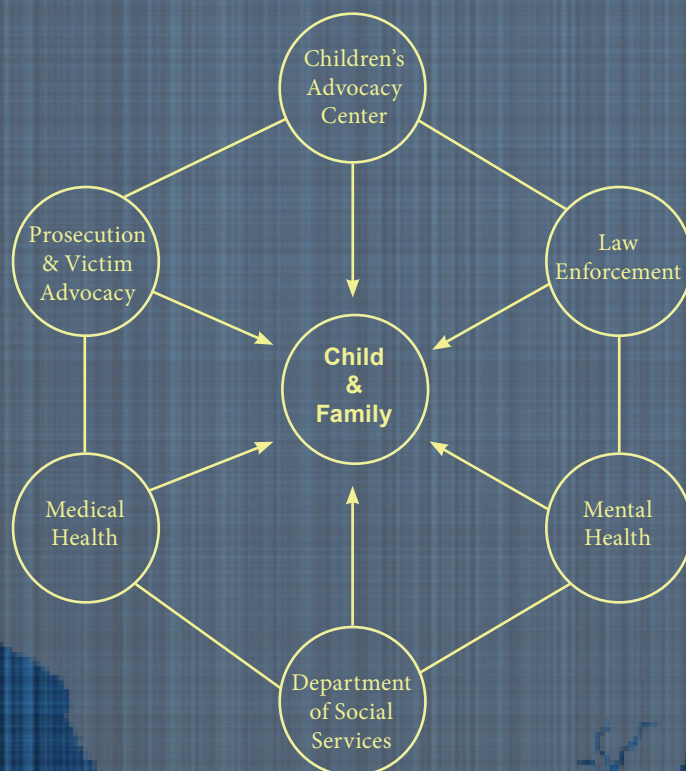


SOUTH CAROLINA

# CHILD ABUSE RESPONSE PROTOCOL

*A protocol for the multidisciplinary team  
investigation & prosecution of child abuse,  
neglect, & sexual exploitation*

2021







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## The CAC/MDT Response to Child Abuse and Neglect

The Children's Advocacy Center (CAC) model supports a compassionate, coordinated investigative response to allegations in which children are named as victims of abuse or neglect, or are witnesses to a crime. The investigation of these allegations requires multiple agencies to determine whether or not the crime occurred. The CAC model promotes the multidisciplinary team (MDT) approach when handling these cases in order to reduce trauma and increase communication and efficiency throughout the investigative process. This means when a child discloses abuse, the child is brought to the CAC, a child-friendly, neutral, safe facility, where they are interviewed by a highly trained forensic interviewer. The professionals involved in the investigation convene at the CAC for the forensic interview, which provides the opportunity for all parties to be present to hear the child's disclosure, share case information with one another, and determine next steps in the investigation. It is also through the CAC that the family will receive continued advocacy and referrals for specialized mental health and/or medical services. It is through the CAC that child victims and their families can find comfort, healing, and justice.

### About This Protocol

In 2018, the South Carolina Children's Justice Act (CJA) Task Force, in collaboration with the South Carolina Network of Children's Advocacy Centers (SCNCAC), formed an advisory group to begin work on a statewide child abuse response protocol to formalize the CAC/MDT response to child abuse in South Carolina.

This protocol details procedures for a CAC/MDT approach to child abuse by addressing the functions of the MDT, roles and responsibilities of each discipline, and the interaction of these disciplines during the child abuse response process. A coordinated, MDT approach facilitates efficient interagency communication and information sharing, ongoing involvement of key individuals, and support for children and families. Each agency gains the benefit of a broadened knowledge base from which decisions are made through shared information and improved and timely evidence gathering. MDT interventions in a neutral, child-focused CAC setting are associated with less anxiety, fewer interviews, and more appropriate and timely referrals for needed services. An MDT response fosters needed education, support, and treatment for children and families that may enhance their willingness to participate in the criminal justice system as effective witnesses. In addition, parents and other caregivers are empowered to protect and support their child throughout the investigation and prosecution and beyond.

This protocol document is a result of the work of the Advisory Group with the support of the CJA Task Force.

### Advisory Group Members and Contributors

The Statewide Child Abuse Protocol Advisory Group consisted of professionals from multiple disciplines and agencies involved in the multidisciplinary team response, investigation, and prosecution of child abuse, child neglect, and sexual exploitation in South Carolina. Professionals from all of the core MDT functions served on the Advisory Group representing law enforcement, child protective services, prosecution, medical, mental health, and victim advocacy, together with local CAC staff. In addition to members from the core MDT functions, the advisory group had representation from the Children's Justice Act Task Force, South Carolina Network of Children's Advocacy Centers, South Carolina Children's Advocacy Medical Response System, public school systems, Joint Citizens & Legislative Committee on Children, and Guardian Ad Litem programs.

Members of the Advisory Group also met with the South Carolina Office of the Attorney General, statewide law enforcement organizations, South Carolina Department of Social Services, South Carolina Department of Children's Advocacy, National Children's Alliance, and other stakeholders to seek input on the protocol. The Advisory Group is thankful for all organizations and representatives who provided content and/or reviewed material for this protocol project.



## Definitions

**Children's Advocacy Center (CAC):** An accredited\* child-friendly, safe and neutral location which provides case coordination with law enforcement and child protective services; where forensic interviews are conducted with children who are alleged victims of crimes; and where the child and non-offending family members receive support, crisis intervention and referrals for mental health and medical treatment. (\*See page 28 for additional information on accreditation).

**Multi-disciplinary Team (MDT):** In terms of a CAC, the MDT is a team composed of representatives from law enforcement, child protective services, prosecution, medical services, mental health, victim advocacy, and the CAC that convene in response to child abuse allegations. The MDT is the cornerstone of the CAC model.

**Child:** A person under the age of 18.

**Emergency Protective Custody (EPC):** A law enforcement officer may take emergency protective custody of a child when there is probable cause to believe that by reason of abuse or neglect the child's life, health, or physical safety is in substantial and imminent danger.

**Serious Abuse:** Infliction of serious physical injury on a child by a caregiver, generally characterized by enduring pain. Injury or injuries may be current or may be in different stages of healing. Serious abuse also includes reports accepted for sexual abuse and female genital mutilation.

**Forensic Interview:** A process where a child is given the opportunity to make a statement, in a safe supportive environment, about what happened to them. The child is questioned in a legally-sound, developmentally appropriate manner by a trained professional.

**Project BEST:** Bringing Evidence Supported Treatments to SC: a state-wide collaborative effort to use innovative community-based dissemination, training, and implementation methods to dramatically increase the capacity of every community in South Carolina to deliver evidence-supported mental health treatments (ESTs) to every abused and traumatized child who needs them.

**Sexual Assault Nurse Examiner (SANE):** A qualification for registered nurses who have received special training to conduct sexual assault evidentiary exams.

**South Carolina Children's Advocacy Medical Response System (SCCAMRS):** A statewide program that develops and sustains a consistent quality standard of care for the delivery of medical services for allegations of child maltreatment.

**Trauma-Focused Cognitive Behavioral Therapy (TF-CBT):** A conjoint child and parent psychotherapy approach for children and adolescents who are experiencing significant emotional and behavioral difficulties related to traumatic life events. It is a components-based and evidence-based treatment model that incorporates trauma-sensitive interventions with cognitive behavioral, family, and humanistic principles and techniques.

**South Carolina Network of Children's Advocacy Centers (SCNCAC):** The statewide network organization representing all local Children's Advocacy Centers in South Carolina. SCNCAC provides specialized training, technical assistance, and support services to CACs and community partners to empower them to deliver a best practice response to child abuse.

**South Carolina Children's Justice Act Task Force (CJA):** The CJA Task Force conducts an assessment of the state's child abuse response systems every three years and adopts recommendations designed to improve the handling of child abuse and neglect cases in South Carolina. Work toward implementation of these recommendations continues through the task force and its committees.



# 1

## Department of Social Services (DSS)

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## Basic Procedure for DSS Response to Child Abuse

Reports can be made on the DSS statewide hot-line: 1-888-CARE-4-US (227-3487). Visit DSS web site for details regarding how and to whom to make report.



A searchable contact list of South Carolina DSS offices and coverage areas is available at: [www.dss.sc.gov/contact/](http://www.dss.sc.gov/contact/)

Courtesy: South Carolina Department of Social Services



- SCDSS intake hub will determine if report contains allegations of maltreatment and assign a response time based on whether there is an indication of a safety threat to the child: Immediate - 24 hours.
- Local DSS will interview reporters and the child's household members, assess the home environment, and make a case decision within 45 days.
- If, at any time, DSS determines safety threats exist, an in-home or out-of-home safety plan may be developed. Action to remove a child from the home may also occur.

