSS must complete the process of an initial safety assessment at the first meaningful contact with the family and any time safety changes and document the results in the CPS Safety Assessment Tool in the child welfare information system **within 24 hours** of the first meaningful contact or any time safety changes. For accurate completion, it is critical to refer to the definitions provided on the Safety Assessment Tool, and decisions must be based on supporting narrative documented in the child welfare information system. The Safety Assessment Tool with definitions is located on the DSS public website.

The Safety Assessment Tool provides structured questions concerning the danger of immediate harm or maltreatment to a child and is used to guide the development of a Safety Plan. This information guides the decision about whether the child may remain in the home with no intervention, may remain in the home with safety interventions in place, or must be removed from the home. This is an appropriate time for the LDSS to consider convening a FPM if necessary to address ongoing safety planning.

For example, a three (3) year old child may be more vulnerable and more threatened with severe harm by an out-of-control parent than a 13 year old, but even the three (3) year old may be deemed safe if the parent has just been taken away by the police and a responsible adult is available, so there is no severe nor imminent threat of harm to the vulnerable child.

4.6.18.3 Assess immediate danger to the child

The initial safety assessment focuses on the child and the child's immediate needs. Factors to consider when assessing the immediate situation of the child include:

- Whether the child has sustained a mental or physical injury warranting immediate attention or care.
- Whether an emergency or crisis situation exists meriting immediate action to protect the child.
- Whether the child is at risk of serious abuse or neglect in the near future.

4.6.18.4 Assess immediate needs of the family

After assessing the immediate safety needs of the child, the worker must evaluate the immediate needs of the family. Factors to consider include:

- If the child has been injured or harmed, whether the family has the capabilities or capacity to protect the child from further harm.

- Whether an emergency or crisis situation exists and the family's ability to cope.
- Whether any other family members are at risk of harm or danger.
- What are the family's capabilities to ensure the safety of the child or children in the near future?

4.6.18.5 Assess protective capacities

The *Family Services Specialist* should assess the family's protective capacities if any safety factors are identified. Protective capacity means being protective towards ones' children. Protective capacities are cognitive, behavioral, and emotional qualities which support vigilant protectiveness of children. Protective capacities are fundamental strengths which prepare and empower a person to protect. All adults living in the home should be assessed for protective capacities. Capacities must be strong enough to control or manage the specific threats of danger that have been identified. Protective capacities should be used when determining the protective intervention and development of a safety plan.

4.6.18.5.1 Cognitive protective capacities

Cognitive protective capacity refers to knowledge, understanding, and perceptions contributing to protective vigilance. Cognitive capacities can be demonstrated when the caretaker:

- Plans and articulates a plan to protect the child.
- Is aligned with the child.
- Has adequate knowledge to fulfill care giving responsibilities and tasks.
- Is reality orientated; perceives reality accurately.
- Has accurate perceptions of the child.
- Understands their protective role.
- Is self-aware as a parent/caretaker.

4.6.18.5.2 Behavioral protective capacities

Behavioral protective capacity refers to actions, activities and performance that result in protective vigilance. Behavioral aspects show it is not enough to

know what must be done or recognize what might be dangerous to a child but rather require the caretaker to take action. Behavioral capacities can be demonstrated when the caretaker:

- Has a history of protecting others.
- Takes action to correct problems or challenges.
- Demonstrates impulse control.
- Is physically able.
- Demonstrates adequate skill to fulfill care giving responsibilities.
- Possesses adequate energy.
- Sets aside their needs in favor of a child.
- Is adaptive and assertive.
- Uses resources necessary to meet the child's basic needs.

4.6.18.5.3 Emotional protective capacities

Emotional protective capacity refers to feelings, attitudes and identification with the child and motivation resulting in protective vigilance. Emotional capacities can be demonstrated when the caretaker:

- Is able to meet their own emotional needs.
- Is emotionally able to intervene to protect the child.
- Realizes the child cannot produce gratification and self-esteem for them as caretaker.
- Is tolerant as a parent/caretaker.
- Displays concern for the child and the child's experience and is intent on emotionally protecting the child.
- Has a strong bond with child and is clear that the number one priority is the well-being of the child.
- Expresses love, empathy and sensitivity toward the child; experiences empathy with the child's perspective and feelings.

4.6.19 Protective interventions and safety services

When a safety factor has been identified, the *Family Services Specialist* shall consider the resources available to the family and the community that might help to keep the child safe. Protective interventions should directly address identified threats to safety. The interventions should be implemented immediately as they address immediate, serious threats to child safety.

Consider the following protective interventions which can allow children to remain in the caretaker's custody:

- Use of family resources, neighbors or other individuals in the community to develop and implement a safety plan
- Use of community agencies or services
- Involved caretaker leaves the home
- Non-maltreating caretaker leaves the home with child(ren)
- Caretaker voluntarily places child outside of the home
- Legal action, such as a preliminary protective order, is initiated

Protective interventions may also be safety services provided during the investigation.

Safety Services are formal or informal services provided to or arranged for the family with the explicit goal of ensuring the child's safety. These services must be immediately available and accessible and may be provided by professionals, family members, or other willing parties as long as each involved individual understands their role and responsibility. The safety services must be clearly documented (i.e. safety plan, service plan, court order, SDM plan, etc.) for the involved parties and in the case record. Examples of safety services may include: child care, cleaning supplies, safety equipment, transportation, etc.

As with all aspects of case planning, the family should be engaged in providing input and joint decision making throughout the process of identifying, implementing, and evaluating these interventions and safety services. Documentation of safety services in the child welfare information system must clearly demonstrate how the actions taken provide the child with immediate protection from the safety issues and how each safety service contributes to addressing or eliminating the safety matters specific to the child. Safety services should be documented on the Safety Assessment Tool in the child welfare information system. Additional information about safety services can

be found in the eLearning FSWEB1027: Safety Services: Swift & Savvy available in the VLC.

4.6.20 DV and substance abuse as safety and/or risk assessment issues

Two family issues that can have a major impact on safety and risk are DV and drug and/or alcohol involvement by the child's caretakers.

LDSS are required to develop guidelines for evaluating substance or drug abuse. The CAGE-AID tool (CAGE is derived from the four questions of the tool: Cut down, Annoyed, Guilty and Eye-opener. CAGE-AID is the CAGE instrument and is Adapted to Include Drugs) is one tool that provides questions that can be worked into the interviews with the primary caretakers, and a "yes" to any question may indicate a need for an AOD (alcohol or other drug) evaluation in order to complete the risk assessment. A copy of this tool is in Appendix E.

There are several evidence based tools that can be used to screen for DV depending on who is being interviewed. The "HITS" (Hurt, Insult, Threaten, Scream) screening tool may be used to screen for DV with collaterals such as family members, professionals, service providers and mandated reporters. The Women's Experience with Battering Tool (WEB) is designed to be used with potential victims of DV. These screening tools and additional guidance regarding screening for DV can be found in section 1.4 of the VDSS Child and Family Services Manual, Chapter H. Domestic Violence.

Additional information about DV can be found on the DSS public website.

4.6.21 Safety decision

After safety and protective factors have been assessed using the Safety Assessment Tool, the *Family Services Specialist* must make a decision about the safety of the child(ren) in the home. The safety decision should be made on the basis of the needs of the least safe child in the home, if there is more than one (1) child. One of the following safety decisions must be determined using the Safety Assessment Tool and documented in the child welfare information system and shared with the family.

- **SAFE**. There are no children likely to be in immediate danger of serious harm at this time. No safety plan is required.
- **CONDITIONALLY SAFE**. Protective safety interventions have been taken and have resolved the unsafe situation for the present time. A safety plan is required to document the interventions.

- **UNSAFE**. Approved removal and placement was the only possible intervention for the child(ren). Without placement, the child(ren) will likely be in danger of immediate serious harm. A court order is required to document intervention.

4.6.21.1 Safety decision and family partnership meeting

The LDSS must schedule a FPM when the worker assesses the child's safety to be in jeopardy or at risk of removal or out of home placement. However, safety concerns are paramount and necessary action to address safety issues shall not be delayed. The FPM should be scheduled **within 24 hours** after safety issues have been identified and the agency is considering removal, and occur before the five-day court hearing in cases after the emergency removal. Emergency removal prompts the need to convene a FPM. This meeting provides the opportunity for family and community participation in the decision-making process for the child. Engaging the relatives and natural support of the family will be crucial to a successful meeting. The purpose of the meeting is to facilitate planning to determine whether:

- The agency should file for custody and facilitate placement;
- The child can remain home safely with services, or the child may return safely home with services; or
- There will be voluntary placement of the child by the mother and/or father with provision of services and a safety plan.

The *Family Services Specialist* should conduct the face-to-face interview with the alleged victim child and the mother, father or caretaker prior to the FPM since the purpose of the meeting is not to interview caretakers, victims, or other collaterals.

The worker and supervisor should discuss the convening and timing of a family engagement meeting at this critical decision point. Additional guidance for holding a FPM when there is DV can be found in section 1.9 of the VDSS Child and Family Services Manual, Chapter H. Domestic Violence.

All FPMs must be documented in the child welfare information system. For guidance on FPMs please refer to the VDSS Child and Family Services Manual, Chapter A, Family Engagement. *To avoid duplication, if there is an active CPS referral and an open case, the FPM should be documented in the case.*

4.6.22 Develop a safety plan

When the child is determined to be Conditionally Safe or Unsafe, the *Family Services Specialist* must determine what services or actions need to occur by developing a safety plan in partnership with the family. The VAC 22 VAC 40-705-10 defines safety plan:

> (22 VAC 40-705-10). "Safety plan" means an immediate course of action designed to protect a child from abuse or neglect.

A safety plan must be made to ensure the immediate protection of the child. When possible, the *Family Services Specialist* needs to develop the safety plan with the cooperation of the child's mother, father or guardian(s). The *Family Services Specialist* must determine what actions are necessary to assure the child's immediate safety. If the actions needed to assure the safety of the child cannot be put in place, alternative steps must be taken that can include court intervention. Once available on the COMPASS Mobile Application, the safety plan must be completed in the child welfare information system and the worker's efforts to develop the safety plan with the family must also be documented in the child welfare information system. The parent(s) or guardian(s) should sign the safety plan along with the worker to show agreement as to who will do what to prevent harm to the child in the immediate future. A copy of the safety plan must be left with the parent(s) or guardian(s). In the event of unforeseen technical difficulties, the *Family Services Specialist* must complete the safety plan template in the child welfare information system and provide an electronic or paper copy of the safety plan to the family no later than 24 hours after the first meaningful contact. The safety plan template is available in the child welfare information system and also on the public DSS website.

Additional guidance for safety planning with both children and DV victims can be found in section 1.6.1 and 1.6.2 of the VDSS Child and Family Services Manual, Chapter H. Domestic Violence.

4.6.22.1 Safety plan criteria

Safety plans should meet the following criteria:

- The plan only controls or manages immediate threats of danger.
- The safety plan must have an immediate effect in controlling threats. Strategies resulting in long term change do not belong in a safety plan.
- The *Family Services Specialist* must assess the parent(s), guardian, or custodian and make a professional judgment as to their willingness and capability to agree to and abide by the terms of the safety plan

- People and services identified in the safety plan must be accessible and available when threats are present.
- The safety plan should employ the least restrictive strategies possible while assuring child safety.

4.6.22.2 Safety plan actions

The following are sample safety plan actions that may be included in a safety plan:

- Cooperate with the LDSS to include returning phone calls, advising of address changes and keeping any scheduled appointments;
- Refrain from the use of any illegal drugs or substances while caring for the child(ren);
- Provide age appropriate supervision consistent with child's development;
- Obtain an appropriate child care provider;
- Provide non-abusive and age appropriate discipline;
- Refrain from the use of physical discipline or corporal punishment;
- Refrain from engaging in physical altercations or acts of DV;
- Ensure no contact with specified individual;
- Maintain a home environment that is safe and free of health and safety hazards;
- Ensure safe sleep practices are followed for all children in the home;
- Sign necessary release of information forms with service providers;
- Provide protection from and further maltreatment by a specified individual;
- Ensure child(ren) receive all medical and/or therapeutic treatment as recommended.

These actions should remain in effect until a new safety plan is developed; the investigation or case is closed, whichever comes first.

4.6.22.3 Safety plan signatures

Whenever possible, the caretaker(s) should sign the safety plan along with the worker, so that this document can be used as an agreement as to who will do what to prevent harm to the children in the immediate future. Other parties to the agreement, such as service providers, may also sign the form.

4.6.23 Reassessing safety

Safety assessment is both a process and a document. The process of assessing child safety is ongoing throughout the life of the CPS referral and ongoing case as information is gathered with each contact. The initial safety decision and safety plan are documented in the child welfare information system, and any subsequent changes in safety assessed in referrals or ongoing cases in the following circumstances should be documented in a new Safety Assessment tool in the child welfare information system **within 24 hours** of:

- A change in family circumstances such that one or more safety factors previously present are no longer present;
- A change in information known about the family in that one or more safety factors not present before are present now; or
- A change in ability of safety interventions to mitigate safety factors and require changes to the safety plan.

When safety is reassessed, the safety plan should be reviewed and revised accordingly. A FPM may be considered if safety concerns escalate.

4.6.24 Information gathered in the investigation

In developing the case record and the investigative narrative, the *Family Services Specialist* must address and document these issues in the child welfare information system. Each investigation may have circumstances warranting more or less details and information.

4.6.24.1 Incident information

- Gather and document information about the alleged abuse or neglect incident, including the manner of infliction. If applicable, include the precipitating event (what was going on just prior to the occurrence of the abuse or neglect). If applicable, include a description of the environment where the alleged abuse occurred.

- Describe the observable injury or condition of the child (or children) that suggests abuse or neglect has occurred or is likely to occur. Direct observation of the child is always necessary.
- Describe the frequency of the alleged abuse or neglect.
- Describe the medical and psychological treatment given as the result of the alleged abuse or neglect. Any written reports should be included in the case record and documented in the child welfare information system.

4.6.24.2 Child information

- Demographic information (date of birth, sex, grade in school, etc.).
- Child's developmental level.
- Child's description of the incident including but not limited to:
  - Child's statements about what happened. Include direct quotes of the child if appropriate.
  - Child's statements about the impact of the incident on him.
- Results of any tests or evaluation of the child's injury, behavior, or other characteristics.
- Prior history of abuse or neglect involving the child. The history of any prior abuse or neglect can be provided by any source.

4.6.24.3 Caretaker information

- Demographic information (date of birth, sex, grade in school, etc.).
- Caretaker's developmental level.
- Caretaker's description of the incident including but not limited to:
  - Statements about what happened. Include direct quotes of the child if appropriate.
  - Caretaker acknowledgement of responsibility.
  - Caretaker's cooperation with the CPS Investigation.
  - Is the caretaker taking action to protect the child? If so, describe what action the caretaker is taking.

- Describe the observable or verifiable characteristics and behaviors of the caretaker impacting on the situation (both positive and negative). If drugs or alcohol are having an impact on the situation, this information should be documented in the child welfare information system. If available, include in the record any results of testing or evaluation.

- Caretaker's history of prior abuse or neglect as either victim or abuser.

- Caretaker's demonstration of a desire or willingness to change or to seek help if appropriate.

- Describe observations of the interaction between the caretaker (even when the caretaker is not a family member, if possible) and the child.

4.6.24.4 Family information

- Describe the family composition.

- Describe observable or verifiable characteristics and behaviors of the family that may impact child safety or risk of abuse or neglect.

4.6.24.5 Other information

- Observable or verifiable characteristics and behaviors of others who have access to the child and the nature of those relationships that may impact child safety or risk of abuse or neglect.

- Factors in the home environment that may impact child safety or risk of abuse or neglect (e.g., eviction, financial circumstances, DV, support systems, etc.).

- Factors outside of the home environment that may impact child safety or risk of abuse or neglect (e.g., school, day care, other service agency contact, etc.).

- Court actions that may impact child safety or risk of abuse or neglect.

- Supports for or obstacles and barriers to services that are needed to ensure the protection of the child or other children.

4.6.25 Determine risk level in an investigation

(22 VAC 40-705-110 B). In all completed family assessments and investigations, the child protective services worker shall conduct a risk assessment to determine whether or not the

> child is in jeopardy of future abuse or neglect and whether or not intervention is necessary to protect the child.

A Family Risk Assessment shall be completed in all investigations.

The *Family Services Specialist* must gather information in order to complete the Family Risk Assessment tool which includes assessing the following risk factors:

- **Caretaker related**
  - History of childhood maltreatment.
  - History of mental health issues.
  - History of substance abuse.
  - History of criminal activity (adult or juvenile).
  - DV incidents in past year.
  - History of prior CPS; ongoing or foster care services.
- **Child related**
  - Developmental or physical disability.
  - Medically fragile or failure to thrive.
  - Substance exposed newborn.
  - Delinquency.
  - Mental health or behavioral problem.
  - Prior injury as result of abuse or neglect.
- **Caretaker and child relationship**
  - Blames child.
  - Justifies maltreatment.
  - Provides insufficient emotional or psychological support.
  - Uses excessive or inappropriate discipline.
  - Domineering.

