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September 30, 2016

ALL COUNTY LETTER NO.: 16-85

REASON FOR THIS TRANSMITTAL

- ☐ State Law Change
- ☒ Federal Law or Regulation Change
- ☐ Court Order
- ☐ Clarification Requested by One or More Counties
- ☐ Initiated by CDSS

TO: ALL COUNTY CHILD WELFARE DIRECTORS
ALL COUNTY PROBATION OFFICERS
ALL COUNTY BOARDS OF SUPERVISORS
ALL CHIEF PROBATION OFFICERS
ALL TITLE IV-E AGREEMENT TRIBES

SUBJECT: STATEWIDE POLICIES AND PROCEDURES TO PREVENT
CHILD SEX TRAFFICKING

REFERENCES: 22 UNITED STATES CODE (USC) SECTIONS 7102; 42 USC SECTIONS 671(a), 675, AND 679 (TITLE IV-E OF THE SOCIAL SECURITY ACT SECTIONS 471(a), 475, AND 479), 5780, 5106a; PREVENTING SEX TRAFFICKING AND STRENGTHENING FAMILIES ACT, PUBLIC LAW (P.L.) 113-183; JUSTICE FOR VICTIMS OF TRAFFICKING ACT OF 2015, P.L. 114-22; WELFARE AND INSTITUTIONS CODE (WIC) SECTIONS 300, 16501, 16501.1, 16501.35, 16501.45, 16524.6 – 16524.11.; PENAL CODE (PC) SECTIONS 236.1, 11165.1(d), 11166(j); MANUAL OF POLICIES & PROCEDURES (MPP) Sections 31-100 TO 31-400; SENATE BILL (SB) 794 (CHAPTER 425, STATUTES OF 2015); SB 855, (CHAPTER 29, STATUTES OF 2014); ALL COUNTY LETTER (ACL) 14-36 DATED MAY 20, 2014; ACL 15-48 DATED MAY 29, 2015; ACL 16-08 DATED JANUARY 25, 2016; ACL 16-15 DATED APRIL 28, 2016; ACL 16-49 DATED MAY 23, 2016; ACL 16-74 DATED SEPTEMBER 21, 2016; COUNTY FISCAL LETTER 15/16-41 DATED JANUARY 25, 2016

The purpose of this All County Letter (ACL) is to provide all county child welfare agencies and probation departments (hereafter referred to as “Counties”) with policies and procedures to comply with the preventing child sex trafficking provisions enacted by

the Preventing Sex Trafficking and Strengthening Families Act, Public Law (P.L.) 113-183, and incorporated into state law with the passage of Senate Bill (SB) 794, as well as recent changes made by P.L. 114-22 to the federal Child Abuse Prevention and Treatment Act (CAPTA). This comprehensive policy and procedure contains the minimum requirements that **all** Counties must implement.

Counties are required to implement the policies and procedures set forth in this letter no later than September 29, 2016 pursuant to Welfare and Institutions Code (WIC) section 16501.35. In addition to the minimum policies and procedures that must be implemented by all Counties statewide, Counties are also encouraged to continue adopting and tailoring their own local policies, procedures, and protocols to incorporate promising practices and best serve the needs of children and youth who are at risk or victims of commercial sexual exploitation (CSE).

Background

In June 2014, California passed SB 855, creating the Commercially Sexually Exploited Children (CSEC) Program codified at WIC section 16524.6 – 16524.11. This county child welfare opt-in program provides funding to participating counties for the purpose of providing training, prevention activities, and intervention services, utilizing a multidisciplinary approach, to children and youth who are commercially sexually exploited or at risk of becoming commercially sexually exploited. To participate, child welfare agencies were required to develop an Interagency Protocol as delineated at WIC section 16524.8. In May 2015, the California Department of Social Services (CDSS) issued ACL No. 15-48, which provided a model Interagency Protocol Template, titled the “Memorandum of Understanding (MOU) Template for the CSEC Program,” created by the Child Welfare Council’s CSEC Action Team for child welfare agencies to utilize when drafting their protocol.