### Removing a child from a home must occur in one of three ways:

- **Emergency Protective Custody** – DSS may request the assistance of law enforcement which has the authority to take immediate action in taking a child into protective custody (S.C. Code Ann. § 63-7-620). DSS must then initiate a preliminary investigation within 24 hours to determine whether grounds for assuming legal custody of the child exist (S.C. Code Ann. § 63-7-640). DSS would then need to schedule a probable cause hearing within 72 hours for the child to remain in DSS custody (S.C. Code Ann. § 63-7-710).  
OR
- **Ex-Parte Removals** - DSS petitions the court pursuant to S.C. Code Ann. § 63-7-740, and the court issues an order ex parte (without a hearing) to place the child in emergency protective custody. This is based on probable cause that the child is in imminent and substantial danger.  
OR
- **Non-Emergency Removals** - DSS files a complaint after determining that the child is abused or neglected pursuant to S.C. Code Ann. § 63-7-1660. A hearing is then held within 35 days. This type of hearing would be held when DSS believes the child should be removed from the home but it is not an emergency. The judge determines whether the child has been abused or neglected and, if so, whether the child should be removed from the home.
- Notify law enforcement of allegations concerning sexual and/or physical abuse. Refer other serious reports of abuse or neglect to law enforcement immediately. (see section 3.1)
- At a minimum, reports of serious abuse as defined in DSS policy will be referred to the local Children's Advocacy Center (CAC). The CAC may be consulted at the discretion of DSS when reports do not meet this criteria.
- If it is a case that will be referred for a forensic interview, refer to the CAC as early in the investigation process as possible for scheduling.
- Children with an allegation of abuse and/or neglect benefit from a forensic medical evaluation or consult by a SC Children's Advocacy Medical Response System (SCCAMRS) qualified child abuse healthcare provider for the purpose of medical diagnoses and treatment (see section 6 for more information on obtainment of a forensic medical evaluation).
- Contact law enforcement if needed for securing parental cooperation, access to child, or protection of the child.



## Basic Procedure for DSS Response to Child Abuse Continued

### Upon making contact with the victim child and/or other family members:

- Cases meeting referral criteria should be referred to a CAC and only a minimal facts interview should be conducted with the child if necessary.

#### **Minimal Facts Interview**

When a Victim or Witness is a CHILD (under the age of 18):

Assess whether the child is safe and/or needs immediate medical attention.

- Gather information from **the reporter or a non-offending adult AWAY from the child/victim** to include at a minimum:
    - Names, ages, and current location of victim(s) and suspect(s)
    - Type of abuse and how they learned about it
    - Where it happened/jurisdiction
    - When it most recently happened\*
    - Any witnesses

\*If child is injured, sick, or a sexual assault incident occurred within last 72 hours, seek immediate medical attention.
  - ONLY if the reporter or a non-offending adult is NOT available to provide information, ask the child minimal fact questions:**

WHAT happened? (type of abuse)

    - Are you hurting?

WHO did this? (relationship to child)

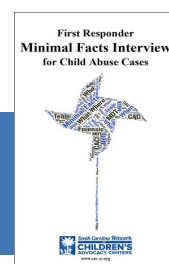
    - Do they live with you?

WHEN did it happen? (\*assess immediate medical needs)

    - When did you last see the person?

WHERE did it happen? (jurisdiction)

\*If child is injured, sick, or a sexual assault incident occurred within last 72 hours, seek immediate medical attention.
- A more detailed interview will be conducted by a trained interviewer at a Children's Advocacy Center (CAC).



**SCNCAC First Responder Minimal Facts Interview Cards for child abuse cases**

To download or order free cards go to [www.cac-sc.org/protocol/](http://www.cac-sc.org/protocol/)

Courtesy: South Carolina Network of Children's Advocacy Centers

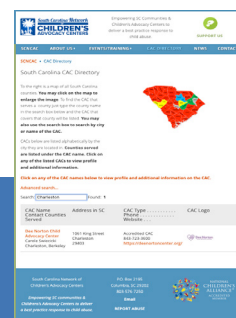
- Gather information about the history of the abusive situation and begin to establish a timeline.
- Assess the family situation to inform decisions about maltreatment, present and impending safety concerns, and future risk of maltreatment.
- Document where all household members sleep, food supply, and overall home conditions. Give attention to the physical condition of the child, emotional state of the child, and reactions of the parents/caregivers.

## Basic Procedure for DSS Response to Child Abuse Continued

- Interview all caregivers and anyone else who had access to the child during the time in which the maltreatment occurred. Always interview caregivers separately. Gather a 24-hour timeline of the child's behaviors and condition prior to the maltreatment. Coordinate with law enforcement before alleged perpetrators are interviewed.
- Interview collaterals, professionals, and others such as school officials, daycare staff, and any other individuals who have regular contact with the child.
- If a case involving law enforcement has not been referred to the CAC, work with law enforcement to ensure the completion of a referral.
- During the investigation process, participate in a Multidisciplinary Team meeting when scheduled or request one when needed. The meeting should include law enforcement, DSS, CAC, SCCAMRS child abuse healthcare provider, prosecutor, and/or any other representatives from agencies involved in the investigation and/or welfare of the child.

## Making Referrals to the Children's Advocacy Center

- In general, children appropriate for a forensic interview include but are not limited to:
  - Children who were subject to alleged physical abuse, emotional abuse, sexual abuse, sexual exploitation, or neglect
  - Children who have witnessed any type of violence, including but not limited to domestic violence, rapes, and murders
  - Children who are involved in any other case where concern may arise. Some examples include drug exposure, siblings in a child fatality case, mental injury, etc.
- The reported child victim and his/her legal guardian should NOT be told that a conducted forensic interview can take the place of the child having to testify if the case goes to trial.
- Referrals can be made by DSS, law enforcement, or the solicitor's office. An interview time will be scheduled. DSS and law enforcement should make every effort to be present for the interview. It is essential for investigative agencies to participate in the interview process, help guide the interview when necessary, and to timely respond to facts gathered during the forensic interview so as to ensure the safety of the child and preservation of corroborating evidence.
- Children who are insufficiently verbal for an interview but who present with medical evidence or sexualized behaviors should be referred for MDT review.
- Even if the forensic interview has taken place elsewhere due to extenuating circumstances that required an immediate response, the case should still be referred to the CAC for case coordination and referral of services.
- CACs may also interview reported victims/witnesses who fall outside of the usual age ranges, based on special circumstances that may include young adults disclosing abuse that occurred during childhood, or adults with special needs who may have experienced abuse or exploitation.



**A searchable contact list of South Carolina CACs and coverage areas is available at: [www.cac-sc.org/directory/](http://www.cac-sc.org/directory/)**  
 Courtesy: South Carolina Network of Children's Advocacy Centers

## DSS Records Release & Confidentiality of Records

DSS will release records to the solicitor's office, law enforcement, Children's Advocacy Center, and SCCAMRS child abuse healthcare provider upon request pursuant to S.C. Code Ann. § 63-7-1990 and DSS policy. DSS records remain confidential during an ongoing investigation and are not subject to release under the Open Records Act except in cases of serious injury or death.

## Child Hearsay in Family Court Proceedings

- **Statute Governing the Admissibility of Out-of-Court Statements, S.C. Code of Laws § 19-1-180**

An out-of-court statement made by a child *describing* any act of *sexual contact, physical abuse or neglect, or any other form of defined abuse*, is considered hearsay and is inadmissible at the trial of a perpetrator unless that statement is specifically made admissible under the S.C. Rules of Evidence or a statutory exception as enumerated in the S.C. Code of Laws.

S.C. Code Ann. § 19-1-180 outlines the requirements for the admissibility of out-of-court statements in family court abuse and neglect proceedings. The specific requirements under § 19-1-180 are as follows:

- The child testifies at the proceeding or testifies by means of videotaped deposition or closed-circuit television, and at the time of the testimony the child is subject to cross-examination about the statement; or
- The child is found by the court to be unavailable to testify on any of these grounds:
  - The child's death;
  - The child's physical or mental disability;
  - The existence of a privilege involving the child;
  - The child's incompetency, including the child's inability to communicate about the offense because of fear; or
  - Substantial likelihood that the child would suffer severe emotional trauma from testifying at the proceeding or by means of videotaped deposition or closed-circuit television; and
- The child's out-of-court statement is shown to possess particularized guarantees of trustworthiness. Such factors the court may consider, but are not limited to, are the ten set forth in § 19-1-180 (D).