- Provides physical care inconsistent with child needs.

- **Other**
  - Housing is unsafe.
  - Family is homeless.

Based on the information gathered during the investigation, the *Family Services Specialist* must determine the likelihood of any occurrence or recurrence of abuse or neglect by completing a Family Risk Assessment. The Family Risk Assessment does not predict recurrence but assesses whether a family is more or less likely to have an incident of abuse or neglect without intervention by the agency. The Family Risk Assessment is completed based on conditions that exist at the time the incident is reported and investigated as well as prior history of the family. Risk is calculated in the Family Risk Assessment Tool completed in the child welfare information system. For accurate completion, it is critical to refer to the definitions. The Family Risk Assessment Tool with definitions is located under forms on the DSS public website. Selections made on the Family Risk Assessment Tool must be based on supporting narrative in the child welfare information system.

Assessed risk will be:

- **Low**. The assessment of risk related factors indicates that there is a low likelihood of future abuse or neglect and no further intervention is needed.
- **Moderate**. The assessment of risk related factors indicates that there is a moderate likelihood of future abuse or neglect and minimal intervention may be needed.
- **High**. The assessment of risk related factors indicates there is a high likelihood of future abuse or neglect without intervention.
- **Very High**. The assessment of risk-related factors indicates there is a very high likelihood of future abuse or neglect without intervention.

Overrides, either by policy or discretionary, may increase risk one level and require supervisor approval. The initial CPS risk level may never be decreased.

4.6.25.1 Risk level guides decision to open a case

When risk is clearly defined and objectively quantified, resources are targeted to higher-risk families because of the greater potential to reduce subsequent maltreatment. The risk level helps inform the decision whether or not to open a case as follows:

Low Risk:	Close
Moderate Risk:	Open to In-Home Services **or** close
High Risk:	Open to In-Home Services
Very High Risk:	Open to In-Home Services

The *Family Services Specialist* and *Family Services Supervisor* should assess the decision to open a case for services and document in the child welfare information system the decision not to open a case. For more guidance on service planning in a case refer to Section 2, Chapter B. Prevention, VDSS Child and Family Services Manual.

4.6.25.1.1 Low/moderate risk cases open for prevention services

The LDSS may offer prevention services for families involved in an investigation when risk is assessed as low or moderate. The following conditions should be met to open a case to prevention services:

- LDSS has received a current, valid CPS referral AND
- LDSS has conducted a family assessment or investigation AND
- The family has been assessed at low or moderate risk of future maltreatment but could benefit from voluntary services AND
- The family agrees to services.

See Section 2, Chapter B. Prevention, VDSS Child and Family Services Manual, for further guidance.

4.6.25.2 Risk level determines need to convene FPM

A FPM should be scheduled by the LDSS when the worker assesses a child to be at “very high” or “high” risk of abuse or neglect and the child is at risk for out-of-home placement in those families who will be or are receiving services. This meeting is scheduled to develop the plan and services to prevent the out-of-home placement and identifies the circumstances under which a removal might be considered. The meeting should convene **within 30 days** of initiating services and prior to the development of the ongoing service plan. The FPM must be documented in the child welfare information system. For guidance on conducting the FPM, refer to the VDSS Child and Family Services Manual, Chapter A, Family Engagement.-*To avoid duplication, if there is an active CPS referral and an open case, the FPM should be documented in the case.*

4.6.26 Assessment summary of strengths and needs

When completing an investigation, the *Family Services Specialist* must address and document in the child welfare information system the strengths and needs as related to all of the children, mother, father or caretakers, home environment and family support systems. Each investigation may have circumstances warranting more or less details and information.

The examples listed under each factor can be used as a guide for the *Family Services Specialist* to elicit relevant information and identify family needs, strengths, and supports. A comprehensive family needs assessment should address the family's strengths and needs in four areas, including but not limited to the areas listed below:

- **Children**. Age and developmental capacity; number of children; behavioral/emotional factors; medical/physical factors; ability to self-protect/vulnerability; perception of caretaker; roles in family system; prior history of abuse/neglect; sex/gender; alleged abuser's continued access; and support system.

- **Parent/caretaker**. Mental health factors; substance use/abuse factors; domestic violence; prior history of abuse/neglect as a child; involvement in the criminal justice system; medical/physical factors; perception of alleged victim child(ren); perception of alleged victim's role in family; parenting style; overall ability to care for children (past and present); ability to protect children; sense of personal responsibility of alleged child maltreatment; engagement with CPS; willingness to care for and protect children; and support system.

- **Environment**. Access to necessary utilities (heat, water, electricity, etc.); maintenance of the inside and outside of the home environment; hazardous living conditions; cleanliness of inside of home environment; safety concerns in the environment; and positive factors present in the environment.

- **Support Systems**. Informal and formal supports; level of isolation or engagement in community; institutional supports (faith-based, educational, recreational, paid, etc.); access to needed supports; past and present utilization of supports; cultural appropriateness of supports, previous involvement with formal services; and barriers to utilization of supports.

- **Summary.** Determination if current allegation was substantiated; severity of maltreatment; frequency and chronicity of maltreatment; concerns about premeditation; caretaker impulsivity; family response to CPS intervention; risk assessment determination; services recommended; and family's response to services. **The summary** must **include the rationale for why the LDSS is not**

opening a case if the risk assessment is determined to be high or very high risk.

There is a tool in Appendix E that may assist *Family Services Specialist*s in evaluating the impact of possible substance abuse.

See Appendix I of the VDSS Child and Family Services Manual, Chapter H. Domestic Violence for additional guidance regarding supporting children and youth exposed to DV.

The assessment summary must include any identified service needs of the family to reduce or prevent child abuse or neglect.

4.6.27 Dispositional assessment

> (22 VAC 40-705-110 C). In investigations, the child protective services worker shall make a disposition of either founded or unfounded as defined in 22 VAC 40-705-10 after collecting and assessing information about the alleged abuse or neglect.

After collecting evidence and before expiration of the time frames for completing the investigation, the *Family Services Specialist* shall determine the disposition. The VAC provides the definition of disposition.

> (22 VAC 40-705-10). "Disposition" means the determination of whether or not child abuse or neglect has occurred.

4.6.27.1 Multiple dispositions and types of abuse or neglect

The Code of Virginia § 63.2-1505 B5 requires that the *Family Services Specialist* make a founded or unfounded disposition for each allegation in the investigation. For example, an investigation may show sufficient evidence that a child was physically abused and mentally abused. The *Family Services Specialist* must make a disposition for each category of abuse or neglect. Each separate disposition of abuse or neglect must be supported by a preponderance of the evidence on its own accord.

It is possible that a category of abuse or neglect may have multiple types. For example, the evidence establishes that the child sustained a spiral fracture and internal injuries as a result of the caretaker's actions. The LDSS may render a founded disposition of physical abuse with the type of "bone fracture" and a founded disposition of physical abuse with the type of "internal injury."

4.6.27.2 "Other than accidental means"

The injury or threat of injury to the child must have occurred as a result of "other than accidental means." The caretaker's actions must be carefully considered when determining whether the injury or threat of injury sustained by the child was caused accidentally.

4.6.27.3 Incapacitated caretaker

Physical neglect includes when the caretaker is incapacitated to the extent that the caretaker is prevented or severely limited in performing child caring tasks. Incapacitation may include physical incapacitation or mental incapacitation. Mental or physical incapacitation, in and of itself, is not sufficient for a founded disposition. Incapacitation may include mental illness when the mental illness impairs the caretaker's ability to provide for the child's basic needs to the extent that the child's safety or health is jeopardized. Incapacitation may occur as a result of the caretaker's use of controlled substances to the extent that the caretaker is unable to perform child caring duties.

4.6.27.4 Documentation required for mental abuse or mental neglect

> (22VAC40-705-30 C) Mental abuse or neglect occurs when a caretaker creates or inflicts, threatens to create or inflict, or allows to be created or inflicted upon a child a mental injury by other than accidental means or creates a substantial risk of impairment of mental functions.
>
> 1. Mental abuse or neglect includes acts of omission by the caretaker resulting in harm to a child's psychological or emotional health or development.
>
> 2. Documentation supporting a nexus between the actions or inactions of the caretaker and the mental dysfunction or threat of dysfunction demonstrated by the child is required in order to make a founded disposition.

When making a founded disposition of mental abuse or mental neglect, the *Family Services Specialist* must obtain documentation supporting a nexus between the actions or inactions of the caretaker and the mental dysfunction demonstrated by the child or the threat of mental dysfunction in the child.

Documentation may include psychiatric evaluations or examinations, psychological evaluations or examinations, written summaries and letters. Documentation may be authored by psychiatrists, psychologists, Licensed Professional Counselors (L.P.C.) and Licensed Clinical Social Workers (L.C.S.W.), or any person acting in a professional capacity and providing therapy or services to a child or family in relationship to the alleged mental abuse. An

employee of the LDSS may not serve as both the CPS investigator and the professional who documents mental abuse or mental neglect.

Additional guidance regarding making dispositions in investigations that involve DV can be found in 1.10.2 of the VDSS Child and Family Services Manual, Chapter H. Domestic Violence.

4.6.28 Preponderance of the evidence

The VAC defines a preponderance of the evidence as:

> (22 VAC 40-705-10). "Preponderance of evidence" means just enough evidence to make it more likely than not that the asserted facts are true. It is evidence which is of greater weight or more convincing than the evidence offered in opposition.

As the standard of proof in making a founded disposition of abuse or neglect, a preponderance of the evidence means that the evidence offered in support of the allegation is of greater weight than the evidence offered in opposition. The evidence gathered should be evaluated by its credibility, knowledge offered and information provided.

Proof of one (1) or more of the following factors, linking the abuse or neglect to the alleged abuser or neglector, may constitute preponderance of evidence:

- Medical and/or psychological information from a licensed medical professional or other treatment professional that indicates that child abuse/neglect occurred;
- An admission by the alleged abuser/neglector;
- The statement of a credible witness or witnesses regarding the abuse or neglect;
- The victim child's statement that the abuse or neglect occurred. In assessing the weight to be given to the child's statement, consider:
    - level of detail described;
    - emotional/cognitive developmental level of the child;
    - consistency of statements if more than one interview is conducted; or
    - corroboration of statement by other circumstances and/or witnesses.
- Circumstantial evidence, or indirect evidence, which links the alleged abuser or neglector to the abuse or neglect.

- In sexual abuse investigations also consider:
    - secrecy- child instructed, asked, and/or threatened to keep the abuse/neglect a secret;
    - coercion- child reports elements of coercion, persuasion, or threats by the alleged abuser to engage in the abuse/neglect.

4.6.28.1 First source, direct, and indirect evidence

First source evidence and indirect evidence are defined in the VAC:

> (22 VAC 40-705-10). "First source" means any direct evidence establishing or helping to establish the existence or nonexistence of a fact. Indirect evidence and anonymous complaints do not constitute first source evidence.
>
> "Indirect Evidence" means any statement made outside the presence of the child protective services worker and relayed to the child protective services worker as proof of the contents of the statement.

In no instance can a founded disposition be based solely on indirect evidence or an anonymous complaint.

- **First source or direct evidence**. First source or direct evidence means evidence that proves a fact, without an inference or presumption, and which in itself, if true, conclusively establishes that fact. First source evidence includes the parties and witnesses to the alleged abuse or neglect. First source evidence also includes: witness depositions; police reports; photographs; medical, psychiatric and psychological reports; and any electronic recordings of interviews.
- **Direct evidence** may include witnesses or documents. For example, first source evidence would include a witness who actually saw the alleged act or heard the words spoken. First source evidence would also include the examining physician's report establishing that the child sustained a spiral fracture.
- **Indirect evidence**. Indirect evidence, also known as circumstantial evidence, is evidence based on inference and not on personal knowledge or observation.[7] Indirect evidence relies upon inferences and presumptions to prove an issue in question and may require proving a

[7] Black's Law Dictionary 636, (9th ed. 2009).

chain of circumstances pointing to the existence or non-existence of certain facts.

4.6.28.2 Credibility of evidence

There is no clear distinction between the reliability and credibility of first source evidence and indirect evidence. It remains incumbent upon the LDSS to weigh the credibility of all the evidence when determining a disposition. Indirect evidence may be used in support of a founded disposition; however, indirect evidence cannot be the sole basis for the disposition.

4.6.28.3 Polygraph examinations are not considered reliable evidence

Polygraph examinations are not admissible as evidence in CPS administrative hearings and cannot be considered as evidence when an LDSS is making a disposition. Since the Virginia Supreme Court has repeatedly ruled that polygraph examinations are scientifically unreliable, an LDSS cannot allow polygraph examinations to be entered in as evidence in support of a founded disposition.[8]

4.6.29 Factors to determine if medical neglect has occurred

It is the mother and father's responsibility to determine and obtain appropriate medical, mental and dental care for a child. What constitutes adequate medical treatment for a child cannot be determined in a vacuum, but rather, each case must be decided on its own particular facts.

The focus of the CPS response is whether the caretaker failed to provide medical treatment and whether the child was harmed or placed at risk of harm as a result of the failure. Cultural and religious child-rearing practices and beliefs that differ from general community standards should not be considered a basis for medical neglect,

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[8] In Robinson v. Commonwealth, 231 Va. 142, 341 S.E.2d 159 (1986), the Virginia Supreme Court stated, "[I]n a long line of cases, spanning almost thirty years, we have made clear that polygraph examinations are so thoroughly unreliable as to be of no proper evidentiary use whether they favor the accused, implicate the accused, or are agreed upon to by both parties." Virginia courts have not specifically addressed the use of polygraphs in administrative hearings. However, in light of the courts' strong opposition to using results of polygraph testing in evidence, we see no principled distinction between the use of a polygraph in court and use in an administrative hearing. In Dept. of Public Safety v. Scruggs, 79 Md. App. 312, 556 A.2d 736 (1989), the court acknowledged that administrative agencies are not bound by the strict rules of evidence, but stated that such evidence must be competent. The court found polygraph evidence so unreliable as to deem it "incompetent" evidence. The Supreme Court relied on Robinson in 2004 in Elliott v. Commonwealth, 267 Va. 396, 593 S.E.2d 270 (2004).

unless the practices present a specific danger to the physical or emotional safety of the child.

4.6.29.1 Treatment or care must be necessary

The statutory definition of medical neglect requires that the parent neglects or refuses to provide necessary care for the child's health. Therefore, the LDSS must establish that the caretaker's failure to follow through with a complete regimen of medical, mental, or dental care for a child was necessary for the child's health. The result of the caretaker's failure to provide necessary care could be illness or developmental delays.

The challenging issue is determining when medical care is necessary for the child's health. Obviously, life-saving medical treatment is necessary and falls within the definition. However, when parents or caretakers refuse medical care that is important to their child's well-being but is not essential to life, the issue becomes more complicated in determining whether the medical care is necessary.

4.6.29.2 Assess degree of harm (real or threatened) to the child

When assessing whether the medical, mental, or dental treatment is necessary for the child's health, the LDSS should consider the degree of harm the child suffered as a result of the lack of care. If the child has yet to suffer harm, then the LDSS should assess the likelihood that the child will suffer harm. The greater the harm, the more necessary the treatment.

In addition to harm, the LDSS should consider the type of medical, mental, or dental condition involved and whether the condition is stable or progressive. Whether the condition is stable or progressive may be an issue in determining the severity of the condition and the necessity of treatment. If the condition of the child is stable, then the LDSS may consider deferring to the caretaker's authority. If the condition is progressive and left untreated, then the LDSS may give lesser deference to the caretaker's authority.

4.6.29.3 Parent refuses treatment for life-threatening condition

Pursuant to the Code of Virginia § 63.2-100, a parent's decision to refuse a particular medical treatment for a child with a life-threatening condition shall not be deemed a refusal to provide necessary care when all the following conditions are met:

- The decision is made jointly by the parents or other person legally responsible for the child and the child.

- The child has reached 14 years of age and sufficiently mature to have an informed opinion on the subject of his medical treatment.
- The parents or other person legally responsible for the child and the child have considered alternative treatment options.
- The parents or other person legally responsible for the child and the child believe in good faith that such decision is in the child's best interest.

> (22 VAC 40-705-10). "Particular Medical Treatment" means a process or procedure that is recommended by conventional medical providers and accepted by the conventional medical community.
>
> "Sufficiently mature" is determined on a case-by-case basis and means that a child has no impairment of his cognitive ability and is of a maturity level capable of having intelligent views on the subject of his health condition and medical care.
>
> "Informed opinion" means that the child has been informed and understands the benefits and risks, to the extent known, of the treatment recommended by conventional medical providers for his condition and the alternative treatment being considered as well as the basis of efficacy for each, or lack thereof.
>
> "Alternative treatment options" means treatments used to prevent or treat illnesses or promote health and well-being outside the realm of modern conventional medicine.
>
> "Life-threatening condition" means a condition that if left untreated more likely than not will result in death and for which the recommended medical treatments carry a probable chance of impairing the health of the individual or a risk of terminating the life of the individual.