On September 29, 2014, the President signed into law the P.L. 113-183, which included amendments to Title IV-E of the Social Security Act that addressed child/youth sex trafficking. The requirements of this Act were incorporated into state law with the passage of SB 794 in 2015, which added WIC section 16501.35, requiring counties to implement policies and procedures related to commercially sexually exploited children/youth and runaway/missing children/youth. The CDSS provided initial instructions to Counties regarding the preventing child sex trafficking requirements in ACL No. 16-08. An updated MOU Template will be released in a future All County Information Notice (ACIN) to assist counties with incorporating all of the federal preventing sex trafficking requirements into their existing county Interagency Protocols. The County Fiscal Letter (CFL) No. 15/16-41 provided county allocations, two claiming codes (Program Codes 928 and 929), and claiming instructions for activities directly related to the implementation of the federal preventing sex trafficking provisions. A forthcoming CFL will provide the fiscal year (FY) 2016-17 allocation to

fund these required activities. Additionally, CDSS released ACL No. 16-15, which discusses the runaway/missing children/youth requirements of this Act. A forthcoming ACIN will provide additional information and best practices to locate and respond to children/youth who run away or go missing from foster care.

Finally, on May 29, 2015, the President signed into law the Justice for Victims of Trafficking Act of 2015, P.L. 144-22, which included new CAPTA requirements to address child sex trafficking. These include the identification and assessment of all reports of known or suspected child sex trafficking victims, as well as the training of child welfare services workers about identifying, assessing, and providing comprehensive services to children who are victims of sex trafficking, including efforts to coordinate with relevant agencies.

The CDSS convened a stakeholder workgroup with the CSEC Action Team on March 16, 2016 and consulted with the County Welfare Directors Association of California, Chief Probation Officers of California, former foster youth, child advocacy organizations, California Department of Education, State Department of Health Care Services, state and local law enforcement, agencies with experience serving children and youth at risk of CSE, and the California Child Welfare Council's CSEC Action Team in the development of the policies and procedures. This letter builds upon ACL No. 16-08 and the workgroup's input and feedback to provide the minimum policies and procedures that must be implemented by Counties in order to meet the new federal Title IV-E and CAPTA requirements regarding child and youth victims, and those at risk, of sex trafficking.

Policies and Procedures to Prevent Child Sex Trafficking

In accordance with the federal requirements under Title IV-E, and pursuant to WIC section 16501.35(a), county Social Workers (SW) and Probation Officers (PO) are required to do all of the following:

- (1) Identify children receiving child welfare services, including dependents or wards in foster care, nonminor dependents (NMD), and youth receiving services pursuant to section 677 of Title 42 of the United States Code (USC), who are, or are at risk of becoming, victims of CSE;
- (2) Document individuals identified pursuant to paragraph (1) in the Child Welfare Services/Case Management System (CWS/CMS) and any other agency record as determined by the county;
- (3) Determine appropriate services for the child or youth identified in paragraph (1); and

- (4) Receive relevant training in the identification, documentation, and determination of appropriate services for any child or youth identified in paragraph (1).

County SWs and POs must also fulfill requirements related to runaway and missing youth. Please see [ACL No. 16-15](#) for these requirements.

I. Identification of Children Who are Victims or At Risk of CSE

Policy

Social workers and probation officers must identify children receiving child welfare services who are, or are at risk of becoming, victims of commercial sexual exploitation (WIC section 16501.35(a)(1)).

Children Receiving Child Welfare Services Definition:

Federal and state law requires county SWs and POs to perform these activities on behalf of “children receiving child welfare services” who are identified as victims, or at risk of CSE. **Children receiving child welfare services¹** include children and youth who:

- A. Are in foster care and under age 18 (or up to age 21 if they are receiving Title IV-E foster care assistance);
- B. Have not been removed from the home but for whom the agency has an open case file (including candidates for foster care²);