This statute applies to out-of-court statements by a child who is under twelve years of age or who functions cognitively, adaptively, or developmentally under the age of twelve at the time a family court proceeding is brought pursuant to Title 63 concerning an act of alleged abuse or neglect as defined by S.C. Code Ann. § 63-7-20.

Any hearsay statements otherwise admissible under § 19-1-180 are not admissible if the parents of the child are separated or divorced, one of the parents is the alleged perpetrator of the alleged abuse or neglect, and the allegation was made after the parties separated or divorced. However, the statement would be admissible if made by the child to a law enforcement official, an officer of the court, a licensed family counselor or therapist, a physician or other health care provider, a teacher, a school counselor, a Department of Social Services staff member, or to a child care worker in a regulated child care facility.



## Child Hearsay in Family Court Proceedings, continued

- **SC Rules of Evidence (SCRE) Governing the Admissibility of Hearsay Statements**

The S.C.R.E. provides for the admissibility of other certain types of out of court statements. These are laid out in Rules 801 and 803, SCRE.

- Rule 801(d)(1), SCRE - Statements Which Are Not Hearsay, Prior Statement by Witness
  - (A) Inconsistent with the declarant's testimony
  - (B) Time and Place exception
- Rule 803, SCRE - Hearsay Exceptions; Availability of the Declarant Immaterial
  - Present Sense Impression  
(A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.)
  - Excited Utterance  
(A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.)
  - Then Existing Mental, Emotional or Physical Condition
  - Statements for Purposes of Medical Diagnosis or Treatment

## Testimony at Trial

- **The Child Victim**

- Court Preparation: DSS attorneys should make age and developmentally appropriate efforts to prepare a child victim or witness to testify in the courtroom. It is recommended that attorneys utilize the services of a victim advocate and/or Guardian ad Litem/Court Appointed Special Advocate to orient the child to the courtroom, familiarize the child with the witness stand, and help the child become comfortable speaking to a courtroom audience.
- Competency: The child's competency to testify should be addressed with age and developmentally appropriate questions prior to his testimony at trial. Efforts, via appropriate motions, should be made to request the trial court to employ age and developmentally appropriate questions to ascertain the child's competency to testify.
- Accommodations in Special Circumstance
  - Testimony via Closed-circuit Television  
The South Carolina Supreme Court acknowledged and endorsed the use of closed-circuit television through S.C. Code Ann. § 16-3-1550 (E) which states, "[t]he circuit or family court must treat sensitively witnesses who are very young, elderly, handicapped, or who have special needs by using closed or taped sessions when appropriate." However, this is an exception to the preferred rule that a child victim must testify and the courts strictly scrutinize the process. If this procedure is used, you must follow and adhere to the procedure outlined in *State v. Murrell*, 393 S.E.2d 919 (S.C. 1990) and *State v. Bray*, 535 S.E.2d 636 (S.C. 2000).
  - Support Person / Facility Dogs are allowed in the courtroom to support and assist the child victim during testimony. When the assistance of a support person or facility dog is being used, address this matter with the court pre-trial to solidify the appropriate manner in which to proceed.

## Testimony at Trial, continued

### • The Forensic Interviewer

South Carolina does not recognize forensic interviewing as an area of expertise. See *Kromah v State*, 737 S.E.2d 490 (S.C. 2013). Testimony of the individual who conducted the forensic interview of the child should be limited to the facts supporting the foundation of the admissibility of the interview.

### • Expert Witnesses

It is important that DSS attorneys seek the consultation of individuals who, due to their knowledge, skill, experience, training, or education, have expertise regarding child abuse. These individuals can assist the trier of fact to understand the evidence presented at trial or to determine a fact in issue. Rule 702, SCRE. Two important experts to utilize include:

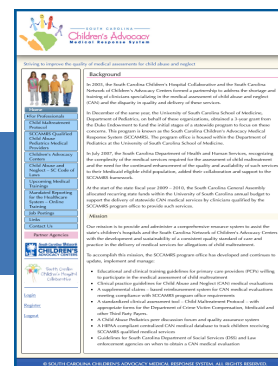
- **Child Abuse Dynamics Expert:**  
Experts in the area of child abuse dynamics may be able to address a constellation of exhibited behaviors related to maltreatment. Such dynamics include, but are not limited to: delayed disclosure, grooming, secrecy, accommodation and entrapment, the process of disclosure, memory and suggestibility, and recantation.
- **Child Abuse Pediatrician / South Carolina Children's Advocacy Medical Response System (SCCAMRS) Qualified Healthcare Provider:**

Medical experts provide vital testimony to include: the degree of injury sustained, whether the history provided by the perpetrator is consistent with the observed injury, explanation of the absence of injury, the mechanism of the injury, and rebuttal to proffered defense expert testimony.

Please consult your local Children's Advocacy Center for the SCCAMRS provider that serves your region or access a healthcare provider specializing in the medical assessment of child abuse and neglect from the SCCAMRS website.



**A list of SCCAMRS qualified Child Abuse Pediatrics Medical Providers is available at: [www.sccamrs.org](http://www.sccamrs.org)**  
Courtesy: South Carolina Children's Advocacy Medical Response System



No witness, including expert witnesses, can give their opinion regarding the credibility or believability of the victim. DSS attorneys should take great care to avoid eliciting such testimony.

Joint investigation and cooperation between law enforcement and DSS is vital to the goal of protecting the victim and preparing a solid court case. Section 3 of this protocol outlines the procedures to be used when a joint investigation is being conducted.



# 2

## Law Enforcement

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### Basic Procedure for Law Enforcement Response to Child Abuse

Reports can be made by calling the local law enforcement agency directly or by calling 911.

- The local or state law enforcement first responder will follow their departmental procedures to ensure interviews of reporters and the child's household members occur.
- The case should be referred to a CAC, and only a minimal facts interview should be conducted with the child if necessary (see below).

#### Minimal Facts Interview

When a Victim or Witness is a CHILD (under the age of 18):

Assess whether the child is safe and/or needs immediate medical attention.

1. Gather information from **the reporter or a non-offending adult AWAY from the child/victim** to include at a minimum:
    - Names, ages, and current location of victim(s) and suspect(s)
    - Type of abuse and how they learned about it
    - Where it happened/jurisdiction
    - When it most recently happened\*
    - Any witnesses

\*If child is injured or sick, or a sexual assault incident occurred within last 72 hours, seek immediate medical attention.
  2. **ONLY if the reporter or a non-offending adult is NOT available to provide information, ask the child minimal fact questions:**

WHAT happened? (type of abuse)

    - Are you hurting?

WHO did this? (relationship to child)

    - Do they live with you?

WHEN did it happen? (\*assess immediate medical needs)

    - When did you last see the person?

WHERE did it happen? (jurisdiction)

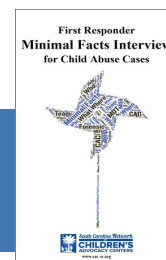
\*If child is injured or sick, or a sexual assault incident occurred within last 72 hours, seek immediate medical attention.
- A more detailed interview will be conducted by a trained interviewer at a Children's Advocacy Center (CAC).



**SCNCAC First Responder Minimal Facts Interview Cards for child abuse cases**

To download or order free cards go to [www.cac-sc.org/Protocol/](http://www.cac-sc.org/Protocol/)

Courtesy: South Carolina Network of Children's Advocacy Centers



- Report the incident to DSS if: the abuse was inflicted by a parent, guardian, or other person responsible for the child's welfare; the abuse occurred in a residential institution, foster home, or childcare facility; there are concerns for the parental protective capacity; or the child is exposed to domestic violence.
- Gather information about the history of the abusive situation and begin to establish a timeline.