4.6.29.4 Assess caretaker's rationale

The most singular underlying issue in determining whether a child is being deprived of adequate medical care, and therefore, a medically neglected child, is whether the parents have provided an acceptable course of medical treatment for their child in light of all the surrounding circumstances. The LDSS should consider whether the caretaker's failure to provide necessary medical treatment was caused by ignorance or misunderstanding. The LDSS should consider whether the caretakers obtained accredited medical assistance and were aware of the seriousness of their child's condition. The LDSS should weigh the possibility of a cure if a certain mode of treatment is undertaken and whether the caretakers provided their child with a treatment. The LDSS should consider whether the caretakers sought an alternative treatment recommended by their physician and have not been totally rejected by all responsible medical authority.

4.6.29.5 Assess financial capabilities and poverty

The LDSS should consider whether the caretaker's failure to provide necessary medical treatment was caused by financial reasons or poverty. Parents or caretakers should not be considered neglectful for the failure to provide necessary medical treatment unless they are financially able to do so or were offered financial or other reasonable means to do so. In such situations, a founded disposition may be warranted if, after appropriate counseling and referral, the parents still fail to provide the necessary medical care.

4.6.29.6 Failure to thrive must be diagnosed by a physician

The *Family Services Specialist* must document that the diagnosis of failure to thrive was made by a physician and the diagnosis was nonorganic failure to thrive.

4.6.29.7 Child under alternative treatment

> (22 VAC 40-705-30 B3b(1)). A child who, in good faith, is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall not for that reason alone be considered a neglected child in accordance with § 63.2-100 of the Code of Virginia.

The Code of Virginia provides that no child shall be considered an abused or neglected child only for the reason that the child is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination. The religious exemption to a founded disposition of child abuse or neglect mirrors the statute providing a religious defense to criminal child abuse and neglect.[9] This exemption means that a founded disposition cannot be based only upon the religious practices of the parents or caretakers. A founded disposition can be rendered for other reasons. For example, if the parent caused the injury in the first place, the religious exemption would not apply. The religious exemption to a founded disposition of abuse or neglect is designed to protect a family's right to freedom

[9] See Va. Code § 18.2-371.1 C. Any parent, guardian or other person having care, custody, or control of a minor child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall not, for that reason alone, be considered in violation of this section.

of religion. The religious exemption statute is not to provide a shield for a person to abuse or neglect a child.[10]

Should there be question concerning whether a child is under the treatment in accordance with a tenet or practice of a recognized church or religious denomination, the LDSS should seek the court's assistance. The court should decide whether the parent or caretaker is adhering to religious beliefs as the basis for refusal of medical or dental treatment.

4.6.29.8 Medical neglect of infants with life-threatening conditions

The VAC 22 VAC 40-705-30 B3b states that medical neglect includes withholding of medically indicated treatment. The VAC defines withholding of medically indicated treatment as specific to infants. When conducting an investigation involving an infant deprived of necessary medical treatment or care, the LDSS must be aware of the ancillary definitions and guidance requirements.

> (22 VAC 40-705-10). "Withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening condition by providing treatment (including appropriate nutrition, hydration, and medication) which in the treating physician's or physicians' reasonable medical judgment will be most likely to be effective in ameliorating or correcting all such conditions.

This definition applies to situations where parents do not attempt to get a diagnosis even when the child's symptoms are severe and observable.

4.6.29.8.1 Withholding medically indicated treatment when treatment is futile

> (22 VAC 40-705-30 B3b(2)). For the purposes of this chapter, "withholding of medically indicated treatment" does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when in the treating physician's or physicians' reasonable medical judgment:
> (a.) The infant is chronically and irreversibly comatose;
> (b.) The infant has a terminal condition and the provision of such treatment would: (i) merely prolong dying; (ii) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; (iii) otherwise be futile in terms of the survival of the infant; or (iv) be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

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[10] The United States Supreme Court held in 1944 that "parents may be free to become martyrs themselves. But it does not follow that they are free, in identical circumstances, to make martyrs of their children before they can reach the age of full and legal discretion when they can make that choice for themselves." Prince v. Massachusetts, 321 U.S. 158, 170 (1944).

4.6.29.8.2 Definitions of chronically and irreversibly comatose and terminal condition

> (22 VAC 40-705-10). "Chronically and irreversibly comatose" means a condition caused by injury, disease or illness in which a patient has suffered a loss of consciousness with no behavioral evidence of self-awareness or awareness of surroundings in a learned manner other than reflexive activity of muscles and nerves for low-level conditioned response and from which to a reasonable degree of medical probability there can be no recovery.
>
> (22 VAC 40-705-10). "Terminal condition" means a condition caused by injury, disease or illness from which to a reasonable degree of medical probability a patient cannot recover and (i) the patient's death is imminent or (ii) the patient is chronically and irreversibly comatose.

4.6.30 Unfounded disposition

The definition of an unfounded disposition as defined in the VAC is:

> (22 VAC 40-705-10). "Unfounded" means that a review of the facts does not show by a preponderance of the evidence that child abuse or neglect occurred.

However, an unfounded disposition may not mean that abuse or neglect did not occur, but rather that the evidence obtained during the investigation did not reach the preponderance level.

4.6.30.1 Notifications in unfounded investigations

- **Written notification to alleged abuser or neglector**. The alleged abuser or neglector shall be notified in writing that the complaint was determined to be unfounded. A copy of the notification shall be filed in the record and documented in the child welfare information system. The notification shall include the length of time the CPS report will be retained in the child welfare information system; the individual's right to request the record be retained for an additional period; and the right to access information about himself in the investigative record. When the alleged abuser or neglector is under 18 years of age, the LDSS should provide the parent or legal guardian of the alleged abuser or neglector with written notification that the complaint was determined to be unfounded.

- Although verbal notification of an unfounded investigation is not required by regulation, *Family Services Specialist*s are encouraged to discuss the outcome of the investigation as well as any services the family may need or request.

> (§ 63.2-1514 B of the Code of Virginia) [continued] The record of unfounded investigations that involved reports of child abuse or neglect shall be purged three years after the date of the complaint or report if there are no subsequent complaints or reports regarding the same child or the person who is the subject of the complaint or report within such three-year period.

- **Inform alleged abuser or neglector of legal recourse if complaint is malicious.**

> (22 VAC 40-705-140 B1b). The local worker shall notify the individual against whom allegations of abuse or neglect were made of the procedures set forth in § 63.2-1514 of the Code of Virginia regarding reports or complaints alleged to be made in bad faith or with malicious intent.

In all unfounded complaints, the *Family Services Specialist* shall inform the alleged abuser or neglector that he may petition the court to obtain the identity of the complainant if the alleged abuser believes the complaint was made in bad faith or maliciously.

The *Family Services Specialist* may provide the alleged abuser or neglector with a copy of the Code of Virginia § 63.2-1514 pertaining to reports or complaints made in bad faith or maliciously. Upon request, the LDSS shall advise the person who was the subject of an unfounded investigation if the complaint or report was made anonymously, as required by the Code of Virginia § 63.2-1514. The *Family Services Specialist* may also refer the person to seek legal advice or to the court if they have further questions.

- **Upon request, advise alleged abuser if complainant is anonymous**

> (22 VAC 40-705-40 E). Upon request, the local department shall advise the person who was the subject of the complaint if the complaint or report was made anonymously.

- **Alleged abuser or neglector may request retention of the record**.

> (22 VAC 40-705-130 A5). The individual against whom an unfounded disposition for allegations of abuse or neglect was made may request in writing that the local department retain the record for an additional period of up to two years.

- **Record shall be purged upon court order.**

> (22 VAC 40-705-130 A6). The individual against whom allegations of abuse or neglect were made may request in writing that both the local department and the

> department shall immediately purge the record upon presentation of a certified copy of a court order that there has been a civil action that determined that the complaint or report was made in bad faith or with malicious intent pursuant to § 63.2-1514 of the Code of Virginia.

- **Notify alleged abuser or neglector in unfounded investigation involving the death of a child.**

> (22 VAC 40-705-140 B1c). In accordance with § 32.1-283.1 D of the Code of Virginia, when an unfounded disposition is made in an investigation that involves a child death, the child protective services worker shall inform the individual against whom allegations of abuse or neglect were made that the case record will be retained for the longer of 12 months or until the State Child Fatality Review Team has completed its review of the case.

- **Notify victim child's non-custodial parent or guardian.**

> (22 VAC 40-705-140 C1). When the disposition is unfounded, the child protective services worker shall inform the parents or guardian of the subject child in writing, when they are not the individuals against whom allegations of child abuse or neglect were made, that the investigation involving their child resulted in an unfounded disposition and the length of time the child's name and information about the case will be maintained. The child protective services worker shall file a copy in the case record.

Reasonable efforts must be made to notify the non-custodial parent of the alleged victim child when that parent is not the subject of a report of child abuse or neglect. Not only does the parent have a right to know, he or she may be a resource to the child. However, if there is reason to believe that contact would be detrimental to the child that should be taken into consideration. If notification does not occur for this or any reason, that reason should be documented in the child welfare information system. For siblings or other children residing in the home who are not identified as alleged victims, reasonable efforts to notify the non-custodial parent is at the discretion of the LDSS. *Family Services Specialist*s should consider the risk of future maltreatment to these children and the potential protective benefits of notification when making this decision.

- **Notify complainant of unfounded disposition.**

> (22 VAC 40-705-140 D1). When an unfounded disposition is made, the child protective services worker shall notify the complainant, when known, in writing that the complaint was investigated and determined to be unfounded. The worker shall file a copy in the case record.

Sample letters of notification for unfounded investigations are located in Appendix H.

4.6.31 Cannot reopen a closed investigation

There is no basis in the Code of Virginia or the VAC for "reopening" a closed investigation. When new or additional information is received after a complaint has been determined to be Unfounded, the new/additional information may be sufficient to meet the validity criteria for a new CPS report. If the new information adds nothing more to the original complaint, the report should be screened out.

4.6.32 Founded disposition

The definition of a founded disposition as defined in the VAC is:

> (22 VAC 40-705-10). "Founded" means that a review of the facts shows by a preponderance of the evidence that child abuse or neglect has occurred. A determination that a case is founded shall be based primarily on first source evidence; in no instance shall a determination that a case is founded be based solely on indirect evidence or an anonymous complaint.

See Appendix K for sample format for documenting a founded dispositional assessment in the child welfare information system.

4.6.32.1 Founded disposition cannot be based solely on anonymous complaint

A founded disposition cannot be based solely on an anonymous complaint. An allegation of abuse or neglect, in and of itself, cannot prove that the alleged act or omission did or did not occur. Because a person alleges that an act occurred does not mean that the act in fact did occur. The allegation must be proved or disproved by corroborating evidence.

4.6.32.2 Alleged abuser may consult with LDSS prior to a founded disposition

> (22 VAC 40-705-120 D). The subject of the report or complaint may consult with the local department to hear and refute evidence collected during the investigation. If a criminal charge is also filed against the alleged abuser for the same conduct involving the same victim child as investigated by the local department, pursuant to § 63.2-1516.1 B of the Code of Virginia, no information gathered during a joint investigation with law enforcement shall be released by the local department prior to the conclusion of the criminal investigation unless authorized by the investigating law-enforcement agency or the local attorney for the Commonwealth.

The alleged abuser may be informed at any time during the investigation that the facts are leading the worker toward making a founded disposition.

If the alleged abuser/neglector wants to present additional evidence or refute evidence, the LDSS may afford this opportunity and consider such additional information prior to rendering the disposition. The investigation may be extended from 45 days to 60 days for this process to be completed.

The request for a consultation prior to disposition does not apply if there are pending criminal charges involving the same victim child unless information gathered during the joint investigation is authorized to be released.

4.6.33 Founded disposition and identity of abuser is unknown

It is possible that an investigation reveals a preponderance of evidence establishing that the child was physically abused or physically neglected, but fails to establish, by a preponderance of that evidence, the caretaker responsible for the abuse or neglect. If, after diligent efforts to identify the abuser, the identity of the abuser remains unknown, the LDSS may enter the abuser's name as "unknown" into the child welfare information system.

For example, the evidence establishes that the infant was shaken and sustained severe injuries. The only persons with the opportunity to have caused the injuries were the parents of the infant and the babysitter who provided care for the infant on the night the injuries occurred. However, the evidence is conflicting concerning who actually caused the injuries. In such a situation, the LDSS may render a founded disposition of physical abuse with the identity of the abuser unknown.

- **Abuser identified after disposition**. If new information is received subsequent to a disposition of Founded with Unknown Abuser, this information is to be treated as a new referral and requires a new investigation. If the original information is still pertinent and relevant and there is sufficient reason not to re-interview all the required contacts, such as potential trauma to the child, the information from original interviews may be incorporated into the new investigation. If this additional information allows for a founded disposition with a known abuser, it does not replace the original finding.

4.6.34 Determine level of founded disposition

A founded disposition must be categorized into one of three levels. Categorization is dependent on the nature of the act and the seriousness of the harm or threatened harm to the child as a result of maltreatment. In all founded cases, there may be circumstances influencing the severity of the abusive or neglectful incident. The circumstances may increase or decrease the severity of harm or threatened harm.

The level for a founded disposition must be supported by a preponderance of the evidence. The evidence supporting the level must be documented in the record. The facts supporting the level will relate to the type and pattern of abuse/neglect, the vulnerability of the child, the effect or potential effect of the abuse/neglect, and the action or inaction of the caretaker.

4.6.34.1 Level 1

> (22 VAC 40-705-110 D1). Level 1. This level includes those injuries or conditions, real or threatened, that result in or were likely to have resulted in serious harm to a child.

Examples of injuries or conditions that resulted in or were likely to have resulted in serious harm include but are not limited to:

- For physical abuse:
  - the situation requires medical attention in order to be remediated;
  - the injury may be to the head, face, genitals, or is internal and located near a vital organ;
  - injuries located in more than one place;
  - injuries were caused by the use of an instrument such as a tool or weapon;
  - an inappropriate drug was administered or a drug was given in an inappropriate dosage; or
  - child exposed to the production or sale of methamphetamine or other drug and is not able to self-protect.
- For neglect situations:
  - the condition would be one where the child's minimal needs are rarely met for food, clothing, shelter, supervision, or medical care;
  - the child is frequently unsupervised or unprotected;
  - the child is left by the caretaker with no plan for the child's care or no information about the caretaker's whereabouts or time for return; or
  - a young child is left alone for any period of time.
- For mental abuse or neglect:
  - the child has engaged in self-destructive behavior;

- has required psychiatric hospitalization;
- has required treatment for severe dysfunction;
- presents a danger to self or others; or
- problems related to the caretaker behavior.

- For sexual abuse:
  - the situation would be one where there was genital contact;
  - force or threat was used; or
  - the abuse had taken place over a period of time and there were multiple incidents.
- For medical neglect:
  - caretaker failed to provide medical care in a life threatening situation; or
  - a situation that could reasonably be expected to result in a chronic debilitating condition.
- For non-organic failure to thrive: the syndrome is considered to be a form of physical or emotional maltreatment. (refer to physical or mental abuse or neglect)

4.6.34.2 Level 2

> (22 VAC 40-705-110 D2). Level 2. This level includes those injuries or conditions, real or threatened, that result in or were likely to have resulted in moderate harm to a child.

Examples of injuries or conditions that resulted in or were likely to have resulted in moderate harm include but are not limited to:

- For physical abuse:
  - the injury necessitates some form of minor medical attention;
  - injury on torso, arms, or hidden place (such as arm pits);
  - use of tool that is associated with discipline such as a switch or paddle; or
  - exposure to the production or sale of methamphetamine or other drugs and the child may not be able to self-protect.

- For neglect situations:
  - the child's minimal needs are sporadically met for food, clothing, shelter, supervision, or medical care; or
  - a pattern or one-time incident related to lack of supervision caused or could have caused moderate harm.
- For mental abuse or neglect:
  - the child's emotional needs are rarely met; or
  - the child's behavior is problematic at home or school.
- For sexual abuse:
  - minimal or no physical touching but could be exposure to masturbation, exhibitionism, etc.;
  - caretaker makes repeated sexually provocative comments to the child; or
  - child is exposed to pornographic materials.
- For medical neglect:
  - a doctor has prescribed care to eliminate pain or remedy a condition but the caretaker has not followed through with appointments or recommendations; or
  - the child's condition is not acute or life threatening but could be detrimental to the child's mental or physical health.
- For non-organic failure to thrive, the syndrome is considered to be a form of physical or emotional maltreatment. (refer to physical or mental abuse or neglect)

4.6.34.3 Level 3

> (22 VAC 40-705-110 D3). Level 3. This level includes those injuries or conditions, real or threatened, that result in minimal harm to a child.