¹ [Welfare & Institutions Code § 16501](#) (“Child Welfare Services” is defined as “public social services that are directed toward the accomplishment of any or all of the following purposes: protecting and promoting the welfare of all children, including disabled, homeless, dependent, or neglected children; preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children; preventing the unnecessary separation of children from their families by identifying family problems, assisting families in resolving their problems, and preventing breakup of the family where the prevention of child removal is desirable and possible; restoring to their families children who have been removed, by the provision of services to the child and the families; identifying children to be placed in suitable adoptive homes, in cases where restoration to the biological family is not possible or appropriate; and ensuring adequate care of children away from their homes, in cases where the child cannot be returned home or cannot be placed for adoption.... “Child welfare services” also means services provided on behalf of children alleged to be the victims of child abuse, neglect, or exploitation. The child welfare services provided on behalf of each child represent a continuum of services, including emergency response services, family preservation services, family maintenance services, family reunification services, and permanent placement services, including supportive transition services. The individual child’s case plan is the guiding principle in the provision of these services...”).

² Please see [ACL No. 14-36](#) for detailed information on candidates for foster care.

- C. Have run away from foster care, provided they have not reached the age at which the state ends Title IV-E assistance (21) (or have not been formally discharged from care); or
- D. Are youth (up to age 21) who are receiving services under the Chafee Foster Care Independence Program (including closed cases).

Child Sex Trafficking / CSE Definition:

Federal law provides the definition of child sex trafficking at 22 USC section 7102 (9) and (10). The term “**sex trafficking**” is defined as “the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a person for the purpose of a commercial sex act.” “**Severe forms of trafficking in persons**” is defined as “sex trafficking in which the 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.” **This means that any child under age 18 who is induced to perform a commercial sex act is considered a sex trafficking victim regardless of whether force, fraud, or coercion is present.**

State law incorporates this federal definition in Penal Code (PC) section 236.1, and also includes the sex trafficking of a child within the definition of “CSE” set forth in PC section 11165.1(d). A commercial sex act is defined by federal law at 22 USC section 7102 (4) as “any sex act on account of which anything of value is given to or received by any person.” State law at PC section 11165.1(d)(2) clarifies that this includes the provision of food, shelter, or payment to a child in exchange for the performance of a sexual act.

At Risk Definition:

Based on collaboration with stakeholders providing research on the risk factors presented by children who become victims of sex trafficking, CDSS has developed the following definition of “**At Risk**”³. A child/youth shall be considered “at risk” of CSE if he/she/they:

- A. Has a minimum of **one** of the following indicators:
 - i. Child/youth exhibits behaviors or otherwise indicates that she/he is being controlled or groomed by another person;

³ The “At Risk” definition has been updated and clarified in ACL No. 16-49, and it supersedes the definition in ACL No. 15-49.

- ii. Child/youth spends time with people known to be involved in commercial sex;
- iii. Child/youth's use of internet, cell phone, or social media involves social or sexual behavior that is atypical or his/her age;

B. **OR** has a minimum of **two** of the following indicators:

- i. Child/youth has a history of running away, unstable housing, including multiple foster care placements, or periods of homelessness including couch surfing;
- ii. Child/youth has had prior involvement with law enforcement or the juvenile justice system;
- iii. Child/youth is frequently truant;
- iv. Child/youth's relationships are concerning, placing him/her at risk or in danger of exploitation;
- v. Child/youth has a history of substance abuse, specifically narcotics, opiates, crack/cocaine and amphetamines.

Procedures

County child welfare agencies or probation departments may become aware that a child/youth who is receiving child welfare services is a suspected victim or at risk of CSE through various means. For example, the child welfare agency may receive a referral or report through the child abuse hotline regarding an alleged victim; a child/youth may be arrested for an alleged act of prostitution, solicitation, or loitering; or the county SW or PO may receive information from other sources, such as a caregiver, family member, school, or service provider that the child may be a victim; or the child/youth may disclose that they have been a victim or exhibit behaviors indicating risk of exploitation. In any of these circumstances, to identify whether the child/youth is a victim or at risk of CSE, a

- A. SW shall conduct an investigation and/or assessment, as appropriate
- B. PO shall complete an assessment, as appropriate.

Intake & Investigation

Upon receipt of a report indicating a child or youth has been commercially sexually exploited,

- A. The county probation department shall report this information to the child welfare agency.
- B. The county child welfare agency shall first use the Special Project Code (SPC), "S-CSEC Referral", to track the referral, regardless of disposition. Please see ACL No. 16-74 for additional information regarding this new SPC and instructions for duplicate or associated referrals.