### Basic Procedure for Law Enforcement Response to Child Abuse, continued

- Give immediate consideration to the child's safety. If the officer has probable cause to believe that abuse and/or neglect has placed the child's life, health, or physical safety in substantial and imminent danger, and there is not time to apply for a court order, the officer should take the child into emergency protective custody (S.C. Code Ann. § 63-7-620).
- Preserve the scene and obtain evidence. Photograph the scene and/or injuries to the child. Photographs should be taken at overall, mid-range, and close up. Video a walk-through of the scene to document the entire scope of the evidence. Re-photograph injuries as needed to document changes in appearance two or three days later. Photographs of injuries are best taken with a scale and if possible, with an infrared camera. Photograph and seize the instrument of abuse or other corroborative evidence.
- Document where all household members sleep, food in the home, and overall condition of the home. Pay special attention to the physical condition of the child, emotional status of the child, and reactions of the parents/caregivers. Be alert for anything unusual or out of the ordinary and document it in detail.
- Interview all medical personnel who had contact with the child and/or family, such as doctors, nurses, and EMT's. Collect and review medical records, to include emergency room records, pediatrician records, and EMS records.
- Interview all caretakers and anyone else who had access to the child during the time in which the injury or neglect occurred; always interview the caretakers separately. Have them give you a detailed 24-hour timeline of the child's behaviors and condition right before the trauma occurred. Consider any statements the caretakers made to anyone concerning what happened to the child. Consider interviewing school officials, day care workers, and any other individuals who see the child regularly.
- Make a referral to the CAC for services to include forensic interviews for the child and any other children in the home, as well as forensic medical evaluation for the child and any other children in the home, in consultation with the South Carolina Children's Advocacy Medical Response System (SCCAMRS) child abuse healthcare provider.
- During the investigatory process, participate in a Multidisciplinary Team (MDT) meeting when scheduled or request one when needed. The meeting should include law enforcement, DSS, the CAC, the SCCAMRS child abuse healthcare provider, the solicitor's office, and/or any other representatives from agencies involved in the investigation and/or welfare of the child.
- Determine if the suspect and household members have a criminal history, DSS history, or other law enforcement histories.
- Determine who called law enforcement or medical personnel to the scene and retrieve the recording of the call.
- Obtain and execute any applicable search warrants for evidence. This may include social media, cellphone data, medical records, school records, etc.
- Interview the perpetrator. Have them give you a detailed 24-hour timeline of the child's behaviors and condition right before the trauma occurred. Include a re-enactment with each parent/caregiver separately and video if possible. Have the parent/caregiver reenact how the injury occurred.

## Making Referrals to the Children's Advocacy Center

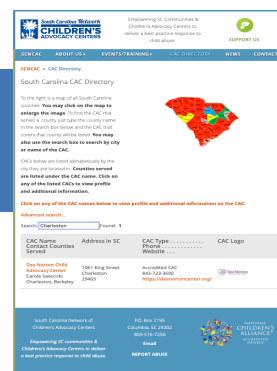
- In general, children appropriate for a forensic interview include but are not limited to:
  - Children who were subject to alleged physical abuse, emotional abuse, sexual abuse, sexual exploitation, or neglect
  - Children who have witnessed any type of violence, including but not limited to domestic violence, rapes, and murders
  - Children who are involved in any other case where concern may arise. Some examples include drug exposure, siblings in a child fatality case, mental injury, etc.
- The reported child victim and his/her legal guardian should NOT be told that a conducted forensic interview can take the place of the child having to testify if the case goes to trial.
- Referrals can be made by DSS, law enforcement, or the solicitor's office. An interview time will be scheduled. DSS and law enforcement should make every effort to be present for the interview. It is essential for investigative agencies to participate in the interview process, help guide the interview when necessary, and to timely respond to facts gathered during the forensic interview so as to ensure the safety of the child and preservation of corroborating evidence.
- Children who are insufficiently verbal for an interview but who present with medical evidence or sexualized behaviors should be referred for MDT review.
- Even if the forensic interview has taken place elsewhere, due to extenuating circumstances that required an immediate response, the case should still be referred to the CAC for case coordination and referral of services.
- CACs may also interview reported victims/witnesses who fall outside of the usual age ranges, based on special circumstances that may include young adults disclosing abuse that occurred during childhood, or adults with special needs who may have experienced abuse or exploitation.



**A searchable contact list of South Carolina CACs and coverage areas is available at: [www.cac-sc.org/directory/](http://www.cac-sc.org/directory/)**  
 Courtesy: South Carolina Network of Children's Advocacy Centers

Joint investigations and cooperation between law enforcement and DSS is vital to the Children's Advocacy Center model and the goal of protecting the victim and preparing a solid court case.

Just as with individual investigations with law enforcement and DSS, when a joint investigation is necessary, the Children's Advocacy Center conducts the forensic interview and coordinates the multidisciplinary team meetings. Section 3 of this protocol outlines the procedures to be used when a joint investigation is being conducted.







# 3

## Joint Investigations (LE & DSS) and Special Issues

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### 3 Joint Investigations (LE & DSS) and Special Issues

#### Joint Investigations between Law Enforcement and DSS

Joint investigation and cooperation between law enforcement and DSS is vital to the goal of protecting the child and preparing a solid court case. It is DSS policy that DSS shall request a joint investigation with law enforcement for all serious and/or complex reports of abuse or neglect (including but not limited to sexual abuse, severe physical abuse, serious injury, child death, near fatality, and chronic severe neglect) and shall conduct joint investigations as outlined by local protocol (f/k/a Child Abuse Protocol). Case records and information gathered/shared in a joint investigation are confidential and shall not be released to or shared with other parties, except as may be required by law.

The CAC conducts the forensic interview and coordinates the multidisciplinary team meeting. As part of the joint investigation, DSS and/or law enforcement can request a forensic interview and/or medical evaluation from the CAC without consent from the legal guardian (S.C. Code Ann. § 63-7-920(c) -380).

Communication with prosecution during the course of the investigation will support a thorough investigation and prosecution. The prosecution can offer invaluable advice as to preparation and execution of search warrants, logistics and substance of suspect and witness interviews, and numerous other aspects of a well-organized investigation. If there is a recantation, a case review should be scheduled immediately with the members of the MDT assigned to the original investigation, including the child's therapist and the prosecutor if assigned.

DSS and law enforcement will accept notifications of abuse allegations received by one another and work together and communicate in cases including but not limited to:

- Sexual Abuse
- Sexual Exploitation
- Physical Abuse or Neglect
- Emotional Abuse
- Human Trafficking
- Domestic Violence
- Substance abuse in the home, including by parents or children (Drug Endangered Children)
- The presence of serious injury on a child where the explanation offered is inadequate to explain the injury
- Any referral of abuse diagnosed by a physician
- Any form of medical child abuse (formerly Munchausen's Syndrome by Proxy)
- Any suspicious death of a child
- Refusal by a family to allow a DSS worker to see the child victim in any abuse or neglect investigation

In a joint investigation:

- If the circumstances warrant, law enforcement may take the child into emergency protective custody (pursuant to S.C. Code Ann. § 63-7-620). The officer must have probable cause to believe by reason of abuse or neglect the child's life, health, or physical safety is in substantial and imminent danger.
- If law enforcement needs to take a child into protective custody or in emergencies, the DSS on-call case worker or county director may be called for immediate response. SCDSS Intake HUB must also be called but local DSS does not need to wait for a case assignment to respond.
- DSS should contact law enforcement prior to any contact with the perpetrator.
- For law enforcement, determine if the allegation is founded by probable cause. If probable cause is found, consider consultation with the solicitor's office for arrest warrants and appropriate timing of arrest.
- Information shall be shared between law enforcement, DSS, CAC, and the solicitor's/prosecutor's office.

### Investigations of Abuse When Reported in the School Setting

When a report of abuse is received in the school setting, the matter shall be immediately reported to law enforcement and/or the DSS. School personnel should only gather enough information to make the report.

#### Interviewing Children

- The responding agency can then gather facts from school personnel or, if needed, minimal facts from the child. (See Minimal fact questions APPENDIX I.)
- Priority should be to minimize the number of interviews of the child to reduce potential emotional trauma of the child. Great effort should be made for the child to be interviewed at the CAC.
- If the child must be interviewed outside the CAC, DSS and/or law enforcement may conduct minimal facts interviews with the child victim and other children who reside in the household outside the presence of the parents and without their permission, pursuant to S.C. Code Ann. § 63-7-920(C). Law enforcement or DSS, or both, should notify the parents of the interview as soon as reasonably possible during the investigation if notice will not jeopardize the safety of the child or the course of the investigation.

### Basic Procedure for Investigation of Human Trafficking(HT) and/or Sexual Exploitation

A child is a victim of trafficking in persons as defined in S.C. Code Ann. § 16-3-2010, including sex trafficking, regardless of whether the perpetrator is a parent, guardian, or other person responsible for the child's welfare. Identifying a child as a victim of trafficking in persons does not create a presumption that the parent, guardian, or other individual responsible for the child's welfare abused, neglected, or harmed the child S.C. Code Ann. § 63-7-20 (6)(b).