Examples of injuries or conditions that resulted in or were likely to have resulted in minimal harm include but are not limited to:

- For physical abuse:
  - the situation requires no medical attention for injury;

- minimal exposure to the production or sale of methamphetamine or other drugs.

- For physical neglect:
  - child's minimal needs inconsistently met for food, clothing, shelter, supervision, or medical care; or
  - supervision marginal which poses a threat of danger to child.
- For mental abuse or neglect the situation would be one where the child's emotional needs are met sporadically with evidence of some negative impact on the child's behavior.
- For sexual abuse:
  - there was no or minimal physical touching or exposure to sexual acts such as masturbation, exhibitionism, etc.;
  - caretaker's actions or behavior, such as making sexually suggestive comments to the child, causes or creates a threat of minimal harm to the child.
- For medical neglect, the situation may be one in which the child's life is not in danger, the child is not experiencing discomfort at this time, but the medical authority reports medical treatment is needed to avoid illness or developmental delay.
- For non-organic failure to thrive, the syndrome is considered to be a form of physical or emotional maltreatment. (refer to physical or mental abuse or neglect)

4.6.35 Notifications in founded investigations

4.6.35.1 Notify abuser or neglector in writing

The written notification to the abuser or neglector of the founded disposition(s) must be in a letter and a copy must be included in the case record. Sample letters of notification for investigations with founded dispositions are located in Appendix H. The letter must include:

- A clear statement that the individual is the abuser and/or neglector.
- The category of abuse or neglect.

- The disposition, level, and retention time, including statement about effect of multiple complaints on retention.
- The name of the victim child or children.
- A statement informing the abuser of his or her right to appeal the finding and to have access to the case record.
- A statement informing the abuser that pursuant to § 63.2-1505 of the Code of Virginia, if the abuser is an employee in a public school division in Virginia, the local school board shall be notified of the founded disposition.

LDSS are encouraged to send the disposition letter by certified mail as further documentation of the notification to the abuser or neglector.

When the alleged abuser or neglector is under 18 years of age, the LDSS must provide the parent or legal guardian of the alleged abuser or neglector with written notification of the founded disposition.

4.6.35.1.1 Additional notification to alleged abuser in certain founded sexual abuse investigations

> (22 VAC 40- 705-130 B4) Pursuant to § 63.2-1514 A of the Code of Virginia, all records related to founded, Level 1 dispositions of sexual abuse shall be maintained by the local department for a period of 25 years from the date of the complaint. This applies to all investigations with founded dispositions on or after July 1, 2010. This retention timeframe will not be reflected in the Central Registry past the purge dates set out in this subsection.

All investigation records founded on or after July 1, 2010 for sexual abuse investigations level 1 shall be maintained by the LDSS 25 years from the date of the complaint. This retention timeframe will not be reflected in the Central Registry past the purge dates set out in 22VAC 40-705-130.

For all sexual abuse investigations founded level 1 on or after July 1, 2010, the written notification shall include a statement informing the alleged abuser that the investigation record shall be maintained by the LDSS for 25 years past the date of the complaint pursuant to § 63.2-1514 A of the Code of Virginia; however, this retention time will not be reflected in the Central Registry past the purge date of 18 years as set out in 22VAC 40-705-130.

When the alleged abuser or neglector is under 18 years of age, the LDSS must provide the parent or legal guardian of the alleged abuser or neglector with written notification of the retention time.

4.6.35.2 Inform abuser or neglector of appeal rights

The abuser or neglector must be informed of his right to appeal the founded disposition. This must be done verbally and in writing as soon as the disposition is reached. In addition, the abuser or neglector must be given a brochure, "Child Protective Services Appeals and Fair Hearings" that outlines the administrative appeal process. The LDSS must document in the child welfare information system that the abuser or neglector was given the appeal brochure and was informed verbally of his or her appeal rights.

When the alleged abuser or neglector is under 18 years of age, the LDSS must provide the parent or legal guardian of the alleged abuser or neglector with written notification of his right to appeal the founded disposition. See Section 7.4.1 regarding requests for appeals.

4.6.35.3 Notify abuser or neglector verbally

The verbal notification to the abuser or neglector of the founded disposition(s) should include the disposition, level, and retention time, including effect of multiple complaints on retention and inform the abuser of his or her right to appeal to finding and to have access to the case record. The worker must document in the child welfare information system, the date the verbal notification took place. If the verbal notification did not occur, the *Family Services Specialist* should document the reasons in the child welfare information system.

When the alleged abuser or neglector is under 18 years of age, the LDSS must provide the parent or legal guardian of the alleged abuser or neglector with verbal notification of the founded disposition. The worker should document in the child welfare information system, the date the verbal notification took place. If the verbal notification did not occur, the *Family Services Specialist* should document the reasons in the child welfare information system.

4.6.35.4 Foster parent is abuser or neglector of the victim child in founded complaint

> (22 VAC 40-705-140 B2). When the abuser or neglector in a founded disposition is a foster parent of the victim child, the local department shall place a copy of this notification letter in the child's foster care record and in the foster home provider record.

4.6.35.5 Notify all parties if identity of abuser or neglector is unknown

If the LDSS renders a founded disposition with the abuser unknown, the LDSS must notify all parties, including the parents or guardian of the child, the alleged abuser or neglector, and the complainant. All parties must be informed that the investigation resulted in a finding that the child was abused or neglected, but the evidence did not establish the identity of the perpetrator.

The alleged abuser or neglector should be notified that a finding of abuse or neglect was not made against that person. Because the abuser or neglector is unknown, no party has the right to an administrative appeal of the founded disposition.

The complainant should be notified that necessary action was taken.

4.6.35.6 Notify all parties if abuser or neglector is deceased

If the LDSS renders a founded disposition and the named abuser or neglector is deceased, the LDSS must notify all parties, including the deceased abuser or neglector's estate. The notification letter must state that the identity of the alleged abuser or neglector will be referred to as "deceased" in the child welfare information system. Because the abuser or neglector is deceased, no party has the right to an administrative appeal of the founded disposition.

The complainant should be notified that necessary actions were taken.

4.6.35.7 Notify victim child's non-custodial parent or guardian

> (22 VAC 40-705-140 C2). When the disposition is founded, the child protective services worker shall inform the parents or guardian of the child in writing, when they are not the abuser or neglector, that the complaint involving their child was determined to be founded and the length of time the child's name and information about the case will be retained in the Central Registry. The child protective services worker shall file a copy in the case record.

Reasonable efforts must be made to notify the non-custodial parent of the alleged victim child when that parent is not the subject of a report of child abuse or neglect. Not only does the parent have a right to know, he or she may be a resource to the child. However, if there is reason to believe that contact would be detrimental to the child, which should also be taken into consideration. If notification does not occur for this or any reason, that reason should be documented in the child welfare information system. For siblings or other children residing in the home that are not identified as alleged victims, reasonable efforts to notify the non-custodial parent is at the discretion of the LDSS. *Family*

*Services Specialist*s should consider the risk of future maltreatment to these children and the potential protective benefits of notification when making this decision.

Sample letters of notification for investigations are located in Appendix H.

For all sexual abuse investigations founded level 1 on or after July 1, 2010, the notification to the parent of the alleged victim child shall include a statement that the investigation record shall be maintained by the LDSS for 25 years past the date of the complaint pursuant to § 63.2-1514 A of the Code of Virginia; however, this retention time will not be reflected in the Central Registry past the purge date of 18 years as set out in 22 VAC 40-700-30.

4.6.35.8 Notify complainant

> (22 VAC 40-705-140 D2). When a founded disposition is made, the child protective services worker shall notify the complainant, when known, in writing that the complaint was investigated and necessary action was taken. The local worker shall file a copy in the case record.

Sample letters of notification for investigations are located in Appendix H.

4.6.35.9 Notify Family Advocacy Program

The Code of Virginia § 63.2-1503 N establishes authority for the LDSS to share CPS information with family advocacy representatives of the United States Armed Forces.

> (§ 63.2-1503 N of the Code of Virginia) Notwithstanding any other provision of law, the local department, in accordance with Board regulations, shall transmit information regarding reports, complaints, family assessments, and investigations involving children of active duty members of the United States Armed Forces or members of their household to family advocacy representatives of the United States Armed Forces.

Effective July 1, 2017: at the conclusion of **all** investigations (founded and unfounded dispositions), the LDSS shall notify the Family Advocacy Program representative and provide the final disposition, the type(s) of abuse or neglect, the identity of the abuser or neglector and any recommended services. These notifications allow for coordination between CPS and the Family Advocacy Program and are intended to facilitate identification, treatment and service provision to the military family. For additional information about the Family Advocacy Program, contact information for a particular branch of the military or a specific installation, click here.

- Written notification to Family Advocacy shall be made upon completion of an investigation resulting in an unfounded disposition.

- The Family Advocacy Program representative shall be notified in writing **within 30 days** after all administrative appeal rights of the abuser or neglector have been exhausted or forfeited for all investigations with a founded disposition.

- Written notification to abuser or neglector.

  The abuser or neglector shall be advised that this information is being provided to the Family Advocacy Program and shall be given a copy of the written notification sent to the Family Advocacy Program. These notifications shall be documented in the child welfare information system.

4.6.35.10 Referral to early intervention programs for children under age three in an investigation

The LDSS shall refer any child under the age of three for early prevention services to the local Infant and Toddler Connection of Virginia who:

- Is the subject of an investigation with a founded disposition;

- Is identified as affected by illegal substance abuse or withdrawal symptoms resulting from prenatal drug exposure; or

- Has a physical or mental condition that has a high probability of resulting in developmental delay, regardless of track or disposition.

All localities are served by an Infant & Toddler Connection of Virginia program. This referral is required by the Child Abuse Prevention and Treatment Act (CAPTA).

LDSS are encouraged to meet with the local Infant and Toddler program to learn about any referral issues that should be explained to the parent. LDSS are also encouraged to develop procedures with the Infant & Toddler Connection of Virginia program to make referrals of certain children under age three (3). Recommended elements of these procedures should include:

- As soon as possible but no later than **seven calendar days** of completing the investigation, the LDSS should send a referral to the local Part C Early Intervention program using the local referral form.

  The LDSS should:

- Send a referral as soon as possible when a child has been identified as exposed prenatally to an illegal substance or has withdrawal symptoms at birth.

- Send a referral as soon as possible when a child has been identified as having a physical or mental condition which has a high probability of resulting in a developmental delay.

- Send a copy of the referral to the family. The parent should also be informed verbally of the referral and have an opportunity to discuss the referral process.

- Request the family to sign a release form allowing the exchange of information between the Infant & Toddler Connection Program and the LDSS regarding the referral.

- Document the notification and referral in the state child welfare information system.

More information on the Infant & Toddler programs in Virginia can be found on the Infant & Toddler Connection of Virginia website and in the Memorandum of Agreement issued by the Commissioners of the Department of Social Services and Department of Behavioral Health and Developmental Services and other agencies involved with implementation of Part C of the Individuals with Disabilities Education Act (IDEA) dated May 2013 located on the VDSS internal website.

4.6.35.11 Notify parents of a minor who is an abuser

When a child under the age of eighteen is the abuser in a founded investigation, the LDSS shall inform the mother, father or legal guardian of the minor of the finding and the abuser's right to appeal the finding. The minor's parents/legal guardians have the authority to initiate an administrative appeal of the founded disposition on behalf of the minor.

4.6.35.12 Notify local school board when abuser is or was an employee

> (§ 63.2-1505 B7). If a report of child abuse and neglect is founded, and the subject of the report is or was at the time of the investigation or the conduct that led to the report a full-time, part-time, permanent, or temporary employee of a school division located within the Commonwealth, notify the relevant school board of the founded complaint without delay.

If the abuser is or was at the time of the investigation or the conduct that led to the report a full-time, part-time, permanent, or temporary employee in a school division located within the Commonwealth, the LDSS shall notify the local school board of the founded disposition at the same time the subject is notified of the founded disposition. This includes in home investigations when the employee is the subject of the founded investigation involving his own children. Any information exchanged for the purposes of this subsection shall not be considered a violation of §§ 63.2-102, 63.2-104 or 63.2-105 of the Code of Virginia.

The LDSS may send a copy of the disposition letter to the subject of the complaint to the local school board to meet this notification requirement.

This notification shall be documented in the child welfare information system.

4.6.35.13 Notify Superintendent of Public Instruction, Department of Education

> (§ 63.2-1503 P). The local department shall (i) notify the Superintendent of Public Instruction without delay when an individual holding a license issued by the Board of Education is the subject of a founded complaint of child abuse or neglect and shall transmit identifying information regarding such individual if the local department knows the person holds a license issued by the Board of Education and (ii) notify the Superintendent of Public Instruction without delay if the founded complaint of child abuse or neglect is dismissed following an appeal pursuant to § 63.2-1526. Nothing in this subsection shall be construed to affect the rights of any individual holding a license issued by the Board of Education to any hearings or appeals otherwise provided by law. Any information exchanged for the purpose of this subsection shall not be considered a violation of § 63.2-102, 63.2-104, or 63.2-105.

The LDSS shall immediately notify the Superintendent of Public Instruction, Department of Education (DOE) when an individual holding a license issued by the Board of Education is the subject of a founded complaint of child abuse or neglect and shall transmit identifying information regarding such individual if the LDSS knows the person holds a license issued by the Board of Education.

The LDSS shall immediately notify the Superintendent of Public Instruction, DOE if the founded complaint of child abuse or neglect is overturned on an administrative appeal.

The Board of Education issues licenses to instructional personnel including teachers and other professionals and administrators. Refer to Licensure Regulations for School Personnel in the VAC.

The Board of Education does not license teacher aides, janitorial staff, and administrative support staff.

This notification requirement applies to all individuals holding a license even if that person is not currently employed by a local school board.

4.6.36 Notification to Interstate Compact on the Placement of Children (ICPC)

When applicable, at the conclusion of the investigation, notify Interstate Compact Placement of Children (ICPC) of the results. The *Family Services Specialist* shall document this notification in the child welfare information system.

4.6.37 Supervisor approval required

All completed investigations should be reviewed and approved in the child welfare information system by the *Family Services Specialist*'s supervisor **within five working days of the worker's request for approval**.

Prior to supervisory approval of an investigation with a founded disposition, the *Family Services Specialist* should ensure compliance with all Code of Virginia requirements, CPS regulations and guidance. A “Founded Investigations and Appeals” checklist is available on the internal VDSS website.

4.7 The case record

> (22 VAC 40-705-10). "Documentation" means information and materials, written or otherwise, concerning allegations, facts and evidence.

Thorough and detailed documentation of the family assessment or investigation is essential to determine and support the decisions made by the *Family Services Specialist* and approved by the supervisor. All family assessment and investigation records must contain the information required by law, regulation, and guidance.

4.7.1 Case record

> (22 VAC 40-705-10). "Case Record" means a collection of information maintained by a local department, including written material, letters, documents, tapes, photographs, film or other materials regardless of physical form about a specific child protective services investigation, family or individual.

4.7.1.1 Audio recordings

Audio recordings taken during the course of a family assessment or investigation are part of the case record, and must be stored at the case level, not the participant level, in the child welfare information system.

4.7.1.2 Photographs

Photographs taken during the course of a family assessment or investigation are part of the case record, and must be stored at the case level, not the participant level, in the child welfare information system.

4.7.2 Family assessment or investigation documentation

> (22 VAC 40-705-10). "Investigative narrative" means the written account of the investigation contained in the child protective services case record.

The family assessment or investigative narrative is a detailed written summary of all the evidence supporting the LDSS's investigation disposition or information supporting the family assessment.

Guidelines for documentation in a case where DV is present can be found in section 1.11 of the VDSS Child and Family Services Manual, Chapter H. Domestic Violence.

All documentation must be entered or updated in the child welfare information system within five business days.

A hard copy file, in addition to the child welfare information system generated reports, documents, forms, audio and digital image files, for each family assessment or investigation should include correspondence, reports from other sources (school, medical, etc.), and other documentation germane to the family assessment or investigation which may not be entered into the child welfare information system, such as a safety plan.

4.8 CPS child welfare information system

CPS reports including screened out reports, investigations, and family assessments, must be maintained in the child welfare information system. The child welfare information system includes OASIS, COMPASS Mobile Application, and COMPASS Portal.

> (22 VAC 40-705-10). "Child abuse and neglect information system" means the computer system that collects and maintains information regarding incidents of child abuse and neglect involving parents or other caretakers. The computer system is composed of three parts: the statistical information system with non-identifying information; the Central Registry of founded complaints not on appeal; and a data base that can be accessed only by the department and local departments that contains all non-purged child protective services reports. This system is the official state automated system.

4.9 Central Registry and record retention

The Code of Virginia § 63.2-1515 establishes authority for the Central Registry and governs disclosure of information from the central registry.

> (22 VAC 40-705-10). "Central Registry" means a subset of the child abuse and neglect information system, and is the name index with identifying information of individuals named as an abuser or neglector in founded child abuse or neglect complaints or reports not currently under administrative appeal, maintained by the department.