After tagging the referral with the SPC, the SW shall:

- A. Complete an Emergency Response Protocol (Manual of Policies and Procedures [MPP] section 31-105) to determine whether an in-person investigation is required, and/or
- B. Conduct an in-person investigation immediately or within ten calendar days, as appropriate, from the date the referral was received. (MPP section 31-110 through 31-120)

If it is determined that an investigation is necessary, the child welfare agency is responsible for conducting the investigation related to the allegations of abuse or neglect. The assigned SW shall complete an investigation to assess the situation and determine whether the child is within the description of WIC section 300 and in need of services. (MPP section 31-125.1) During the investigation, the SW shall have in-person contact with:

- A. The child who is alleged to be exploited and
- B. At least one adult who has information regarding the allegations. (MPP section 31-125.2)

The SWs investigating an allegation that a child has been commercially sexually exploited should be cognizant of the unique challenges when contacting a child who is alleged to be exploited. These challenges may include the perpetrator's coercion and control of the child, the child's inability to recognize their exploitation, their distrust of the investigator, their desire to protect the perpetrator, and their fear of retribution. Additionally, adults with information regarding the allegation may not fully understand the child's victimization, but may misperceive the child as a "willing" participant in criminal activity. To address these challenges, the SW should be mindful of the complex trauma that each individual youth may have experienced both prior to and during their victimization. Understanding the complex dynamics will aide SWs in their investigation. The document, Improving California's Multi-System Response to Commercially Sexually Exploited Children: Resources for Counties, developed by the Child Welfare

Council CSEC Action Team provides more detailed information regarding the appropriate engagement of CSEC/youth and children/youth at risk of CSE.

If as a result of investigation the SW does not find the referral to be unfounded, the SW shall conduct an in-person investigation with (MPP section 31-125.22):

- A. All children present at the time of the initial in-person investigation,
- B. All parents who have access to the children alleged to be at risk, and
- C. Make necessary collateral contacts with persons having knowledge of the condition of the child. Collateral contacts should include other agencies or providers serving the child, such as law enforcement, juvenile justice, and runaway and homeless youth shelters. In many child abuse cases, the collateral contact includes the perpetrator who is often the parent; for CSEC cases, if the perpetrator is an individual other than the parent, there is no expectation for the SW to put himself/herself at risk by contacting the perpetrator.

The referral shall be investigated and evaluated based on the whole of WIC section 300. If the child is a victim of CSE and his/her parents or guardians failed or were unable to protect the child, the child welfare agency may file a petition for the juvenile court to adjudge the child as a dependent per WIC section 300(b)(2). If the child is found to be at risk or a victim of CSE, and is receiving or will receive child welfare services, the SW shall document this information in the Child Welfare Services/Case Management System (CWS/CMS) and determine appropriate services for the child. The SW may offer services, open a case, modify the child's case plan, as appropriate, or consider offering voluntary services or referring the family to community resources. Please see the Attachment to this letter for a list of frequently asked questions regarding WIC section 300(b)(2).

Counties are encouraged to adopt the use of screening tools to assist in their investigations and screening of whether a child/youth may be a victim or at risk of CSE. Screening tools the counties may use to assist in their assessment and identification include the:

- A. West Coast Children's Clinic's CSE - Identification Tool
- B. Vera Institute of Justice's Trafficking Victim Identification Tool
- C. Covenant House, New York's Human Trafficking Interview and Assessment Measure
- D. Child Adolescent Needs and Strengths - CSE

Counties may also find helpful the updated Structured Decision Making Tools/Assessments in screening and identifying children who are victims or at risk of CSE.

Ongoing Assessment & Identification

Case-carrying county SWs and POs should be aware that children they are currently serving/supervising may be victims or at risk of CSE. The SW/PO must visit each child/youth in accordance with the case plan.