#### Initial Assessment

Investigate the circumstances prior to reunification with a caregiver. It is very important that an initial assessment carefully consider whether a possible victim of human trafficking should be taken into care or placed back in the home.

Coordinate with law enforcement to determine if the child needs to be taken into emergency protective custody (pursuant to S.C. Code Ann. § 63-7-620). The officer must have probable cause to believe by reason of abuse or neglect the child's life, health, or physical safety is in substantial and imminent danger.

All caseworkers should investigate the circumstances of the human trafficking of the child and the child's mental state carefully during the assessment phase of the case and well before making reunification plans with the parents and/or guardians.

Once there is sufficient information gained that the parents are not part of any trafficking of the child, the case worker should then work closely with the parent and/or guardians in providing the appropriate resources to the child and family throughout the case.

A request by law enforcement for DSS to not make immediate contact with the parents for the safety of the child should be respected. Revealing confidential law enforcement investigatory information to possible suspects could easily place the child that has been recovered or other children that have yet to be recovered in danger. Information should only be withheld for safety reasons and only for as brief of an amount of time as possible.

(DSS staff/caseworkers should familiarize themselves with the Indicators/Risk Factors found in DSS evidence-based tools.)

### 3 Joint Investigations (LE & DSS) and Special Issues

## Basic Procedure for Investigation of Human Trafficking(HT) and/or Sexual Exploitation, continued

### Required Steps and Time Frames

Upon receipt of a report of suspected maltreatment involving a case where the child may be a victim of human trafficking, the investigating agencies will immediately do the following:

- Assess the safety of the child, taking into account the physical and/or psychological indications that a child may be a victim of human trafficking.
- DSS should upload to the Child and Adult Protective Services System at least 2 digital photos of the child: one full length standing photo and one passport-like full face view photo.
- If the initial referral does not come from law enforcement, DSS should always contact them within 24 hours and provide them with all information gathered. DSS, law enforcement, and the CAC should collaborate to properly address the needs of and coordinate services to children who are victims of human trafficking.
- Medical Attention:  
Staff should coordinate the forensic medical evaluation through the local Children's Advocacy Center. If the alleged victim is identified after CAC business hours, the CAC must still be notified for coordination, and the child brought to the hospital emergency room for initial assessment of child's health status and, if indicated, for forensic evidence collection. Some hospitals have a Sexual Assault Nurse Examiner (SANE) program that may provide forensic evidence collection services for victims younger than 18 years of age. After the initial emergency room's assessment and/or evidentiary collection, the child must be referred to the local Children's Advocacy Center for a comprehensive medical evaluation by a SCCAMRS child abuse healthcare provider. (See Section 6 for more information on Obtainment of a Forensic Medical Evaluation.)
- Forensic Interview (See also Section 5 Forensic Interviews of Child Victims of Human Trafficking and/or Sexual Exploitation.):  
Coordinate a human trafficking/sexual exploitation specific forensic interview through local resources headed by the local Children's Advocacy Center.  
The child should not be subjected to multiple interviews with different parties whenever feasible.  
If the child is denying victimization and/or is not cooperative, it may be better to delay the forensic interview until some trust has been established with the child.

## Basic Procedure for Investigation of Domestic Violence with Child Present

For Law Enforcement:

- Determine whether children are or were present at the scene and obtain their name(s), age(s), demeanor, relationship to the parties and whether the child(ren)'s witnessed, heard, or were physically harmed during the incident (intentionally or accidentally).
- Ask the parties where the child(ren) is and check on the child(ren).
- If the parties will not or are unable to answer as to the child(ren) welfare, and the officer has reason to believe a child(ren) is present by evidence of toys, clothes, etc., follow police protocol for further search of the house.
- Determine who called law enforcement to the scene and retrieve the recording of the call.
- If children are found at the house, determine if they are in imminent and substantial danger and, if so, seek emergency protective custody. DSS should also be contacted.

### 3 Joint Investigations (LE & DSS) and Special Issues

#### Basic Procedure for Investigation of Domestic Violence with Child Present

- Make a referral or give the adult victim information on the nearest Domestic Violence Shelter for him/her and the child(ren) if needed. Try to connect the victim with a person at the Domestic Violence Shelter or at minimum talk to the victim about available services.
- Include the name and date of birth of the child in the incident reports as a victim.
- Make a report to DSS if it is believed that the child has been or may be abused or neglected.
- Consider a forensic interview of the child.
- Try to separate children and when possible:
  - Interview parties outside the presence of the child and have a neutral person interpret for the parent(s) if a language barrier exists.
  - Make arrests away from the child's presence.
  - Avoid leaving the child alone for a "long" period of time while conducting other interviews.

#### Basic Procedure for Investigation of Children with Disabilities

When possible, gather some initial information before arranging an interview for the child at the CAC:

- Determine if the child has any kind of disability.
- Find out how this disability may affect the interview process.
- If school aged, ask if the child is in special needs classes and/or has an Individualized Education Plan (IEP).
- Determine if child is prescribed and/or taking any medications.
- Determine if the child uses any adaptive equipment, such as a hearing aid, crutches or a wheelchair.
- Determine if the child has any attention difficulties.
- Determine how the child best communicates their wants and needs.
- Determine what makes it easiest for the victim to understand what others communicate.

#### Basic Procedure for Investigation of Drug Endangered Children

##### Children exposed to a clandestine drug lab or a controlled/dangerous substance

A drug endangered child (hereinafter DEC) is a person, under the age of eighteen (18), who lives in or is exposed to an environment where drugs, including pharmaceuticals, are used, possessed, trafficked, diverted, and/or manufactured illegally.

A DEC may also be a child whose caretaker's substance abuse interferes with the caretaker's ability to provide a safe and nurturing environment resulting in some form of maltreatment, abuse and/or neglect.

- The Investigation and Coordination in Response to DEC
  - Law enforcement shall determine in all drug investigations if a child may be present or exposed to a drug environment before responding and entering a home with a search warrant. The search warrant should also address items and paraphernalia which include harmful materials to a child if there is information that a child is living in this environment. Such materials may include, pornography, computers, weapons, etc.



## Basic Procedure for Investigation of Drug Endangered Children, continued

- If law enforcement acquires information that a child(ren) may be present in a suspected drug environment, they should contact DSS and put the local county office on notice that a caseworker(s) needs to be on stand-by to assist with that child(ren) after law enforcement executes the search warrant. Law enforcement will only release as much information as necessary to notify DSS without disclosing information which could result in a compromise to officer safety.
- DSS shall coordinate with law enforcement and be ready to provide clothing, blankets, comfort items, etc. for the child(ren). If the child(ren) is removed from an active clandestine drug environment (methamphetamine), then the child must be decontaminated, and all clothing must be removed to avoid contamination of the caseworker.
  - Identify appropriate relative or foster care placement while also confirming that each child will receive follow-up medical care, assessments, and treatment.
  - Collect information on the child's medical history and make sure all medicines, glasses, and other items this child needs are retrieved and given to the child's caregivers.
  - Refer the child(ren) to the local Children's Advocacy Center for forensic interview, medical evaluation, therapy, and other services which may be necessary to fully document the needs for the child(ren).
- A forensic medical evaluation should be conducted on every child removed from or determined to be living in a drug environment. If the child is removed from an active clandestine drug lab where exposure could be toxic, the child should receive immediate treatment at an appropriate hospital emergency department. A notification to the hospital communication center must occur prior to transport to adequately prepare the emergency department to address the toxicity risk for the child and medical personnel.
  - It is important to involve the local Children's Advocacy Center so that a proper forensic medical evaluation may be conducted when necessary.
  - Toxicological testing of the DEC may provide evidentiary information to support the investigation and should be considered.
- Documentation of Exposure to Drugs and Other Abuse/Neglect

A DEC will often be exposed to other forms of abuse and neglect when living in an environment where his/her caregivers are using illegal drugs and/or abusing prescriptions. These children often will suffer from all forms of neglect, i.e., emotional, medical, educational, and physical. They will often be abused physically and sexually while being vulnerable to exploitation. Law enforcement and DSS should document the scene where the child was exposed to this environment by using audio and video recordings. Also, pictures of the current condition of the child at the beginning of the investigation will support future prosecutions for charges related to abuse and neglect. Important documentation will likely also come from the child through a forensic interview at the local Children's Advocacy Center.