4.9.1 CPS database available to LDSS

> (22 VAC 40-705-130 A2). The department shall retain complaints or reports with an unfounded disposition in the child abuse and neglect information system to provide local departments with information regarding prior investigations.
>
> (22 VAC 40-705-130 A3). This record shall be kept separate from the Central Registry and accessible only to the Department and to local departments.

In addition to CPS reports contained in the Central Registry, the child welfare information system contains a database of all non-purged CPS reports that can only be accessed by the LDSS. This database contains all pending CPS investigations and family assessments as well as completed family assessments, unfounded investigations, and screened out reports.

4.9.2 Retain record if subsequent complaints arise

> (22 VAC 40-705-130 D). In all family assessments or investigations, if the individual against whom allegations of abuse or neglect is involved in any subsequent complaint or report, the information from all complaints or reports shall be maintained until the last purge date has been reached.

4.9.3 Retention period for family assessment

> (22 VAC 40-705-130 C). The record of the family assessment shall be purged three years after the date of the complaint or report if there are no subsequent complaints or reports regarding the individual against whom allegations of abuse or neglect were made or regarding the same child in those three years.

4.9.4 Retention period for investigation with unfounded disposition

> (22 VAC 40-705-130 A1). Pursuant to § 63.2-1514 of the Code of Virginia, the local department shall report all unfounded case dispositions to the child abuse and neglect information system when disposition is made.

4.9.4.1 Purge unfounded disposition after three years

> (§ 63.2-1514 B of the Code of Virginia) [continued] The record of unfounded investigations that involved reports of child abuse or neglect shall be purged three years after the date of the complaint or report if there are no subsequent complaints or reports regarding the same child or the person who is the subject of the complaint or report within such three-year period.

4.9.5 Retention period for investigations with founded disposition

> (22 VAC 40-705-130 B). Founded investigation
> 1. The local department shall report all founded dispositions to the child abuse and neglect information system for inclusion in the Central Registry pursuant to § 63.2-1515 of the Code of Virginia.
> 2. Identifying information about the abuser or neglector and the victim child or children reported include demographic information, type of abuse or neglect, and date of the complaint.
> 3. The identifying information shall be retained based on the determined level of severity of the abuse or neglect pursuant to 22 VAC 40-705-110:
> a. Eighteen years past the date of the complaint for all complaints determined by the local department to be founded as Level 1.
> b. Seven years past the date of the complaint for all complaints determined by the local department to be founded as Level 2.
> c. Three years past the date of the complaint for all complaints determined by the local department to be founded as Level 3.

4.9.5.1 LDSS to retain certain sexual abuse case records 25 years

The Code of Virginia § 63.2-1514 A requires that all records related to founded cases of child sexual abuse involving injuries or conditions, real or threatened, that result in or were likely to have resulted in serious harm to a child shall be maintained by the LDSS for a period of 25 years from the date of the complaint. All investigation records founded on or after July 1, 2010 for sexual abuse investigations level 1 shall be maintained by the LDSS 25 years from the date of the complaint. This retention timeframe will not be reflected in the Central Registry past the purge dates set out in 22 VAC 40-705-130.

4.9.6 Retention period for reports involving a child death

The record of a child fatality report, whether screened out, founded, or unfounded, should be maintained until the State Child Fatality Review Team has had an opportunity to review it. The Code of Virginia § 32.1-283.1 D requires the LDSS to maintain these CPS records beyond the usual retention periods for CPS records.

Contact the regional consultant if there is any question about retention of a specific record.

4.9.7 CPS statistical information

The child welfare information system provides non-identifying statistical information about the CPS program.

4.10 CPS Central Registry searches

It is the responsibility of the Department to maintain an child welfare information system for CPS and to respond to requests for searches of the Central Registry. Many organizations that work with children require a search of the Central Registry as a condition of employment. In addition, the Code of Virginia § 63.2-1515 requires the VDSS respond to requests to search the Central Registry for employment by the LDSS and local school boards.

4.10.1 Individual whose name is being searched must authorize the Central Registry search

> (22 VAC 40-705-170 A). The department will complete a search of the Central Registry upon request by a local department, upon receipt of a notarized signature of the individual whose name is being searched authorizing release of such information or a court order specifying a search of the Central Registry.

The required form, "Request for Search of the Child Protective Services (CPS Central Registry", with instructions, is located on the VDSS webpage.

4.10.2 Name is found in Central Registry

> (22 VAC 40-705-170 B). When the name being searched is found in the Central Registry, the department shall contact the local department responsible for the investigation to verify the information.

VDSS will contact the LDSS and ask if the name is a match to their records. If the name is a match, the LDSS will be asked to verify that the client was notified of their appeal rights.

4.10.2.1 LDSS cannot verify that client was notified of appeal rights

If the LDSS cannot produce documentation that the client was notified of his appeal rights, the LDSS must review the case file. The LDSS must determine whether to retain or amend the founded disposition or to purge the complaint based on the documentation in the case record. The LDSS may consult the CPS Regional Specialist for assistance.

The LDSS must review the case record and notify the Central Registry Search Unit **within five working days**.

4.10.2.2 Written notification to abuser or neglector of disposition and appeal rights

If the LDSS cannot verify that the client was informed of his appeal rights **and** the LDSS determines that the founded disposition shall be maintained, the LDSS must inform the client of his right to appeal the founded disposition of abuse or neglect.

4.10.3 Notification of Central Registry search results

The VDSS will return the completed search form to the authorized agent named on the search request. If the individual's name is in the Central Registry, VDSS will also send a copy of this form to the individual whose name was searched and to the LDSS responsible for the name being entered into the Central Registry.

4.10.3.1 LDSS must release information to abuser or neglector upon request

If the individual contacts the LDSS regarding his name entry into the Central Registry, the LDSS shall provide the individual with the requested information and provide a copy of the appeal procedures to the individual.

4.10.3.2 Abuser or neglector may request appeal

If the individual decides to appeal the founded disposition or dispositions, then the LDSS must respond to the request for a local conference.

4.11 Appendix A: Forensic Interviews

Forensic interviewing has become an important component of many child protective services investigations. The following information has been taken from: The Office of Juvenile Justice and Delinquency Prevention Bulletin—Child Forensic Interviewing: Best Practices (2015) and The Child Welfare Information Gateway Forensic Interviewing: A Primer for Child Welfare Professionals (2017).

4.11.1 Definition of forensic interview

In Child Forensic Interviewing: Best Practices, a child forensic interview is defined as:

"A forensic interview of a child is a developmentally sensitive and legally sound method of gathering factual information regarding allegations of abuse or exposure to violence. This interview is conducted by a competently trained, neutral professional utilizing research and practice-informed techniques as part of a larger investigative process."

4.11.2 Forensic interviewing models

A variety of forensic interviewing models have been developed over the years. The forensic interviewing model used in a child protective services investigation will vary depending on the multidisciplinary protocol in the jurisdiction and the training of the interviewer. The following are some examples of nationally recognized forensic interviewing models:

- American Professional Society on the Abuse of Child Practice Guidelines
- ChildFirst Forensic Interviewing Protocol
- CornerHouse Forensic Interview Protocol
- National Children's Advocacy Center Forensic Interview Structure
- National Institute of Child Health and Human Development Forensic Interview Protocol

All forensic interviewing models are based on three phases. The phases are:

- **Rapport-building phase**: Interviewer orients child to interview process, builds trusting relationship with child, and assesses child's developmental capacity.
- **Substantive phase**: Interviewer gathers details of alleged abuse or neglect and explores alternate hypotheses.

- **Closure phase**: Interviewer answers child's questions, assesses child's post-interview needs, and completes the interview.

There are a number of variations among models. The most significant variations include:

- Interview structure.
- Instructions given to child.
- Type of questions used in the interview.

4.11.2.1 Question type

There is consensus that the majority of the questions used in a forensic interview should be open-ended to maximize the amount of information obtained through the child's free recall memory. Open-ended questions allow a child to describe their remembered experiences in their own words. Open-ended questions require more than one word answers and elicit the use of free narrative by the child. The use of open-ended questions prevents leading by the interviewer.

Sample open-ended questions include:

- "Tell me what you know about coming here today."
- "Tell me about things you like to do."
- "Tell me what happened."
- "Then what happened."

A forensic interviewer may also use recognition and cued recall questions, funneling questions, or option posing questions. The specific questions used by the interviewer will depend on the experience and training of the interviewer.

4.11.3 Forensic interviewer training

Forensic interviewers must complete specialized training in forensic interviewing to conduct forensic interviews. The training is intensive and requires the demonstration of skill proficiency. Many forensic interviewers complete advanced training in forensic interviewing and are trained in multiple models. Forensic interviewers associated with Child Advocacy Centers (CAC) may be required to participate in a peer review process as part of the CAC's accreditation.

VDSS offers scholarships for *Family Services Specialist*s and *Family Services Supervisor*s to attend ChildFirst Virginia Forensic Interview Training.

4.11.4 Forensic interview considerations

Each forensic interview will be a unique experience for both the child and the interviewer. Forensic interviewers must consider the following critical factors:

- **Child's age and development**—A child's age and developmental level affect their memory, comprehension, sense of time, linguistic capability, attention span, and perception of an event.
- **Suggestibility**—A forensic interviewer can have a suggestive impact on a child's memories based on their questions and presentation of information during the interview.
- **Culture**—A forensic interviewer must be attuned to cultural influences on event perception, memory formation, language, linguistic style, interaction with strangers, and values about privacy.
- **Trauma**—A child may display trauma symptoms during the forensic interview. The impact of the trauma may also impact the child's ability to recall the details of the event in a linear and detailed manner.
- **Number of interviews**—A child may need more than one forensic interview to make a full disclosure of the abuse or neglect; however, caution should be used when scheduling more than one forensic interview due to risk of the child making contradictory statements about the alleged abuse or neglect.
- **Timing**—A forensic interview should be scheduled and completed as quickly after the alleged incident of abuse or neglect as the child's physical or mental condition will permit and as soon as a multidisciplinary team response can be coordinated.
- **Bias**—A forensic interview can be influenced by the bias of the interviewer if the interviewer allows their own bias to influence the interview. Forensic interviewers should address a number of hypotheses during the interview rather than try to confirm or negate their preconceived hypothesis.

4.11.5 Setting and location

A forensic interview should be conducted in a neutral, objective, and safe setting. Many forensic interviews are conducted at child advocacy centers. The physical appearance of the interview room should be "child-friendly." The interview room

should be equipped with audio visual equipment and provide the opportunity for members of the multidisciplinary team to observe the interview.

4.11.6 Documentation of forensic interview

Forensic interviews should be documented electronically. Electronic recordings can be audio, visual or both. Electronic recordings promote transparency by providing documentation of the actual exchange between the child and the interviewer and capturing the exact wording used by the child and interviewer. In addition, electronic video recordings capture all forms of the child's and interviewer's communication. Electronic recordings must be maintained in the LDSS case record.

4.11.7 Multidisciplinary teams

Forensic interviews may be an important part of a multidisciplinary approach to the coordinated response to child maltreatment. Members of the multidisciplinary team may be trained forensic interviewers. The use of multidisciplinary teams improves the investigative response and service delivery to children and families and is required by § 63.2-1503 J of the Code of Virginia. See Section 1, Introduction for more information on multidisciplinary teams.

4.12 Appendix B: How to proceed with investigation when initial entry into the home is denied

4.12.1 Authority

The worker has the authority to enter the home if permitted to enter by a person who resides in the home.

4.12.2 Alleviate fear, anxiety, anger

The *Family Services Specialist* should try to alleviate the fear and anxiety of the occupant, and/or defuse any anger. It is not appropriate to engage in a power struggle.

4.12.3 Alternatives to immediate entry

Should the *Family Services Specialist* be denied entry, the *Family Services Specialist* has several options:

- The *Family Services Specialist* may suggest the occupant speak with them on the porch, deck, or in the yard, or even through the door, while at the same time acknowledging the feelings of the occupant (anger, fear, suspicion) in his reluctance to allow entry.
- The *Family Services Specialist* may explain the law and the parameter of their responsibilities and mandates, and ask the occupant how the *Family Services Specialist* may alleviate the skepticism or fear of the occupant so that then or in the future the *Family Services Specialist* may be allowed to enter.
- The *Family Services Specialist* may invite the occupant and any person of his choice (including an attorney) to meet with him first at the local DSS office, to further explain the CPS system.
- The *Family Services Specialist* may suggest a first meeting at a neutral spot, such as a local fast-food restaurant, or other public place.
- The *Family Services Specialist* may suggest a first meeting at a friend or family member's home, or a meeting in the occupant's home when a friend, neighbor, or family member is present.
- The *Family Services Specialist* may suggest mediation with the occupant to negotiate entry.
- The *Family Services Specialist* may contact his supervisor for direction.

- The *Family Services Specialist* may follow up a denial of entry with a letter citing the Virginia Code responsibilities.

4.13 Appendix C: Guidelines for investigations where children are alleged to be present during the sale or manufacture of drugs

The intent of adding a clause to the definition of physical abuse, which was enacted by the General Assembly in 2004, is to give recognition to the danger for children when a caretaker exposes the child to the manufacture or sale of drugs. The additional language references Schedule I & II controlled substances, which include, but are not limited to heroin, cocaine, and methamphetamines. The Code of Virginia §§ 54.1-3446 and 54.1-3448 provides a list of Schedule I and II controlled substances.

There is reason to be concerned about both the safety of the child and the *Family Services Specialist* when there is the possibility that a "meth lab" is on the premises. The vapors may attack mucous membranes and some chemicals may react with water or other chemicals to cause a fire or explosion.

Since these situations may be dangerous, it is imperative that the LDSS collaborate with local law enforcement and emergency services. CPS should not be the first on the scene if there is reason to believe someone may be manufacturing drugs on the premises. The following is a sample protocol developed by a locality in North Carolina that has experienced a large number of "meth lab" situations. It is offered for your consideration in developing your own local protocol.

Response Protocol For Children Found In Clandestine Drug Lab Situations Adopted by the Watauga County (North Carolina) Drug Endangered Child Program on April 2, 2004

1. In the event that a Clandestine Lab is about to be raided and there is a possibility of children in the residence, law-enforcement will contact the Watauga County Department of Social Services (DSS) to begin preparations for responding to the scene if children are found.

2. Watauga County DSS will place two service workers on standby prepared to respond to the scene if a lab is found and children are present.

3. After law enforcement verifies a lab is found in a residence and children are present, they will then contact Watauga County DSS to respond to the scene. Watauga County DSS will respond immediately.

4. Watauga County DSS will contact the Watauga County Fire Marshal's Office to report to the scene to assist in assessing for the need of on-site decontamination of the children.

5. The Watauga County Fire Marshal and Watauga County DSS will determine if decontamination on scene is needed by using The Decontamination Field Assessment.

5A. If decontamination is needed on the scene for the children, the Watauga County Fire Marshal will coordinate the needed procedures based on where the scene is in the county.

6. If decontamination is needed on scene and possibly if not needed Watauga County DSS will provide a change of clothes for the child.

7. Watauga County DSS will make a determination of whether a child needs to be placed into protective custody or if a placement with a safety agreement can be used.

7A. Placement in the home where a lab was found cannot occur under any circumstance until the home is cleaned, tested, and decontaminated using State prepared guidelines.

7B. Due to contamination concerns, the child will not be allowed to have contact with any item that was in the home where a meth lab was found.

8. After decontamination has been assessed or done, the child will be transported to Watauga Medical Center for evaluation. Watauga County Medical Center requires decontamination at the emergency room prior to the child entering the hospital. Transportation will be provided either by Watauga County DSS, relative, or EMS (if there is a medical concern). The transportation concern will be assessed on a case-by-case basis.

8A. If the child is located at the scene and has been in the home within the past 72 hours or is displaying medical concerns, the child does need to be taken to Watauga Medical Center for first or secondary decontamination and evaluation.

8B. If the child has not been in the home where the meth lab was located within the past 72 hours, the child can be taken to their pediatrician for evaluation. This step would be used in cases where the child was not found at the scene but was known to be living there and cases where the child has been out of the home for 72 hours. Also, this step would be used in cases where children were found to be in the home with the lab but were unknown at the time the meth lab was found and 72 hours has passed.

8C. Someone with legal custody must be present at the emergency room or pediatrician office to sign for medical checks to be done. If parents are arrested then DSS may have to take custody to authorize medical evaluations.

9. Watauga County DSS will provide the physician at the Medical Center being used with a copy of the Medical Protocol developed by the Drug Endangered Child Program.

9A. Service workers will need to make sure they get a copy of the Medical Protocol back after evaluations have completed. With each test that has been completed, document on the form. This is done so that service workers can provide information at the follow-up evaluations as to what testing was done for comparison data.

9B. All drug testing evidence will follow the chain of custody between physician/medical office and the drug testing lab they use.