(MPP section 31-320) The purpose of the contact includes assessing the safety and well-being of the child, verifying the location of the child, monitoring the child's physical, emotional, social, and educational development, gathering information about the child to identify needed services to be included in the case plan and monitoring the effectiveness of those services provided to meet the child's needs (MPP section 31-320.5). This includes ongoing assessment, as appropriate, of whether a child may be at risk or a victim of CSE. When evaluating whether a child may be at risk of CSE, please refer to the definition provided in this letter.

Assessment & Identification upon the Return of a Missing or Runaway Child

When a child/youth returns to care after having been missing or having run away, the SW/PO shall assess and determine whether the child/youth is a possible victim of CSE (WIC section 16501.35(b)(2)(D)). A child or youth shall be considered **missing/runaway/abducted** if their whereabouts are unknown to the child welfare agency or probation department. That is, after allowing a reasonable amount of time for the child/youth to return and taking into account the child's age, intelligence, mental functioning, and physical condition, the caregiver, SW, or PO simply do not know the child's/NMD's location. Missing children/NMDs may have been abducted by a non-family member, wrongfully taken or detained by a person related to them, wandered away from a safe environment and become lost, run away from a home, foster home, or state care facility, or are otherwise missing from care for any reason. Most youth who run away from care are truly missing. However, there may be instances in which a youth runs away, often an older youth, but his/her whereabouts are known to the SW/PO (e.g., left the approved placement and is with a friend or family member and refuses to return to placement). As the youth has absented himself/herself from care, this youth

is to be considered missing from foster care.⁴ There are additional requirements related to missing/runaway children/youth as delineated in WIC section 16501.35(b). Please refer to ACL No. 16-15 for additional information regarding those requirements including what data the SW/PO is required to gather and document regarding the child's experiences while away from care.

II. Documenting Children/Youth Who are Victims or At Risk of CSE

Policy

Social workers and probation officers shall document children/youth receiving child welfare services identified as victims or at risk of CSE in the CWS/CMS and any other agency record as determined by the county (WIC section 16501.35(a)(2)).

Procedures

Once a SW/PO identifies a child or youth receiving child welfare services as a victim or at risk of CSE, the SW/PO must document this information in the CWS/CMS as follows:

- A. In the Referral Notebook:
 - i. If an exploitation allegation in the case of a CSEC/youth is substantiated, the SW/PO should select the Abuse Subcategory of "Commercial Sexual Exploitation."
 - ii. If a general neglect allegation in the case of a CSEC/youth is substantiated, the SW/PO should select the abuse subcategory of "Fail/Unable to Protect from CSE."
- B. In the Client Notebook, the SW/PO shall document the CSEC type into the CSEC Data Grid that is located on the Identification page. There are six CSEC Types:
 - i. At Risk
 - ii. Victim Before Foster Care
 - iii. Victim During Foster Care
 - iv. Victim in Open Case not in Foster Care
 - v. Victim While Absence From Placement
 - vi. Victim with Closed Case, Rcv ILP Svcs

⁴ This definition can be found in ACL No. 16-15.

For children/youth identified as a “Victim with Closed Case, Rcv ILP Svcs”, the SW/PO must have the “Closed Case/Referral Update” privilege in order to document this information into the CWS/CMS.

Please refer to [ACL No. 16-49](#) for definitions and detailed information regarding documentation of CSEC in the CWS/CMS.

III. Determining Appropriate Services

Policy

Social workers and probation officers shall determine appropriate services for children/youth receiving child welfare services identified as victims or at risk of CSE ([WIC section 16501.35\(a\)\(3\)](#)).

Procedures

When a child/youth receiving child welfare services has been identified as a victim or at risk of CSE, the SW/PO shall determine appropriate services for the child/youth. In determining appropriate services for the child/youth, the SW/PO shall:

- A. Complete an assessment, determine the case plan goal, and develop the case plan ([MPP section 31-201](#)).
- B. Assess the safety and well-being of the child including the child’s risk for becoming a victim of CSE, and gather information about the child to identify needed services to be included in the case plan at each visit with the child ([MPP section 31-320.5](#)).
- C. Engage the child/youth and the caregiver in identifying supports and services and in the development of the case plan.
- D. Convene a Child and Family Team (CFT), when applicable, and meet with the team to identify the supports and services needed to achieve positive outcomes for safety, permanency, and wellbeing ([WIC section 16501.1\(d\)\(2\)\(B\)](#) and [section 706.6](#)). If the county is currently using the multidisciplinary team (MDT) structure as identified in [WIC section 16524.7\(d\)\(2\)](#), the county may fulfill the MDT requirement through the use of the CFT and including the mandatory partners.
- E. Document in the case plan the services provided to address the CSE ([WIC section 16501.1\(g\)\(19\)](#)).