## Basic Procedure for Investigation of Drug Endangered Children, continued

- Criminal Charges

Law enforcement should explore options for charging a caregiver and/or parent who allows his/her child(ren) to live in a drug endangered environment. There are statutes specifically tailored to address the DEC issue when prosecuting these cases. Some available statutes are: Cruelty to Children (S.C. Code Ann. § 63-5-80); Unlawful Conduct Toward a Child (S.C. Code Ann. § 63-5-70); Exposing Child to Methamphetamine (S.C. Code Ann. § 44-53-378); and Contributing to the Delinquency of a Minor (S.C. Code Ann. § 16-17-490). Other relevant criminal statutes involving the abuse or neglect of that child may also be used. Law enforcement, DSS, and prosecutors should coordinate with one another to determine the best options to ensure DEC will be protected and remain a consideration during the court process.

### Substance Use Disorder in Mothers Affecting Newborns

- DSS will notify the appropriate law enforcement agency of reports of newborn infants affected by prenatal abuse and assess the need for a joint investigation.
- DSS will communicate with the referral source (medical personnel/facility) once an investigation has been initiated. DSS will then make a request for medical information/documentation and share this information with law enforcement concerning the following:
  - Current condition of the infant and mother
  - Written detail regarding substance used (includes prescribed or non-prescribed)
  - Anticipated date of discharge
  - Medical condition of the mother and infant and any necessary medical follow-up that will be required for the care of the infant
  - Level of substance in the mother's and/or child's system; and impact of the substance on the infant, including descriptions of withdrawal symptoms
  - Necessary medical follow-up that will be required for the care of the infant
- DSS will proceed to the medical facility to interview the parent and observe the infant, determine the level of extended family support which might reduce risk to the child, and assess the mother's acceptance and responsibility for the situation and her willingness to accept treatment for substance use disorder. A referral to a prevention provider is needed for the newborn.
- Law enforcement shall determine if the child needs to be placed into emergency protective custody.
- Law enforcement, DSS, and/or the solicitor's office shall determine whether or not further court intervention is proper.

## Basic Procedure for Investigation of a Child Fatality or Near Fatality

### DSS Involvement:

The Child Fatality Response and Review Protocol contained in DSS policy and procedures will be activated for the following child fatalities:

- All reports of child fatality when abuse or neglect is suspected to be the cause. All such reports shall be investigated, even when the deceased child has no surviving siblings;
- All child fatalities if the deceased child's parents have an open investigation, foster care, family preservation, or Community Based Prevention Services case at the time of the child fatality; and
- All child fatalities if the deceased child's parents had an investigation (indicated or unfounded), foster care, family preservation, or Community Based Preservation Services case within the twelve months immediately preceding the child fatality.

### Joint Response:

- Both law enforcement and the coroner's office should have an active role throughout the investigation. Local law enforcement shall investigate child deaths with the State Law Enforcement Division's (SLED) Department of Child Fatalities, pursuant to S.C. Code Ann. § 63-11-1940, when a child dies as a result of violence, in any suspicious or unusual manner, or when the death is unexpected and unexplained.
- Local law enforcement should contact DSS if there are other children in the home who may be at risk and refer these children to the CAC.
- Schedule a death review with the coroner's office within 7 days of the death. This review should include all first responders who responded to the scene (including law enforcement, EMS, and the fire department), DSS, a child abuse pediatrician, the solicitor's office, and any other agencies who are involved in the investigation. The purpose of the review is to discuss all aspects of the case and gather information from all parties attending the review. (per S.C. Code Ann. § 17-5-541)
- If you have evidence of, or suspect drug/alcohol use, ask the parent/caregiver to submit to a drug/alcohol test. If they do not consent and you have probable cause to believe they are impaired by drugs and/or alcohol, obtain a search warrant.
- Do a reenactment with each parent/caregiver separately and video if possible. This reenactment is especially helpful in infant deaths. Have the parent/caregiver reenact with a doll how they placed the child to go to sleep, the last known time they were alive, and how they found them.
- Have the parent/caregiver(s) relay child's normal condition and behaviors and anything different leading up to the time of child's death. Have all parents/caregivers give a 24-hour timeline of child's behaviors (eating, walking, talking, playing, etc.) until time child exhibits symptoms of possible sickness or trauma and ultimate death.
- Work with the coroner to schedule an autopsy. Make sure the pathologist has all pertinent information (medical history, scene findings, witness accounts, etc) before he/she makes a final decision about cause and manner of death.



# 4

## Guardian ad Litem & Court Appointed Special Advocate (CASA)

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## 4 Guardian ad Litem & Court Appointed Special Advocate (CASA)

### Roles and Responsibilities of Guardian ad Litem/CASA Volunteer

The guardian ad litem/CASA volunteer in family court abuse and neglect proceedings is charged in general with the duty of representation of the child's best interests. S.C. Code Ann. § 63-11-530(A)(1). S.C. Code Ann. 63-11-510(B) outlines the responsibilities and duties of a guardian ad litem/CASA volunteer as follows:

- (1) represent the best interest of the child;
- (2) advocate for the welfare and rights of a child involved in an abuse or neglect proceeding;
- (3) conduct an independent assessment of the facts, the needs of the child, and the available resources within the family and community to meet those needs;
- (4) maintain accurate, written case records;
- (5) provide the family court with a written report, consistent with the rules of evidence and the rules of the court, which includes without limitation evaluation and assessment of the issues brought before the court and recommendations for the case plan, the wishes of the child, if appropriate, and subsequent disposition of the case;
- (6) monitor compliance with the orders of the family court and to make the motions necessary to enforce the orders of the court or seek judicial review;
- (7) protect and promote the best interests of the child until formally relieved of the responsibility by the family court.

Pursuant to S.C. Code Ann. § 63-11-530(B), the guardian ad litem/CASA volunteer is authorized to:

- (1) conduct an independent assessment of the facts;
- (2) confer with and observe the child involved;
- (3) interview persons involved in the case;
- (4) participate on any multidisciplinary evaluation team for the case on which the guardian ad litem has been appointed;
- (5) make recommendations to the court concerning the child's welfare;
- (6) make motions necessary to enforce the orders of the court, seek judicial review, or petition the court for relief on behalf of the child.

### Access to Records by the Guardian ad Litem/CASA Volunteer

In order to effectively advocate for the best interests of the child, the guardian ad litem/CASA volunteer must have access to certain information and records as stated in S.C. Code Ann. § 63-11-540: All reports made and information collected as described in Section 63-7-1990(A) must be made available to the guardian ad litem by the Department of Social Services. Upon proof of appointment as guardian ad litem and upon the guardian ad litem request, access to information must be made available to the guardian ad litem by the appropriate medical and dental authorities, psychologists, social workers, counselors, schools, and any agency providing services to the child.

## Confidentiality of Guardian ad Litem/CASA Records

Guardian ad Litem/CASA records and information are confidential. S.C. Code of Laws Ann. § 63-11-550(A) states in part:

All reports and information collected pursuant to this article maintained by the South Carolina Guardian ad Litem Program, or a county guardian ad litem program operating pursuant to Section 63-11-500(B) or by a guardian ad litem, are confidential except as provided for in Section 63-7-1990(C).

## How the Guardian ad Litem/CASA Volunteer Model Works

In all child abuse and neglect proceedings, children must be appointed a guardian ad litem/CASA volunteer by the family court. In addition, the guardian ad litem must be represented by legal counsel in any judicial proceeding. S.C. Code Ann. § 63-7-1620; S.C. Code Ann. § 63-7-2560. After appointment by the family court, the guardian ad litem/CASA volunteer must receive appropriate notice of all court hearings and proceedings regarding the child. S.C. Code Ann. § 63-11-530(A)(1).

The Cass Elias McCarter Guardian ad Litem Program, a division of the South Carolina Department of Children's Advocacy, administers the statewide program of volunteers who serve as guardians ad litem for children in abuse and neglect proceedings in all South Carolina counties except Richland. CASA volunteers in Richland County are part of the Richland County CASA program. S.C. Code Ann. § 63-11-500(A).

Guardians ad Litem and CASA volunteers work with legal and child welfare professionals, educators, Children's Advocacy Centers and multidisciplinary team members to the extent permissible under S.C. Code of Laws Ann. § 63-11-550(A) to ensure that judges have all the information they need to make the most well-informed decisions for each child.