10. After the child is released from the medical center, the following steps will take place:

10A. If DSS is not taking custody and using a Safety Plan, a service worker will need to go to the placement resource and conduct the Kinship Care Assessment before allowing the child to stay there. This will also be done if DSS takes custody and places the child with a relative. Service Workers will explain to the foster placement all of the details as to what the child have been through. Service workers will also explain all the items that will be taking place in the future.

10B. If DSS takes custody of the child and is not using a relative placement, the foster placement will be decided at this time. Service Workers will explain to the foster placement all of the details as to what the child have been through. Service Workers will also explain all the items that will be taking place in the future.

11. Watauga County DSS accepts all cases where children are alleged to be in homes with meth labs as abuse. As soon as possible, Watauga County DSS will submit written notification to the District Attorney (a report of abuse).

12. Other steps that will be taken are:

- All the child's belongings will be replaced to protect from repeated contamination.
- The child will receive counseling services either through Individual Counseling, Family Counseling, or Family Preservation. Determination of which or all of the services to be used will be made on a case-by-case basis.
- The parents involved in meth lab production with their children present will take part in a Meth Lab Hazard Training provided by the Watauga County Fire Marshal. This needs to be done prior to any Substance Abuse Assessment.
- The parents will be required, whether they are incarcerated or not, to take part in a complete Substance Abuse Evaluation and follow all recommendations. If possible, it is preferred that there be a Family Substance Abuse Assessment that

includes the children. Use of the Family Substance Abuse Assessment will be determined based on relationship between child and parent and the age of the child.

- Parents will have to take part in drug screens at DSS request and at the Substance Abuse Treatment provider's request.

- Children age three (3) and under will need to have Developmental Evaluations performed.

- The child will need a follow-up medical evaluation at or around 30 days from the initial evaluation that was completed. At this evaluation, hair samples will be taken if urine screens were negative at the initial medical evaluation.

Members of the response team:

Watauga County Department of Social Services
Watauga County Sheriff's Department
New River Behavioral Health Care Substance Abuse Services
New River Behavioral Health Care Family Preservation
Watauga County Schools
The Watauga County Developmental Evaluation Center
New River Behavioral Health Care PACT Program
Blue Ridge Pediatric Clinic
Northwestern Housing HUD
Watauga County Office of Juvenile Justice
Watauga County Fire Marshal
Mountain Times Newspaper
Watauga County District Attorney's Office
Watauga County Medical Center Emergency Room Staff
Watauga County Medical Center Infectious Disease Control
Watauga County EMS
Watauga County Health Department Early Childhood Intervention
Watauga County Health Department of Environmental Sciences
The Guardian ad Litem Program
Watauga County Foster Parents Representatives
Forensic Toxicologist Dr. Andrew Mason

4.14 Appendix D: Initial Screening Assessment

AOD SCREENING TOOL: CAGE-AID

(CAGE is derived from the four questions of the tool: Cut down, Annoyed, Guilty and Eye-opener. CAGE-AID is the CAGE instrument and is Adapted to Include Drugs)

Ask:

- Have you ever felt you ought to cut down on your drinking or drug use?
- Have people annoyed you by criticizing your drinking or drug use?
- Have you felt bad or guilty about your drinking or drug use?
- Have you ever had a drink or used drugs first thing in the morning to steady your nerves or get rid of a hangover or to get the day started?

A “yes” answer to any of these questions indicates the probable need to refer for a more in-depth evaluation of drug and/or alcohol use.

4.15 Appendix E: Safety and Risk Field Guide

This form can be downloaded and printed (double- sided) at the VDSS internal website:

RISK FACTORS

Caretaker ☐ History of childhood maltreatment ☐ History of mental health issues ☐ History of substance abuse ☐ History of criminal activity (adult or juvenile) ☐ Domestic violence incidents in past year ☐ History of prior CPS ; ongoing or foster care services	**Child** ☐ Developmental or physical disability ☐ Medically fragile or failure to thrive ☐ Substance exposed newborn ☐ Delinquency ☐ Mental health or behavioral problem ☐ Prior injury as result of abuse or neglect
Caretaker and Child ☐ Blames child ☐ Justifies maltreatment	**Other** ☐ Housing is unsafe ☐ Family is homeless

☐ Provides insufficient emotional or psychological support ☐ Uses excessive or inappropriate discipline ☐ Domineering ☐ Provides physical care inconsistent with child needs	

SAFETY FACTORS

☐ **Caretaker caused or threatened serious physical harm** ☐ **Caretaker has previously abused child AND** the severity of the maltreatment or the caretaker response to the previous incident **AND** current circumstances suggest immediate concern ☐ **Caretaker fails to protect child** from serious physical harm or threatened harm by others ☐ **Caretaker's explanation for the injury is questionable** or inconsistent with the type of injury, and the nature of injury suggests child safety may be immediate concern ☐ **The family is refusing access to the child,** there is reason to believe that the family is about to flee, or child's whereabouts cannot be ascertained	☐ **Caretaker fails to meet the child's immediate needs** for food, clothing, shelter and/or medical and/or mental health care ☐ **Child's physical living conditions are hazardous** and immediately threatening ☐ **Caretaker's substance abuse** is currently and seriously affecting ability to supervise, protect or care for child ☐ **Caretaker's behavior towards the child is violent and out of control** ☐ **Caretaker describes or acts towards the child in predominantly negative terms** or has unrealistic expectations and this has a major impact on the child. ☐ **Child sexual abuse is suspected** and circumstances suggest child safety is an immediate concern

☐ **Child is fearful of caretaker**, other family members, or people living in or having access to the home ☐ **Caretaker fails to provide supervision** necessary to protect child from potentially serious harm	☐ **Caretaker's physical, intellectual, or mental health** seriously affects his/ her current ability to supervise, protect , or care for the child

PROTECTIVE CAPACITIES OF CAREGIVERS

Cognitive Protective Capacities	Behavioral Protective Capacities	Emotional Protective Capacities
☐ Plans and articulates a plan to protect child ☐ Aligned with the child ☐ Adequate knowledge to fulfill care giving responsibilities and tasks. ☐ Reality orientated; perceives reality accurately ☐ Has accurate perceptions of the child ☐ Understands their protective role ☐ Self-aware	☐ History of protecting others ☐ Takes action to correct problems or challenges ☐ Demonstrates impulse control ☐ Physically able ☐ Demonstrates adequate skill to fulfill care giving responsibilities ☐ Possesses adequate energy. ☐ Sets aside their needs in favor of a child ☐ Adaptive ☐ Assertive ☐ Uses resources necessary to meet the child's basic needs ☐ Emotionally supports the child	☐ Able to meet own emotional needs ☐ Emotionally able to intervene to protect child ☐ Resilient ☐ Tolerant ☐ Displays concern for the child and the child's experience and is intent on emotionally protecting the child ☐ Strong bond with child and is clear that the number one priority is the well-being of the child ☐ Expresses love, empathy and sensitivity toward the child; experiences empathy with the child's perspective and feelings

4.16 Appendix F: Additional resources for conducting a family assessment

4.16.1 Six Principles of Partnership

Source: Appalachian Family Innovations. (2003). Partners in change: A new perspective on child protective services (curriculum). Morganton, NC: Author.

- **Everyone desires respect**

This principle is based on the idea that all people have worth and recognizes everyone's right to self- determination, to make their own decisions about their lives. Acceptance of this principle leads one to treat clients with respect and to honor their opinions and world view. True partnership is impossible without mutual respect.

- **Everyone needs to be heard**

This principle is based on Covey's "seek first to understand" and is accomplished primarily through empathic listening. While empathic listening looks very much like active or reflective listening, what differentiates it is the listener's motivation. Active and reflective listening are techniques that are often used to manage or manipulate someone's behavior so that the listener can advance his own agenda. Empathic listening is motivated by the listener's desire to truly understand someone's point of view—to enter someone's frame of reference—without a personal agenda. When one feels heard and understood, defensiveness and resistance are unnecessary, and solutions can be sought.

- **Everyone has strengths**

This principle recognizes that all people have many resources, past successes, abilities, talents, dreams, etc. that provide the raw material for solutions a future success. As "helpers" we become involved with people because of their problems; these problems then become a filter that obscures our ability to see strengths. Acceptance of this principle doesn't mean that one ignores or minimizes problems; it means that one works hard to identify strengths as well as problems so that the helper and the client have a more balanced, accurate, and hopeful picture.

- **Judgments can wait**

This principle recognizes that once a judgment is made, one's tendency is to stop gathering new information or to interpret in light of the prior judgment. Therefore, since a helper's judgments can have an immense impact on a client's life, it is only fair to delay judgment as long as possible, then to hold it lightly, while remaining open to new information and willing to change one's mind. Acceptance of this principle does not

mean that decisions regarding safety cannot be made quickly; it simply requires that ultimate judgments be very well considered.

- **Partners share power**

This principle is based on the premise that power differentials create obstacles to partnership. Since society confers power upon the helper, it is the helper's responsibility to create a partnership with a client, especially those who appear hostile, resistant, etc. Clients do not owe us their cooperation: we must earn it.

- **Partnership is a process**

This principle recognizes that each of the six principles is part of a greater whole. While each has merit on its own, all are necessary for partnership. Each principle supports and strengthens the others. In addition, this principle acknowledges that putting the principles into practice consistently is hard. Acceptance of the principles is not enough; it requires intention and attention to practice the principles.

Additional information on the six principles of partnership can be found here.

4.16.2 Rules of engagement

Source: Adapted from Smith, C., White, P. & Comer, D. (2006) Cornerstone III: Self-study guide for family assessment. Appalachian Family Innovations.

- **Families are more than the problem that brought them into the system**
  - Let the family tell you their "story"
  - Search for competence
  - Focus on past success
  - Elicit strengths
  - Look for exceptions
- **Understand the effort and investment that it takes for a family to participate in the helping process**
  - Demonstrate empathy, optimism and humor
  - Provide a nurturing environment
  - Give and encourage positive feed back
  - Take baby steps

- **Have a sincere interest in supporting positive change for the family**
    - Clarify "who, what, when, where, how and why"
    - Look for opportunities for change
    - Demonstrate flexibility

4.17 Appendix G: Sample Letters for Extensions

4.17.1 Extension to 60 days for investigations

DATE

ALLEGED ABUSER
ADDRESS

Dear **ALLEGED ABUSER**:

Although responses to Child Protective Services reports should be completed within 45 days, this timeframe can be extended an additional 15 calendar days when necessary in accordance with **§63.2-1505 B5 (INVESTIGATION)** of the Code of Virginia. We have determined that such an extension is needed in the **INVESTIGATION** being conducted with you and you are hereby notifying you that the new completion date is **__/__/_____**, which is 60 days from the date the report was received.

This is extension is required for the following reason: **INSERT REASON FOR EXTENSION**.

If you have any questions regarding this notification, you may contact me at **(___) ___-____**.

Sincerely,

***FAMILY SERVICES SPECIALIST* NAME**
***FAMILY SERVICES SUPERVISOR* NAME**

4.17.2 Extension to 90 days

DATE

ALLEGED ABUSER
ADDRESS

Dear **ALLEGED ABUSER**:

Although responses to Child Protective Services reports should be completed within 45 days, this timeframe can be extended an additional 45 calendar days when

conducting an investigation in cooperation with a law enforcement agency in accordance with §63.2-1505 B5 of the Code of Virginia. We have determined that such an extension is needed in the investigation being conducted with you. We are hereby notifying you that the new completion date is **__/__/_____**, which is 90 days from the date the report was received.

If you have any questions regarding this notification, you may contact me at **(___)___-____**.

Sincerely,

***FAMILY SERVICES SPECIALIST* NAME**
***FAMILY SERVICES SUPERVISOR* NAME**

4.18 Appendix H: Sample Letters for Investigations

4.18.1 Unfounded, alleged abuser

DATE

ALLEGED ABUSER
ADDRESS

Dear **ALLEGED ABUSER**:

Thank you for your cooperation during the recent investigation. We are writing to inform you of the disposition of the investigation in which you were named as the alleged abuser/neglector. The report was made on **INSERT REFERRAL DATE** in reference to **CHILD(REN) NAMES**. The allegation(s) investigated pertained to **(choose all appropriate) PHYSICAL ABUSE; PHYSICAL NEGLECT; MEDICAL NEGLECT; SEXUAL ABUSE; MENTAL ABUSE/NEGLECT**. As a review of the facts did not show a preponderance of evidence that abuse or neglect occurred, we have determined the report to be unfounded. The person who made the report, if known, has been informed of this finding.

Unfounded investigations are kept for three years from the date of the complaint if there are no subsequent reports of child abuse/neglect regarding the same child(ren) or alleged abuser/neglector pursuant to §63.2-1514 B of the Code of Virginia. You may request in writing to have the records of this investigation maintained for a period of time not to exceed two years pursuant to §63.2-1514 B of the Code of Virginia.

You have the right to petition the court to obtain the identity of the reporter if you believe the report was made in bad faith or maliciously pursuant to §63.2-1514 D of the Code of Virginia. If the court determines the report was made maliciously, you may present court documents to this agency and request all case records regarding this report be purged immediately.

IF THE INVESTIGATION WAS A CHILD FATALITY, ADD:

This investigation involved the death of a child, therefore, the record will be retained for the longer of 12 months or until the State Child Fatality Review Team has completed its review of the case pursuant to § 32.1-283.1 D of the Code of Virginia.

IF THE INVESTIGATION INVOLVED A MILITARY DEPENDENT CHILD, ADD:

Pursuant to §63.2-1503(N) of the Code of Virginia, we are required to notify the Family Advocacy Program representative of the United States Armed Forces if the victim child

is a dependent of an active duty military personnel or a member of their household of this unfounded disposition.

If you have any questions or if this agency can be of further assistance, please contact me at **(___)___-____**.

Sincerely,

***FAMILY SERVICES SPECIALIST* NAME**
***FAMILY SERVICES SUPERVISOR* NAME**

4.18.2 Unfounded, complainant

DATE

COMPLAINANT
ADDRESS

Dear **COMPLAINANT**:

Thank you for contacting child protective services regarding **CHILD(REN) NAME** on **DATE RECEIVED**. We have investigated the situation and determined that a review of the facts did not show a preponderance of evidence that abuse or neglect occurred and; therefore, have determined the report to be unfounded. This does not necessarily mean abuse or neglect did not occur, but that there was not sufficient evidence to warrant a founded disposition. Although a report is determined to be unfounded, we may still provide services to the family.

Records of unfounded investigations are kept for three years from the date of the complaint if there are no subsequent reports of child abuse/neglect regarding the same child(ren) or alleged abuser/neglector pursuant to §63.2-1514 B of the Code of Virginia. The alleged abuser/neglector may request the record be maintained an additional year.

IF THE INVESTIGATION WAS A CHILD FATALITY, ADD:

This investigation involved the death of a child, therefore, the record will be retained for the longer of 12 months or until the State Child Fatality Review Team has completed its review of the case pursuant to § 32.1-283.1 D of the Code of Virginia.

Thank you for your concern in this matter and caring enough about children to call us. If you have any additional concerns about a child, please contact this agency at **(___)___-____** or the Virginia Child Abuse and Neglect Hotline at 1-800-552-7096.

Sincerely,

***FAMILY SERVICES SPECIALIST* NAME**
***FAMILY SERVICES SUPERVISOR* NAME**

4.18.3 Unfounded, non-custodial parent or legal guardian

DATE

NON-CUSTODIAL PARENT, PARENTS, LEGAL GUARDIAN
ADDRESS

Dear **NON-CUSTODIAL PARENT, PARENTS, LEGAL GUARDIAN**:

Thank you for your cooperation during the recent investigation. We are writing to inform you of the disposition of the investigation in which **CHILD(REN) NAMES** were listed as the alleged victim(s). The allegation(s) investigated pertained to **(choose all appropriate) PHYSICAL ABUSE; PHYSICAL NEGLECT; MEDICAL NEGLECT; SEXUAL ABUSE; MENTAL ABUSE/NEGLECT** by **ALLEGED ABUSER NAME(S)**. As a review of the facts did not show a preponderance of evidence that abuse or neglect had occurred, the report was determined to be unfounded.

Records of unfounded investigations are kept for three years from the date of the complaint if there are no subsequent reports of child abuse/neglect regarding the same child(ren) or alleged abuser/neglector pursuant to §63.2-1514 B of the Code of Virginia. The alleged abuser/neglector may request the record be maintained an additional year.

IF THE INVESTIGATION WAS A CHILD FATALITY, ADD:

This investigation involved the death of a child, therefore, the record will be retained for the longer of 12 months or until the State Child Fatality Review Team has completed its review of the case pursuant to § 32.1-283.1 D of the Code of Virginia.

IF THE INVESTIGATION INVOLVED A MILITARY DEPENDENT CHILD, ADD:

Pursuant to §63.2-1503(N) of the Code of Virginia, we are required to notify the Family Advocacy Program representative of the United States Armed Forces if the victim child

is a dependent of an active duty military personnel or a member of their household of this unfounded disposition.

If you have any questions or if this agency can be of further assistance, please contact me at **(___)___-____**.