If it is determined that the child shall be placed in an out-of-home setting, the SW/PO shall comply with the requirements set forth in MPP section 31-400.

When utilizing a CFT to determine appropriate services for a child/youth who has been the victim or is at risk of CSE, the county SW/PO and CFT should develop a case plan with the child/youth that is strengths-based, needs-driven, and culturally relevant, in accordance with WIC section 16501(a)(4)(A)(i). County SWs, POs, and members of the CFT must also consider how to best meet the child's/youth's immediate and long-term safety, physical health, and mental health needs. In addition to the services available through the county child welfare services program, county agencies should explore resources through the state opt-in CSEC Program and local programs for services that are specialized to meet the unique needs of children/youth who have been sexually trafficked. Types of services that a CSEC or youth may need include, but are not limited to:

- Specialized and safe housing
- Specialized counseling
- Medical treatment
- Reproductive health/healthy relationships education
- Pregnancy / Parenting services
- Survivor peer groups
- Legal assistance, including immigration relief, if applicable
- Services addressing gang affiliation
- Tattoo removal
- Financial education training
- Vocational, life skills, and other trainings
- Other trauma-informed rehabilitation services.

For children who are identified as at risk of CSE, appropriate services may include CSE prevention education, as well as services that address the child's/youth's specific circumstances or vulnerabilities that place them at risk of CSE, such as housing stability, employment assistance, or substance abuse. The purpose is to determine appropriate services that may prevent an at risk child/youth from later becoming a victim of sex trafficking.

IV. Training to Identify, Document and Determine Appropriate Services

Policy

Social workers and probation officers shall receive relevant training in the identification, documentation, and determination of appropriate

services for any child or youth receiving child welfare services identified as a victim or at risk of CSE (WIC section 16501.35(a)(4)).

Procedures

Counties shall require all SWs/POs working with children/youth receiving child welfare services to receive relevant training in the identification, documentation, and determination of appropriate services for children/youth who are victims, or at risk of becoming a victim, of CSE.

Previously, CDSS contracted with the Regional Training Academies and the Resource Center for Family Focused Practice to provide CSEC 101: Awareness and Identification of CSEC and CSEC 102: CSEC Engagement and Skills trainings to SWs and POs statewide. Those trainings provided SWs/POs with relevant training regarding the appropriate identification of CSEC/YCS and ways to engage the child/youth to effectively determine appropriate services for the child/youth. The following trainings are currently being updated and/or developed:

- A. The CDSS is working with the California Social Worker Education Center to update their online learning module to meet the “relevant training” requirement.
- B. The Resource Center for Family Focused Practice is currently creating an online learning module for POs that will meet the “relevant training” requirement.
- C. The CDSS is also working to secure a vendor for FY 2016-17 to provide additional instruction that may constitute relevant training. A forthcoming ACL will provide information regarding these trainings once a vendor is secured.

V. Reporting CSEC/Youth to Law Enforcement

Policy

Social workers and probation officers shall immediately, and in no case in more than 24 hours, report to the law enforcement agency having jurisdiction over the case after receiving information that a child or youth who is receiving child welfare services has been identified as a victim of CSE (PC section 11166(j)(2)).

Procedures

When a SW/PO becomes aware that a child/youth receiving child welfare services has been identified as a victim of CSE, the SW/PO shall report this information to the law enforcement agency having jurisdiction over the case. The SW/PO shall report this information to law enforcement immediately and document in the case record, as appropriate.