A searchable contact list of South Carolina Guardian ad Litem and CASA programs is available at: [www.casaforchildren.org/our-work/programs/](http://www.casaforchildren.org/our-work/programs/)  
Courtesy: National CASA Association





# 5

## Children's Advocacy Centers

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### The Children's Advocacy Center

The Children's Advocacy Center (CAC) must be defined as a nationally accredited agency by the National Children's Alliance and/or the Children's Advocacy Center must be a member of the South Carolina Network of Children's Advocacy Centers and working towards accreditation. All children and families with an allegation of, or concern for, abuse will be referred to the Children's Advocacy Center for forensic interviews, forensic medical evaluation, multidisciplinary assessment (including mental health), and coordination of services.

The Children's Advocacy Center is an integral part of investigations conducted by DSS and law enforcement, including joint investigations. When a forensic interview of a child is required at any time during the investigation, it must be conducted through a CAC.

When an investigative agency contacts the CAC for services, a forensic interview and/or forensic medical evaluation should be scheduled. Best practice is for both of these services to be provided as initial services.

### The Forensic Interview

A forensic interview is a nationally recognized process conducted by a trained forensic interviewer at a Children's Advocacy Center (CAC). The forensic interview is developmentally, culturally, and linguistically appropriate and allows for the child's narrative recall of events. The purpose of a CAC forensic interview is to obtain information from a child about abuse allegations that will support accurate and fair decision-making by the Multidisciplinary Team (MDT) within the criminal justice, child protection, and service delivery systems. Forensic interviews are conducted in a manner that is developmentally and culturally sensitive, unbiased, fact-finding, and legally sound. When a child is unable or unwilling to provide information regarding any concern about abuse, other interventions to assess the child's experience and safety are required. The CAC/MDT must adhere to research-based forensic interview guidelines that create an interview environment that enhances free recall, minimizes interviewer influence, and gathers information needed by all the MDT members in order to avoid duplication of the interview process.

Forensic interviews are the foundation for multiple CAC/MDT functions including child abuse investigation, prosecution, child protection, and implementation of appropriate services, and may also be the beginning of the road toward healing for many children and families. The manner in which a child is treated during the initial forensic interview may significantly impact the child's understanding of, and ability to respond to, the intervention process and/or criminal justice system.

Quality interviewing involves an appropriate, neutral setting; effective communication among MDT members; and employment of legally sound interviewing techniques.

In general, children appropriate for a forensic interview include but are not limited to:

- Children who were subject to alleged physical abuse, emotional abuse, sexual abuse, sexual exploitation, or neglect
- Children who have witnessed any type of violence, including but not limited to domestic violence, rapes, and murders
- Children who are involved in any other case where concern may arise. Some examples include drug exposure, siblings in a child fatality case, mental injury, etc.



### The Forensic Interview, continued

Children should be forensically interviewed as soon as possible after the allegation/concern surfaces, while first taking into account the needs of the child and then considering the specific facts of the case. Professionals should be cognizant of the developmental level of the child, degree of trauma, and the child's current emotional and physical condition when determining the best time of day and date for the forensic interview.

Non-offending caregivers may accompany the child to the location of the interview, but are not allowed to be present or observe forensic interview sessions. The alleged offender will not be allowed on the CAC premises during the forensic interview process.

While forensic interview(s) are being scheduled and conducted, the child should not have contact with alleged offender(s) if identified at the time.

All involved investigators will provide the forensic interviewer with case information, including nature and circumstances of the allegations, and any possible alternative explanations for the allegations.

During the period of time that forensic interview sessions are being conducted with the child, any new information disclosed during the process pertaining to the abuse allegations should be immediately relayed to the involved investigative team members for follow up.

### Required Training for Forensic Interviewers

CACs vary with regard to who conducts the forensic interview, but the role must be fulfilled by a selected, supervised, and appropriately trained professional. At a minimum, any professional in the role of a forensic interviewer must have initial and ongoing formal, nationally-recognized, forensic interviewer training (including peer review of forensic interview videos) that is approved by National Children's Alliance (NCA) for purposes of accreditation.

### Documentation of Forensic Interviews

The interview shall be video-recorded. Once recording begins, it should not be discontinued until the interview is completed.

The assigned DSS caseworker and/or law enforcement investigator assigned to the case (on all cases meeting investigative criteria defined by each CAC MDT) will observe the interview live, either from a separate viewing room on-site or through live, secure remote viewing.

### CAC Access to Child Abuse Records

When children are referred for a CAC forensic interview, the CAC shall have access to all records and information relevant to the child's case from the referring agency and any involved agency, subject to federal and state confidentiality regulations.

### CAC Release of Recorded Forensic Interviews and Other Records

Recorded forensic interviews are considered evidentiary. These recordings may only be released without a protective court order to DSS, law enforcement, and/or the solicitor's office.

Records for other services provided at the CAC must be obtained in accordance with any applicable federal and state regulations.

## Forensic Interviews of Special Populations

### Child Victims of Human Trafficking and/or Sexual Exploitation

- Although normally best practice suggests that children should have a forensic interview as soon as possible, interviews with children who have been sexually exploited may require an interval of time to assess their readiness to be interviewed.
- More than one forensic interview session (with the same interviewer unless contraindicated) may be required due to dynamics related to exploitation.

### Children with Special Needs

- If a forensic interview is needed for a child with a cognitive or physical disability or other special need, the protocol should be modified to accommodate the needs of the individual child. Children with learning disabilities should also be accommodated to maximize their ability to communicate effectively.
- All agencies involved in the investigation are required to adhere to federal regulations, specifically Titles II and III of the Americans with Disabilities Act(ADA) and the Rehabilitation Act. These requirements include accommodations for communication and requirements for accessibility for services.
- ADA regulations require “state and local government programs must ensure effective communication with individuals with disabilities by providing appropriate auxiliary devices.”
- The basic core of the forensic interview is communication and it is likely these individuals already have communication devices they use on a daily basis. The requirements include furnishing “auxiliary aids when necessary to ensure effective communication, unless undue burden or fundamental alteration would result.”
- There should also be non-discrimination on the basis of a disability by public accommodations.

### Adults with Cognitive Delays

CACs may also interview reported victims/witnesses who fall outside of the usual age ranges, based on special circumstances that may include adults with cognitive delays who may have experienced abuse or exploitation. Decisions for accepting these cases are made on a case-by-case basis by each MDT/CAC community.

## Special Circumstances for Additional Forensic Interviews (FI)

On rare occasions, the multidisciplinary team may determine that an additional forensic interview session is warranted. Potential reasons to conduct more than one session may include but are not limited to the following:

- Decision-making regarding protection of the child cannot be made based upon information obtained during the initial interview.
- When an interview could not be completed in one session due to the child's level of engagement/participation, developmental/cognitive abilities, or social/emotional/physical functioning, or another reason when information could not be fully or effectively gathered in the single session.
- The child disclosed additional information following initial forensic interview; or indicated reason he/she could not tell; or due to changes in the situation, circumstances, external evidence or corroboration emerges.

### Special Circumstances for Additional Forensic Interviews (FI), continued

- Where subsequent information becomes available during the investigation, and an interview of the child is vital to an understanding of the information or evidence.
- The child was unable to complete the initial forensic interview and needs additional time due to victimization type (see examples in paragraph below).

Under some circumstances, multiple forensic interview sessions may also be planned from the beginning and carried out over 2-6 sessions (typically, as dictated by the needs of the child) to address and fit a particular child's needs such as age, developmental disabilities or other special needs, ability to communicate, being multi-lingual and/or requiring an interpreter, multiple allegations, offenders and/or types of abuse, and for those who have been severely traumatized.

Additional forensic interview sessions should be conducted by the same interviewer unless contraindicated.

### Multi-Disciplinary Team (MDT)/Case Coordination

The multidisciplinary team (MDT) will make recommendations regarding the child's need for further evaluation and treatment. According to the National Children's Alliance, the MDT consists, at a minimum, of law enforcement, DSS, the solicitor's office, the Children's Advocacy Center (CAC), mental health, victim advocates, and medical professionals. Additionally, the CAC shall make every effort to include, with appropriate signed MOUs/releases, the guardian ad litem (GAL), the school district representative, Department of Juvenile Justice (DJJ), and the Department of Disabilities and Special Needs. Other appropriate agencies may participate in the MDT, with appropriate releases and approval, to increase the effectiveness of investigations and services for children.

#### Coordination of MDT Meetings:

The Children's Advocacy Center will coordinate MDT meetings for the primary purpose of facilitating communication between agencies involved in the investigation and prosecution of child maltreatment and agencies responsible for protecting child victims.

MDT members may request to staff any case they believe can benefit from the collaborative input of the team. Requests can include cases involving children who were not seen for services at the CAC. Requests for cases to be staffed by the MDT are accepted from any MDT member and/or appropriate agencies.