Sincerely,

***FAMILY SERVICES SPECIALIST* NAME**
***FAMILY SERVICES SUPERVISOR* NAME**

4.18.4 Founded,alleged abuser

DATE

ALLEGED ABUSER
ADDRESS

Dear **ALLEGED ABUSER**:

Thank you for your cooperation during the recent investigation. We are writing to inform you of the disposition of the investigation in which you were named as the alleged abuser/neglector. The report was made on INSERT REFERRAL DATE in reference to **CHILD(REN) NAMES**. After a thorough investigation and review with my supervisor, we have made a disposition of Founded, **(pick one) LEVEL ONE, TWO or THREE** for **(pick all that apply) PHYSICAL ABUSE; PHYSICAL NEGLECT; MEDICAL NEGLECT; SEXUAL ABUSE; OR MENTAL ABUSE/NEGLECT. (IF MORE THAN ONE TYPE OF ABUSE/NEGLECT OR DIFFERENT LEVELS, ADD SENTENCE FOR EACH; CAN ALSO INCLUDE ANY UNFOUNDED DISPOSITIONS IN SAME LETTER)** "Founded" means that a review of the facts shows by a preponderance of the evidence that child abuse and/or neglect has occurred.

(CHOOSE ONE OF THE FOLLOWING)

A level ONE includes those injuries/conditions, real or threatened, that result in or were likely to have resulted in serious harm to a child. **OR** A level TWO includes those injuries/conditions, real or threatened, that result in or were likely to have resulted in moderate harm to a child. **OR** A level THREE includes those injuries/conditions, real or threatened, that result in or were likely to have resulted in minimal harm to a child.

The parents of the victim child(ren) if not you, have been informed of this disposition. The person who made the report has been advised it is complete and necessary actions have been taken.

(CHOOSE ONE OF THE FOLLOWING)

As a result of this disposition, your name and the child's name will be placed in the Virginia Child Abuse and Neglect Central Registry based on the level that was assessed. For founded investigations, level one, names and records are kept for 18 years from the date of the complaint if there are no subsequent reports of child abuse/neglect regarding the same child(ren) or alleged abuser/neglector. **OR** For founded investigations, level two, names and records are kept for 7 years from the date of the complaint if there are no subsequent reports of child abuse/neglect regarding the same child(ren) or alleged abuser/neglector. **OR** For founded investigations, level three, names and records are kept for 3 years from the date of the complaint if there are no subsequent reports of child abuse/neglect regarding the same child(ren) or alleged abuser/neglector.

OR IF THE INVESTIGATION WAS SEXUAL ABUSE, LEVEL ONE

For founded investigations, level one, names and records are kept for 18 years from the date of the complaint if there are no subsequent reports of child abuse/neglect regarding the same child(ren) or alleged abuser/neglector. Because this investigation involved serious sexual abuse of a child the investigation record shall be maintained by this agency for 25 years past the date of the complaint pursuant to §63.2-1514 A of the Code of Virginia; however, this retention time will not be reflected in the Central Registry past the purge date of 18 years.

Pursuant to §63.2-1526 of the Code of Virginia, you have the right to appeal this decision. A request to appeal this decision must be made in writing to the director of this agency within thirty (30) days of receipt of this notification. The enclosed brochure, entitled "Child Protective Services Appeals and Fair Hearings" explains the appeals process in more detail. Upon written request, you also have the right receive all information used in making this determination except the name of the complainant and any information that would endanger the safety of any child. Additionally, if you have been charged criminally for the same conduct involving the same child as in this investigation, the appeal process shall be stayed until completion of all criminal prosecution. Your right to access the records of this investigation is also stayed. Furthermore, if a criminal investigation is filed or commenced against you for the same conduct involving the same child as in this investigation, the appeal process and right to access the investigative record shall be stayed until the investigation is completed or 180 days have lapsed since your request for an appeal, whichever occurs first. A

written request to appeal this decision must still be submitted within thirty (30) days of receipt of this notification even if there are criminal charges or a criminal investigation.

Pursuant to §63.2-1505 of the Code of Virginia, if you are a full-time, part-time, permanent, or temporary employee in a school division located within the Commonwealth, we are required to notify the local school board of this founded disposition. If you hold a license issued by the Virginia Department of Education we are required to notify the Superintendent of Public Instruction at the time of disposition.

IF THE INVESTIGATION INVOLVED A MILITARY DEPENDENT CHILD, ADD:

Pursuant to §63.2-1503(N) of the Code of Virginia, we are required to notify the Family Advocacy Program representative of the United States Armed Forces if the victim child is a dependent of an active duty military personnel or a member of their household of this founded disposition.

If you have any questions, please contact me at **(___)___-____.**

Sincerely,

***FAMILY SERVICES SPECIALIST* NAME**
***FAMILY SERVICES SUPERVISOR* NAME**

4.18.5 Founded, complainant

DATE

COMPLAINANT
ADDRESS

Dear **COMPLAINANT**:

Thank you for contacting child protective services regarding **CHILD(REN) NAME** on **DATE RECEIVED**. Each report we receive is important and a thorough investigation has been completed. Necessary actions have been taken as a result of this report.

Thank you for your concern in this matter and caring enough about children to call us. If you have any additional concerns about a child, please contact this agency at **(___)___-____** or the Virginia Child Abuse and Neglect Hotline at 1-800-552-7096.

Sincerely,

***FAMILY SERVICES SPECIALIST* NAME**
FAMILY SERVICES SUPERVISOR

4.18.6 Founded, non-custodial parent or legal guardian

DATE

NON-CUSTODIAL PARENT, PARENTS, LEGAL GUARDIAN

ADDRESS

Dear **NON-CUSTODIAL PARENT, PARENTS, LEGAL GUARDIAN**:

Thank you for your cooperation during the recent investigation. We are writing to inform you of the disposition of the investigation in which **CHILD(REN) NAMES** were listed as the alleged victim(s). The allegation(s) investigated pertained to (choose all appropriate) **PHYSICAL ABUSE; PHYSICAL NEGLECT; MEDICAL NEGLECT; SEXUAL ABUSE; MENTAL ABUSE/NEGLECT by ALLEGED ABUSER NAME(S)**. After a thorough investigation and review with my supervisor, we have made a disposition of Founded, **(pick one) LEVEL ONE, TWO or THREE** for **(pick all that apply) PHYSICAL ABUSE; PHYSICAL NEGLECT; MEDICAL NEGLECT; SEXUAL ABUSE; OR MENTAL ABUSE/NEGLECT. (IF MORE THAN ONE TYPE OF ABUSE/NEGLECT OR DIFFERENT LEVELS, ADD SENTENCE FOR EACH; CAN ALSO INCLUDE ANY UNFOUNDED DISPOSITIONS IN SAME LETTER)** "Founded" means that a review of the facts shows by a preponderance of the evidence that child abuse and/or neglect has occurred.

(CHOOSE ONE OF THE FOLLOWING)

A level ONE includes those injuries/conditions, real or threatened, that result in or were likely to have resulted in serious harm to a child. **OR** A level TWO includes those injuries/conditions, real or threatened, that result in or were likely to have resulted in moderate harm to a child. **OR** A level THREE includes those injuries/conditions, real or threatened, that result in or were likely to have resulted in minimal harm to a child.

The alleged abuser has been informed of this disposition. The person who made the report has been advised it is complete and necessary action has been taken.

(CHOOSE ONE OF THE FOLLOWING)

As a result of this disposition, the child's name will be placed in the Virginia Child Abuse and Neglect Central Registry based on the level that was assessed. For

founded investigations, level one, names and records are kept for 18 years from the date of the complaint if there are no subsequent reports of child abuse/neglect regarding the same child(ren) or alleged abuser/neglector. **OR** For founded investigations, level two, names and records are kept for 7 years from the date of the complaint if there are no subsequent reports of child abuse/neglect regarding the same child(ren) or alleged abuser/neglector. **OR** For founded investigations, level three, names and records are kept for 3 years from the date of the complaint if there are no subsequent reports of child abuse/neglect regarding the same child(ren) or alleged abuser/neglector.

OR IF THE INVESTIGATION WAS SEXUAL ABUSE, LEVEL ONE

For founded investigations, level one, names and records are kept for 18 years from the date of the complaint if there are no subsequent reports of child abuse/neglect regarding the same child(ren) or alleged abuser/neglector. Because this investigation involved serious sexual abuse of a child the investigation record shall be maintained by this agency for 25 years past the date of the complaint pursuant to §63.2-1514 A of the Code of Virginia; however, this retention time will not be reflected in the Central Registry past the purge date of 18 years.

Pursuant to §63.2-1526 of the Code of Virginia, the alleged abuser has the right to appeal this decision. A request to appeal this decision must be made in writing to the director of this agency within thirty (30) days of receipt of the notification. Upon written request, you also have the right to receive all information about your child(ren) contained in the case record. Additionally, if there are criminal charges for the same conduct involving the same child as in this investigation, the appeal process shall be stayed until completion of all criminal prosecution. Furthermore, if a criminal investigation is filed or commenced against the alleged abuser or neglector for the same conduct involving the same child as in this investigation, the appeal shall be stayed until the investigation is completed or 180 days have lapsed since the request for the appeal, whichever occurs first. Your right to access the record is also stayed during these time periods.

Pursuant to §63.2-1505 of the Code of Virginia, if the alleged abuser is or was at the time of the report a full-time, part-time, permanent, or temporary employee in a school division located within the Commonwealth, we are required to notify the local school board of this founded disposition. If the alleged abuser holds a license issued by the Virginia Department of Education we are required to notify the Superintendent of Public Instruction at the time of disposition.

IF THE INVESTIGATION INVOLVED A MILITARY DEPENDENT CHILD, ADD:

Pursuant to §63.2-1503(N) of the Code of Virginia, we are required to notify the Family Advocacy Program representative of the United States Armed Forces if the victim child

is a dependent of an active duty military personnel or a member of their household of this founded disposition.

If you have any questions or if this agency can be of further assistance, please contact me at (___)___-____.

Sincerely,

FAMILY SERVICES SPECIALIST **NAME**

FAMILY SERVICES SUPERVISOR **NAME**

4.19 Appendix I: Human Trafficking of Children Indicators and Resources

This information is for *Family Services Specialist*s to assist in understanding human trafficking and identifying children who are victims.

Trafficking of children is generally understood to be:

- The recruitment, harboring, transportation, provision, obtaining, patronizing or soliciting of a child for labor or services through the use of force, fraud, or coercion.
- Trafficking victims may be smuggled into and within the U.S., arrive with a legitimate visa or be U.S. citizens.

Possible indicators of trafficking:

- The child:
  - Shows evidence of physical, mental, or sexual abuse;
  - Cannot or will not speak on own behalf and/or is non-English speaking;
  - Is not allowed to speak to you alone;
  - Is being controlled;
  - Does not have access to identity and/or travel documents;
  - Works unusually long hours and is unpaid or paid very little;
  - Will not cooperate (e.g., gives you wrong information about identity and living situation);
  - Is not in school or has significant gaps in schooling;
  - Has a heightened sense of fear and distrust of authority; or
  - Has engaged in prostitution or commercial sex acts.
- Interview Considerations:
  - Building trust is high priority.
  - Reassure the child that:
    - You are there to help and that you care about them.

- Your primary goal is not to have them arrested, incarcerated, or placed into foster care.

- Use an interpreter if the victim does not speak fluent English.
  - Do not use children, adults, neighbors or friends who are present at the scene to interpret.
  - Make sure the interpreter is not allied with the trafficker.
  - Make sure the interpreter understands trafficking.
  - Understand how to work with interpreters and that it can be a slow process that requires word for word interpretation (not summaries).

- It is rare for child victims of human trafficking to identify themselves as being trafficked. More often than not, victims will present to the LDSS or service providers due to another form of abuse, neglect, or abandonment. They are not likely to know what the term "trafficked" means.

- If you suspect a child is a victim of human trafficking, it is important that the child be interviewed privately and that the suspected trafficker(s) not be present, because during the interviewing process, the trafficker(s) may try to intimidate the child or not allow the child to speak for themselves. Question the child from an unbiased and non-judgmental point of view. Doing otherwise could discourage them from being truthful or seeking help from the LDSS, service providers or law enforcement.

- Remember:
  - The child may be frightened of threats or retribution by the trafficker when the authorities get involved. The child may also fear being taken from familiar people or places.
  - The child could be embarrassed and ashamed by the work they were forced to do and the abuse they endured.
  - The child's cultural norms may make talking to you or about these experiences very difficult.

- Know that it may take several interviews to establish trust and a long time to determine if a child has been trafficked. Do not expect to receive the full and honest story during the first interview.

- Be sensitive to cultural and religious differences and seek help to understand them prior to the interview. Avoid technical terminology and be familiar with appropriate "street terms" to help build trust.

- Be aware that the child's parent or caregiver may also be the child's trafficker and that the trafficker may lie and say he/she is the child's parent or caregiver.

- Remember that every trafficking case is different.

4.19.1 Additional questions to consider and other information to gather

The following chart shows some questions to consider asking and additional information that can be gathered when assessing a situation for human trafficking.

QUESTIONS TO CONSIDER	OTHER INFORMATION
Living Environment Asking where the child lives (bathes, eats and sleeps), as well as his or her family situation can reveal a great deal. Ask the child to show you where they sleep, eat, bathe, play, go to school, or work. In addition, the child's ability to leave the home and play, as well as visit friends will also indicate levels of control and possible trafficking.	The child's "home" environment likely will lack personal effects, or the child's "room" will be shabby, small and different from the rest of the house. His/her bed may be crammed in small spaces with other cots or sleeping pallets. No or few toys will be present. The yard may be fenced and access to phones denied. The child may be forced to live in the same place he/she works (such as behind a restaurant, in a motel with other workers, etc.) The child may not know where he/she is living because the traffickers might lie to the child about their whereabouts, move them around or may isolate them so they cannot establish relationships and get help. Traffickers severely restrict the child's movements and ability to contact anyone, play with other children and develop friendships or speak to anyone. Even if allowed to leave the home, the child is likely afraid to escape because of the trafficker's threats and control.

State of Mind Asking about threats to the child or child's family can be important, as is determining if the child has been hit, or otherwise harmed as punishment or as a way to deter the child from running away and complying with the trafficker's demands.	Traffickers may threaten to have the child deported or arrested if he/she tries to leave, call the police or disobey the rules. Traffickers often use violent retribution when a child disobeys. They may harm the child physically or mentally, e.g., by threatening to hurt them or their family members if they try to leave the trafficker. The child may be scared to leave because the trafficker has identification/immigration documents or the child knows he/she is not in the U.S. legally. The child may also have been told by parents to obey the trafficker, to work and to send money home. The trafficker may deny and minimize any information given by the child regarding harm or force. The trafficker may say that they have the child's or parent's consent to work or be in Virginia.
School and Work Asking questions about daily routines can help paint the picture – school, or in the alternative, work will help you to understand if the child is being trafficked. Asking about any money they owe the "boss" or if they get paid can also provide key information. Note: Younger children may not understand issues like "owing a debt" or who is their boss. These areas may only be appropriate for older children.	Child victims of trafficking typically do not attend school. When they do go to school, they may appear underfed, may wear badly worn or dirty clothes, or may appear shy or frightened. They may also have a history of truancy or of acting out, be aggressive, depressed or have disciplinary referrals. Child victims often are forced to work to pay off their "debt" rather than attend school. Any money that the child earns is usually deducted from the debt that the traffickers say they owe. This debt often includes payment for travel expenses, clothing, food, and/or rent. The cost of these items is usually exaggerated by the trafficker. Investigators should note how many hours per day or week the child works, how or if they are compensated, and if they receive their earnings directly or via their employer or someone else. The trafficker may deny that the child is being forced to work, commit commercial sex acts or may claim that the child's wages are being sent home to help his/her family.

Other considerations Where the child's family lives, their birthplace, how they arrived in the U.S. and/or Virginia are ways to find out if the child has been tricked, sold or is being trafficked. Asking about immigration status can be threatening and is not recommended to do at the beginning. A child may not know details about passports and other identification papers either.	Children are often transported across international and/or state borders as well as within a state. The child may be abducted but often is recruited with the promise of getting a job, going to school, reuniting with family or having basic needs met (such as shelter). Children come with the hope they can work to help their impoverished families. Parents may sell their children or unwillingly give them over to the care of a trafficker who promises to give the children an education, raise them and give them work. Once in the hands of the trafficker, children may be often forced or coerced into working or forced to work off a travel "debt". Immigration and identification documents may be held by the child's trafficker or employer to deter escape. Traffickers can be relatives, friends, or other individuals. They may also be from the same ethnic background. There is always a risk that any adult present may be the trafficker or allied with them. The trafficker may pose as a relative or may actually be related to the child. During the interview process, they may try to intimidate the child or speak for the child. If trafficking is suspected the child should be interviewed without the suspected trafficker.