VI. Reporting CSEC/Youth to Law Enforcement, for Entry into the National Crime Information Center (NCIC), and Reporting to the National Center for Missing and Exploited Children (NCMEC)

Policy

Social workers and probation officers shall immediately, or in no case later than 24 hours from receipt of the information, report a child/youth who:

- A. Is receiving child welfare services, AND**
- B. Is reasonably believed to be the victim of, or is at risk of being the victim of, CSE, AND**
- C. Is missing or has been abducted to the:**

- 1) Appropriate law enforcement authority for entry into the NCIC, and**
- 2) NCMEC. (PC section 11166(j)(3)).**

Procedures

Upon receipt of information that any child or youth receiving child welfare services is reasonably believed to be a victim, or is at risk of becoming a victim, of CSE, **AND** is missing or abducted, the SW/PO shall:

- A. Report the missing/abducted child/youth immediately or within 24 hours to law enforcement. When calling to report the child/youth missing to law enforcement, the SW/PO should document in the child's/youth's case record as appropriate which law enforcement agency was contacted and the corresponding missing person report number. The SW/PO should also confirm with the law enforcement agency that the information will be entered into the Federal Bureau of Investigation's National Crime Information Center (NCIC) database.**

The county SW/PO must attempt to locate the child/youth and document those attempts in the case record. The social worker must confirm and document in the child's/youth's case record that the child's/youth's whereabouts are unknown once every 30 days from the date of the initial discovery that the child/youth went missing or was abducted. (MPP section 31-320.711)

Please note that no law enforcement agency can establish or maintain any policy that requires the observance of any waiting period before accepting a missing child/youth or unidentified person report (42 USC section 5780). Due to the complex and dynamic nature of CSE, it is important that a report is made to law enforcement as soon as possible and no later than 24 hours after the child is missing/abducted.

Counties must also comply with or tailor their local protocols to notify law enforcement if and when the child/youth returns to placement/home.

- B. Report the missing/abducted child/youth immediately or within 24 hours to the NCMEC. The SWs shall make this report either via the web-based reporting system, which can be found at <https://cmfc.missingkids.org/reportit>, or by calling the call center at 1-800-843-5678. The POs shall make this report by calling the call center at 1-800-843-5678.

The SW/PO shall document this report in the child's/youth's case record as appropriate.

When making a report to NCMEC, it is important to have the following information readily available in order to expedite the reporting process:

- Child's/Youth's full name
- Child's/Youth's date of birth
- Date and location the child/youth went missing (to the best of your knowledge),
- Name and contact of the investigating law enforcement agency,
- Law enforcement report/case number
- Guardian information (for dependent children/youth and NMDs, this will be the SW; for all other children/youth, this will most likely be the parent/guardian).

It may be helpful to ensure the reporting person is authorized to release photographs and all appropriate information relevant to locating the missing child/youth. If the person making the report to NCMEC does not have authorization to release photographs and information, it is important that the reporting SW/PO provide NCMEC with contact information for the person who is authorized to release photographs and information.

Counties must also comply with or tailor their local protocols to notify NCMEC if and when the child/youth returns to placement/home.

Contact Information

If you have any questions, please contact the Child Trafficking Response Unit, within the Child Welfare Policy and Program Development Bureau, at CSECPProgram@dss.ca.gov or (916) 951-6160.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

Attachment
c: CWDA
CPOC

COMMERCIALLY SEXUALLY EXPLOITED CHILDREN (CSEC) – ALLEGATIONS AND PETITIONS FREQUENTLY ASKED QUESTIONS

These Frequently Asked Questions (FAQ) offer additional information to county child welfare agencies and probation departments on the appropriate application of allegations in cases involving commercially sexually exploited children (CSEC). The FAQ also provide information on the circumstances in which a county may file a petition in dependency court on behalf of a sexually exploited youth.

BACKGROUND

In June of 2014, Senate Bill (SB) 855 amended Welfare & Institutions Code (WIC) 300(b) to clarify that children who are commercially sexually exploited (CSE) are victims of child abuse and may be served by the child welfare system.