What to do if you suspect or discover that a child is trafficked:

- **Call 911** if there is **immediate danger** or a medical emergency.
- If you suspect human trafficking, **contact local law enforcement**. You may call the U.S. Department of Justice at 1-888-428-7581

Additional resources include:

- Virginia Child Protection Newsletter: Spring 2015 Volume 102.
- VDSS public website.
- The Polaris Project.

- The National Human Trafficking Resource Center, 1-888-373-7888.
- The VDSS Office of Newcomer Services.
- The Virginia Department of Criminal Justice Services.
- Human Trafficking Screening Tool (HTST).
- Human Trafficking and Child Welfare: A Guide for Child Welfare Agencies, Child Welfare Information Gateway.
- Human Trafficking and Child Welfare: A Guide for Caseworkers, Child Welfare Information Gateway.
- What You Need to Know about Sex Trafficking and Sexual Exploitation—A Training Tool for Child Protective Services, Arizona State University School of Social Work Office of Sex Trafficking Intervention Research.
- Building Child Welfare Response to Child Trafficking, Center for the Human Rights for Children, Loyola University Chicago and International Organization for Adolescents.
- Human Trafficking Response in Florida, Statewide Council on Human Trafficking.
- Child Sex-Trafficking Virginia State Resource Guide, Children's Hospital of Richmond at VCU.

4.20 Appendix J: Reducing the Trauma of Removals

The following best practice is taken from: Product of "Reducing the Trauma of Investigation, Removal and Initial Out-of-Home Placement Project" (2008-09) conducted by Portland State University, Center for Improvement of Child and Family Services, funded through the Children's Justice Act Task Force at the Oregon Department of Human Services. It has been slightly modified for use in Virginia.

Considering that children who enter the child welfare system may have already experienced trauma, it is especially important that they not be further traumatized by the system that seeks to help them and that they receive services as soon as possible to facilitate their recovery from the trauma they have experienced. The potential for children to be traumatized during the process of an investigation, removal and out-of-home placement is high, as these processes often involve conflictual interactions between professionals and family members and can evoke fear, resistance and hostility.

4.20.1 What is the potential trauma to children during an investigation and removal?

- **Surprise, shock, chaos**
  - Depends on how people are reacting. Parents may escalate.
  - Especially traumatic when it happens suddenly, unexpectedly. Children see their parents in great distress and that distresses them.
  - Presence and intrusion of strangers in the home- police, *Family Services Specialist*.
- **Negative view of police and CPS**
  - Depends on what the child has been told. They may have been told by parents that police and CPS are bad, so fear them.
  - Children may have heard horror stories about foster care.
  - May have prior experience with CPS.
- **Loss of control, sense of being kidnapped, powerlessness, helplessness**
  - Being taken against their will and to the great distress of their parents.
  - Distress at seeing their parents interrogated and arrested.
- **Betrayal, loss of trust, reinforcement or exacerbation of previous loss of trust- a sense that the world is unsafe**

- Children coming out of a dangerous situation may expect that they are going into another dangerous situation.
- There may be no one trustworthy (in the child's eyes) around to talk to.
- Feeling betrayed by the person they "told".

- **Confusion, unpredictability, it doesn't make sense**
  - Children may not understand why they are being removed. They may think, "all we were doing was carving pumpkins and they came and took us away."
  - Example: A family in which the children were removed for neglect because of substandard/unsafe housing. But mom was feeding and bathing kids regularly and they were very emotionally bonded. The children's experience was that their mom was a good mom who took care of them the best she could.
- **Fear of the unknown, lack of information**
  - They don't know what's going to happen now.
  - They don't know how to negotiate the unknown.
  - They don't know who these people are or where they are going. We tell kids not to talk to or trust strangers and these are strangers.
- **Sense of guilt or failure**
  - May have been warned by parents about what will happen if they "tell."
  - Seeing their family torn apart and may be asked by parent "you didn't say that, did you?"
  - Child may have taken on a degree of responsibility of taking care of their parents, or their siblings, and feel they have failed.
  - Fear and guilt that what is happening is their fault.
- **Repeated interviewing; being asked about negative self-traits**
  - When a child discloses at school, they may talk to teachers, and principals, then police, then CPS and have to tell their story over and over.
  - When older children are asked questions about negative behaviors (e.g., fire starting, hurting animals) they think "Is this the kind of person they see me as?"

4.20.2 What is the potential trauma to children during initial out-of-home placement?

- **Abrupt and overwhelming change; loss of all things familiar**
  - Places, pets, friends, possessions, routines, etc.
    - Children often arrive at foster homes with only the clothes on their backs.
    - They are immersed into a different family system, with different rules, roles, routines, dynamics, smells, tastes, etc.
    - They miss and worry about their pets.
    - They're homesick and have tummy aches.
  - Changing schools or missing school
    - If they change schools they may never again see friends they had at their previous school.
    - They lose the sports and extra-curricular activities they may have participated in at their previous school.
    - School may have been the one place they felt safe.
  - Loss of culture; different language
    - They may be placed with a family that is racially or ethnically different.
    - Occasionally they do not speak the language of the foster family, or the *Family Services Specialist* and are thus effectively isolated.

In the process of initial placement, children are removed from familiar surroundings and lose everything they are used to and comfortable with. Change of this magnitude has a detrimental effect on brain and neurological function. Their systems are flooded with cortisol, a hormone, that, when elevated for a brief time, facilitates the fight or flight response by reducing pain and inflammation. However, if elevated for an extended time, it destroys neurons and neurological connections and has other negative physiological effects. This is one reason why children, especially very young children, may regress in their development and behaviors (e.g. toilet training, talking, etc.) when initially placed.

- **Attachment disruption; loss of caregiver**

- Separation, grief loss
  - Separation from caregiver
  - Separation from siblings
- Multiple moves in the first few days or couple of weeks – trauma is repeated and intensified with each move.

Separation from family, especially caregivers, and the resulting attachment disruption, intensifies the detrimental physiological effects of abrupt and overwhelming change described above. This is particularly devastating for infants, toddlers and preschoolers. Some children already have insecure attachment. They may be very clingy, with the *Family Services Specialist*, then the foster parent when they first come into the placement. Changes in placement are particularly devastating.

- **Older children worry about parents and siblings**
  - In a DV situation a child may be worried about the abused parent.
  - Distress at seeing their parents interrogated and arrested – are they alright?
  - Siblings are often separated and placed in different homes.
  - They may not have visits for 3-4 weeks after placement.
- **Confused and conflicted – a loyalty bind. Is this their new family?**

4.20.3 Trauma informed practice strategies for caseworkers

As much as possible, the following is suggested:

- **Plan investigations and possible removals ahead as much as possible; reduce the element of surprise**
  - Slow down, plan out investigations and removals.
  - Let the family know an assessment is going on, that removal is a possibility.
  - Hold an FPM.
  - Work with the parents to identify support individuals for their children during the assessment and/or for placement resources – relatives, friends, etc. Ask the parent and the child - Who does this child know and trust?
  - Collaborate with other agencies, especially law enforcement. When working with law enforcement, speak with the officer in advance to plan out

the investigation or removal. Establish roles that promote collaboration, prevent duplication, and reduce trauma to the family. If a removal is needed, talk with law enforcement about ways to enter the home and take custody of the child that will reduce the trauma for the child and family.

- If possible, identify a placement before removal.
- If the child needs to wait at the agency office while a placement is found, try to find a comfortable place for them to wait, away from your phone conversations with prospective placements (to avoid hearing rejections), and perhaps with something to do to entertain themselves.
- Ask the child if they are hungry or thirsty.
- Follow current placement policy and procedures – e.g. in order of preference: placement with relative, someone the child knows and trusts, same culture, same language, same school, etc. If diligently followed these can reduce the impact and trauma of removal for many children.

- **Try to keep things calm during the investigation, assessment and removal. Engage the parents in helping the child**
  - Remain calm. Move slowly.
  - Talk down the parents. Calm the parents to calm the child.
  - Separate children from the chaos of arrest, interrogation, or resistance on the part of the parents.
  - Let the parent put child into the car seat, say good-bye, assist in the process of removal.
- **Provide sensory comfort, familiarity, help with settling in**
  - Ask the parent, or the child, to gather together some familiar things before taking them away.
  - If picking a child up from school to remove, create a chance for the child to go home and pick up some things from home. Perhaps a relative or friend could meet them there or go with them to help pack some belongings.
  - Ask children if they are hungry or thirsty. Provide comfort food. Ask them what they would like. Ask the parent and the child about medical conditions, allergies, medications.
  - Especially for babies and very young children, ask the parent for information about feeding, schedules and routines. Take time to help the child transition into the foster home. The child may have connected to you during the removal. They

have already had one abrupt separation. It may be reassuring to the child to know that the worker knows the people and place where they will be staying. Be a constant in the child's life until visits with parents can start.

- Ask the foster parents to meet with the biological parents to exchange information about the child and the child's living situation.

- **Empathize, connect, and try to understand the child's perspective.**
  - Be open to listening if they want to talk.
  - Acknowledge their feelings and the difficulty of what they are going through.
  - Acknowledge their love for their parents and their parents love for them.
- **Provide information**
  - To the child:
    - Explain what is happening. Tell them where they are going.
    - Assure them that this is not their fault.
    - Assure them that they are safe and will be cared for.
    - Assure them that their siblings, if separated, are safe and will be cared for.
    - Don't make promises you can't keep.
  - To the foster parent:
    - About the child – medical conditions, allergies, medications, known behavioral and emotional issues, important people, anything that will help them to understand the child and to help them feel safe and comfortable.
- **Support child's relationships and family connections**
  - Place siblings together, even if only in a temporary setting until a placement can be found where they can be together.
  - Visitation/parenting time is extremely important. In addition to their own trauma of being separated, children may worry about the safety and well-being of those family members from whom they are separated. Seeing that they are OK can ease that worry.

- If siblings are placed separately, arrange for sibling visits ASAP, or ask foster parents to allow and arrange for sibling contact.
- Set up visitation/parenting time between child and parents as soon as possible.
- For cross cultural placements, do a cultural assessment. NOTE: There are numerous unofficial cultural assessment forms available. Something more standardized (evidence based) is suggested.
- Notify the child's school so they can be supportive, if the child remains in the school, or to provide classmates the opportunity for closure or continued connection if the child is to attend a different school.
- Allow the child to resume attending school as soon as possible. School may have been the one place where they felt safe.

- **Provide services aimed at healing and well-being as soon as possible, including trauma informed services**
  - For the child:
    - Make sure the child has someone to talk to about what's happening that they feel comfortable with.
    - Mental health assessment.
    - Counseling or other trauma informed therapy.
    - Provide training, information and support to the foster parents to help them care for the child and to address the child's particular needs.
- **Ongoing training for workers**
  - Workers may be uncomfortable with removals where a child is distressed and crying. They need more training about what they might experience during this process and how to help a child through it.

4.20.4 Additional Trauma Informed Practice Strategies (T.I.P.S.)

Additional resources and links to resources used in this Appendix can be found at the Portland State University School of Social Work website.

DSS offers training on trauma specifically for child welfare staff, CWS4015: Trauma-Informed Child Welfare Practice- Identification and Intervention. CWSE4015 is a pre-requisite e-learning for the two day classroom and is available in the VLC.

4.21 Appendix K: Dispositional Assessments (sample template)

The following information is provided as an optional template for information that should be included in the dispositional assessment for a founded disposition.

4.21.1 State the date of supervisory staffing and names of participants.

Example: On January 1, 2016, this investigation was staffed for disposition and approved by *Family Services Supervisor* Walter.

4.21.2 State the disposition regarding by whom to whom.

Example: The disposition of this investigation is founded for Physical Neglect (Inadequate Supervision) of Johnny Doe by his mother, Jane Doe.

4.21.3 Cite the specific regulatory definition for the type of abuse or neglect.

Example: Physical Neglect is defined in regulation: (22 VAC 40-705-30 B). Physical neglect occurs when there is the failure to provide food, clothing, shelter, or supervision for a child to the extent that the child's health or safety is endangered. This also includes abandonment and situations where the parent or caretaker's own incapacitating behavior or absence prevents or severely limits the performing of child caring tasks pursuant to § 63.2 –100 of the Code of Virginia. This also includes a child under the age of 18 whose parent or other person responsible for his care knowingly leaves the child alone in the same dwelling as a person, not related by blood or marriage, who has been convicted of an offense against a minor for which registration is required as a violent sexual offender pursuant to § 9.1-902. Additionally: (22 VAC 40-705-30 B1). Physical neglect may include multiple occurrences or a one-time critical or severe event that results in a threat to health or safety.

4.21.4 Summarize the evidence/facts that support the founded disposition.

It is NOT necessary to restate the entire investigation. Use a list or paragraph format. Be sure to include first source evidence.

Example: The following evidence does show by a preponderance of the evidence that this is founded:

On December 10, 2015, two year old Johnny Doe was found by “LOCAL” law enforcement without any supervision in the car registered to Jane Doe in the parking lot of the “LOCAL” mall located at corner of Main and 8th Street.

According to the police report and statement of LOCAL law enforcement, the mother, Jane Doe, did not arrive at the scene until 20 minutes after the police arrived and she

stated that she had just run into the store to return an item. See full police report located in hard file.

The child, Johnny Doe, was examined by EMS and no further medical attention was required.

The mother, Jane Doe stated to *Family Services Specialist* that she had left her child in the car because he was asleep. She stated she had locked the doors and left the windows cracked open. She stated she did not think she was going to be gone for very long.

4.21.5 State the level for the founded disposition and cite the regulation.

Example: This was determined to be a level 2 finding for physical neglect (inadequate supervision). A level 2 is defined in regulation: (22 VAC 40-705-110). Level 2. This level includes those injuries/conditions, real or threatened, that result in or were likely to have resulted in moderate harm to a child.

4.21.6 Summarize the rationale for the assessed level.

Example: CPS guidance suggests that for neglect situations, a level 2 is indicated when "the child's minimal needs are sporadically met for food, clothing, shelter, supervision or medical care; or there is a pattern or one-time incident related to lack of supervision that caused or could have caused moderate harm". The rationale for assessing as level 2 includes that this was a one-time incident where a two year old child was without any supervision or care and while the child was not actually harmed, the potential for harm existed. This two year old child was unable to protect himself or make any decisions regarding his safety and well-being.

4.21.7 Other considerations.

When applicable add additional definitions and how the evidence supports the definition.

- Documentation- (required for certain findings such as emotional abuse)

Example: CPS guidance (Section 2.6.3 of the VDSS Child and Family Services Manual, Chapter C. July 2017) "when making a founded disposition of mental abuse or mental neglect, the *Family Services Specialist* must obtain documentation supporting a nexus between the actions or inactions of the caretaker and the mental dysfunction demonstrated by the child or the threat of mental dysfunction." Ms. Eckstein, LCSW, stated in a letter to DSS dated 1-10-2017 that the victim child is exhibiting significant signs of post-traumatic stress syndrome due to the chronic exposure to domestic violence between the parents. See hard copy file for complete letter.

- Credibility- (suggested when the credibility of the child victim could be questioned)

Example: The victim child's statements about the incidences of sexual abuse were determined to be credible and believable due to the advanced level of details provided. Additionally, the child included in her disclosure that the alleged abuser told her this would be their "own private secret game" and that she should not tell anyone else about it.

- Caretaker- (particularly important to clarify if the role of caretaker is not obvious)

Example: Mr. Jones was determined to be a caretaker in this incident because not only did he reside in the family home; he was left in charge of the children on numerous occasions when the parents went to work.

- Jurisdiction- (important if there is any question as to where the abuse or neglect occurred, more important for criminal proceedings)

- Threat of Harm- If there is no actual injury, it is helpful to explain what a threat of harm constitutes. Remember, case law supports that an actual injury does not need to occur.

Example: The fight between the victim child and the involved caretaker included a time when the caretaker pointed a loaded gun at the victim child and said "everyone would be better off if they were just dead" however, it did not result in a physical injury. If the caretaker had followed through with pulling the trigger, the child could have died. This is considered threat of harm as defined in CPS guidance (Section 2.2 of the VDSS Child and Family Services Manual, Chapter C. July 2017) which states "The *Family Services Specialist* must consider the circumstances surrounding the alleged act or omission by the caretaker influencing whether the child sustained an injury or whether there was a threat of an injury or of harm to the child. The evidence may establish circumstances that may create a threat of harm."

- Out of Family- Employees of Public Schools.

In addition to the required elements of a founded disposition, in all investigations involving public school employees, the local agency must document the evidence that supports that the employee acted with gross negligence or willful misconduct. These two elements are crucial when making a finding on any investigation that involves a school employee in the course of their employment. Local agencies must have detailed documentation that correlates the actions of the employee with injury or knowledge that the action will result in an injury.

Example: Ms. Smith, victim child's teacher, acted with gross negligence when she failed to provide proper supervision by allowing the five year old victim child to leave the rest of the class to go to the restroom alone, while on a field trip to the zoo. The victim child was found approximately thirty minutes later by security wandering around the zoo crying.