The WIC section 300(b)(2) states, “a child who is sexually trafficked, as described in Penal Code (PC) section 236.1, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in PC sections 236.1 or 11165.1, and whose parent or guardian failed to, or was unable to, protect the child, is within the description of this subdivision (300(b)).” This amendment clarified that under WIC section 300(b), as previously written, a child may be served by the juvenile dependency court and child welfare system when a failure or inability to protect the child resulted in the child’s exploitation, even if the parent or guardian was not the exploiter and did not participate in the child’s exploitation.

The addition of WIC section 300(b)(2) and the rapid growth in awareness and public demand to provide services and support to trafficking victims has led to a number of questions from counties on the appropriate way to administer programs and provide services for the CSEC population. This FAQ offers guidance on a number of issues that the California Department of Social Services’ Child Trafficking Response Unit has received from counties.

FREQUENTLY ASKED QUESTIONS

1) Is an allegation under 300(b) the appropriate petition for all commercially sexually exploited children?

No. Each situation is different and in some cases, other or additional WIC section 300 allegations may apply. For example, a child who is sexually trafficked by their own parent or whose parent knew about and consented to the trafficking may fall into the description of WIC section 300(d) (sexual abuse). A child who has been left without support and exchanges sex for food and shelter may be described by WIC section 300(g) (Caretaker Absence or Incapacity) instead of, or in addition to, WIC section 300(b). In each situation, the social worker should consider the whole of the family's situation and make a determination that incorporates, but also looks beyond, the child's status as a trafficking victim.

2) When should CSEC allegations be reported to the Child Abuse Central Index (CACI)?

The CACI reports are triggered in every investigation of known or suspected child abuse or **severe** neglect that is determined to be substantiated, other than cases coming within subdivision (b) of PC section 11165.2 (General Neglect). When filing a petition alleging that a commercially sexually exploited child is described by WIC section 300, social workers should work closely with their county counsel to determine which subdivision most closely fits the alleged facts and circumstances.

As stated in All County Information Notice I-21-16, in cases where the parent is not the exploiter of the child and the only allegation substantiated regarding the parent is "general neglect," the substantiated report of "general neglect" is not referred to the CACI pursuant to PC section 11169(a).

3) The WIC section 300(b)(2) states that a child who is sexually trafficked... and whose parent or guardian failed to, or was unable to, protect the child, is within the description of (300(b)).

Can a child whose parent is willing to protect and has made reasonable efforts to protect their child be the subject of a WIC section 300(b)(2) petition if the child continues to be exploited? What is adequate supervision and protection as it relates to CSEC?

The question of what constitutes "adequately supervising and protecting" the child is being debated throughout California, especially in cases involving sex

trafficking, mental illness, or substance use where a parent may make substantive efforts that are unsuccessful in preventing the child's problematic behavior. Child welfare agencies should work closely with their county counsel to determine whether a petition can and should be filed and sustained under WIC section 300(b) in the case of parents who have not shown neglectful conduct and have genuinely made efforts on behalf of their child, but their efforts have failed.

In cases involving CSEC, as with other cases where "unable to protect" is alleged, counties should take into consideration the individual circumstances surrounding the case. The social worker should evaluate whether the parents have exhibited protective behaviors such as, but not limited to, reporting their child to the police as missing, attempting to forbid or restrict contact with the trafficker, pursuing help from private or community organizations or resources, and the parents' willingness or ability to engage in an appropriate safety plan or avail themselves of voluntary services.

4) Can we substantiate an allegation of sexual exploitation against the perpetrator and not substantiate an allegation of abuse/neglect against the parents?

Yes. The determination of whether an allegation is substantiated, inconclusive, or unfounded is based on PC section 11165.12. Under PC section 11165.1, the definition of child abuse includes any abuse by "another person" – it is not necessary that the abuser is a parent or member of the household. It is also possible to substantiate an allegation in the Child Welfare Services/Case Management System against an unknown person.

If the investigator finds the allegation of sexual exploitation is substantiated against a perpetrator who is not the parent, guardian, or other person responsible for a child's welfare and there is no finding of general neglect or failure or inability to protect on the part of the parent, the agency may offer the family voluntary services, refer the child and family to appropriate community supports, or offer other supportive services as available. In addition, the child welfare agency should work collaboratively with local law enforcement who may pursue further action against the alleged perpetrator.