Because the purpose of the MDT staffing is to facilitate the sharing of information between agencies, all individuals from DSS, law enforcement, prosecution, the CAC, medical, and mental health who are involved with a case being staffed should be present and consistently participate in the MDT meetings.

All agencies will cooperate fully in sharing information with each other concerning the abuse allegation, the child, and any other persons involved in the incident in order to fulfill their respective duties. The agencies will assist each other in making the child available for interviewing if necessary to fulfill their duties and will inform each other immediately upon learning of a change of location, address, or phone number of the child.

*Individual counties may have local protocols that expand on information in this statewide protocol. Please contact your local Children's Advocacy Center for additional information.*



# 6

## SC Children's Advocacy Medical Response System & Forensic Medical Exams

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- 34** Forensic Medical Evaluation
- 35** Guidelines for Forensic Medical Evaluations
- 36** Acute Sexual Assault and Forensic Evidentiary Exams



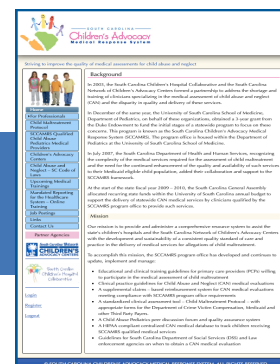
## SC Children's Advocacy Medical Response System (SCCAMRS)

SC Children's Advocacy Medical Response System is a comprehensive resource system that assists the South Carolina Network of Children's Advocacy Centers and the state's children's hospitals by developing and sustaining a consistent quality standard of care for the delivery of medical services for allegations of child maltreatment. The system has a network of child abuse pediatricians and other healthcare providers statewide that have met the educational and practice standards to perform forensically sound medical evaluations of alleged child victims of maltreatment.

Although a primary care physician, nurse practitioner, or physician assistant providing care for the child can initially conduct a medical evaluation, it is recommended the evaluation be performed by a SCCAMRS qualified healthcare provider. Records of that initial evaluation must be made available to the SCCAMRS provider for review. For a list of child abuse pediatricians and SCCAMRS qualified healthcare providers and their location at Children's Advocacy Centers and children's hospitals, please see program website.



**A list of SCCAMRS qualified Child Abuse Pediatrics Medical Providers is available at: [www.sccamrs.org](http://www.sccamrs.org)**  
 Courtesy: South Carolina Children's Advocacy Medical Response System



## Forensic Medical Evaluations

A forensic medical evaluation plays an important role in the ascertainment of the child's physical and mental well-being and is an integral part of the multidisciplinary assessment of child abuse. Generally, a Forensic Medical Evaluation (FME) will consist of a complete and thorough medical history from the child (if verbal) and caregivers and a head to toe physical examination, including the anogenital area. The evaluation may also include diagnostic laboratory tests, radiology studies, and photo-documentation of findings if applicable.

Purpose:

- To assess the physical, developmental, behavioral, and mental health of the child and identify unmet needs
- To evaluate child's clinical findings or injuries and determine if such findings are physical evidence of abuse or from a non-abuse related medical condition
- To screen for sexually transmitted infections (STI) when appropriate, then diagnose and treat if an infection is identified and interpret the significance of such infections for investigatory agencies
- To answer questions about the child's physical wellbeing and possible prognosis or outcome and provide recommendations for treatment
- To provide accurate documentation for legal purposes and explain to investigatory agencies, a lay jury, and judge the results of the evaluation and medical opinion as to the likelihood of abuse. Also, in the absence of physical findings, provide expert opinion or testimony to explain this lack of medical evidence.

## Guidelines for Forensic Medical Evaluations

The need for and timing of a medical evaluation is determined by the clinical presentation of the child in consultation with the SCCAMRS qualified healthcare provider. Upon receipt of a report of abuse or neglect by an investigatory agency, a referral for a forensic medical evaluation must be made as soon as possible, but no later than 3 working days, to a child abuse pediatrician (CAP) or a physician, nurse practitioner, or physician assistant (known as healthcare providers) who is qualified by the SC Children's Advocacy Medical Response System pursuant to section S.C. Code Ann. § 63-11-430 when the presenting case includes<sup>1</sup>:

- Bruises anywhere on a child under 1 year of age who is not pulling to stand.
- Children under the age of 2 with presence of at least one of the following:
  - Head injury
  - Any fracture
  - Any burn
  - Chest and/or abdomen injury
- Bruising located on face, ears, neck, chest, back, buttocks, or genital area; or bruises elsewhere with a pattern or multiple in number
- Any report alleging sexual abuse of a child, including sexual exploitation/trafficking
- Any sexually transmitted infection in a child eleven years of age or younger
- Any family in which one or more children has been pronounced dead on arrival at a hospital or other health care facility, or has been injured and later died, as a result of suspected abuse, abandonment, or neglect, when any sibling or other child remains in the home
- Child exposed to the manufacture of methamphetamine or other hazardous drugs (clandestine labs), or lives in or is exposed to an environment where drugs, including pharmaceuticals, are used, possessed, sold and/or traded/trafficked
- Child witness to violence, including but not limited to domestic violence/intimate partner violence

A child 2 years of age or younger with acute injuries may require an evaluation first at a children's hospital and/ or emergency room by a child abuse pediatrician due to the possible need for neuroimaging, radiology studies such as skeletal survey, and other diagnostic tests. After hospital discharge, the child must be referred to the local children's advocacy center for a medical follow up and coordination of services. If the referring investigatory agency is uncertain about the urgency or timing of a medical evaluation, direct contact with a SCCAMRS healthcare provider should be made for assistance and clarification.

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<sup>1</sup> Requesting a FME is not exclusively limited to the above scenarios.

## Acute Sexual Assault and Forensic Evidentiary Exam

Children 11 years of age and younger presenting within 72 hours and children 12 to 17 years of age presenting within 96 hours from the last incident of sexual assault may require evidence collection (f/k/a rape kit) if the assault has involved exchange of bodily fluids or trace evidence. This evidentiary exam is usually conducted in hospital emergency rooms by trained hospital staff or a Sexual Assault Nurse Examiner<sup>2</sup> (SANE).

Purpose of the sexual assault evidentiary exam:

- To obtain a brief history of the assault
  - A forensic interview should be coordinated through the local Children's Advocacy Center
- To collect and preserve evidence from the child's or adolescent's body, including clothing
- To collect toxicology samples in suspected alcohol or drug facilitated sexual assault
- Photodocumentation of acute injuries
- To offer preventive treatment for possible STI and pregnancy, as applicable
- To screen for the immediate mental health needs of the child and provide crisis intervention, support, and advocacy
- To maintain a chain of custody for admissibility of potential evidence during criminal justice proceedings

An evidentiary exam and collection is not a comprehensive medical evaluation of the child/adolescent for the allegation of abuse. Children 17 years of age and younger initially seen for an evidentiary exam require a referral to the local Children's Advocacy Center within 2 weeks of the acute incident for medical and STI follow-up with a SCCAMRS healthcare provider.

A SANE providing evidentiary services to the 0-17 age group must have oversight by a SCCAMRS qualified physician for the implementation of forensic practice guidelines and review of cases and photodocumentation. A SANE is not licensed to render a medical diagnosis as to the likelihood of abuse.

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<sup>2</sup> A SANE with a pediatric designation/certification (SANE-P) is a registered nurse who has received education and clinical training in the collection of forensic evidence and treatment of the immediate needs of the sexually assaulted pediatric and adolescent victim (17 years of age and younger) . Other designation is SANE- A; a registered nurse who has received training to address the needs of adults and adolescent victims 13 years of age and older.



# 7

## Clinical Assessment & Treatment Services

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## Mental Health Services

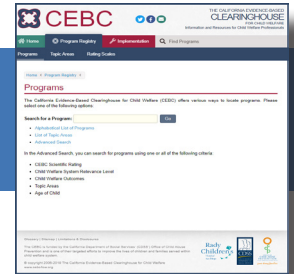
- For all cases staffed by the MDT, the MDT will assist to determine if there is a need of referral for a mental health assessment and/or treatment. If such a referral is indicated, the Children's Advocacy Center (CAC) or a trained child therapist at a local agency will provide an assessment utilizing standardized instruments and, if treatment is needed, an evidence-based treatment. A list of evidence-based treatments is available on the California Evidence-Based Clearinghouse for Child Welfare.



**A list of qualified evidence based treatments is available at:**

**[www.cebc4cw.org/registry/search/](http://www.cebc4cw.org/registry/search/)**

**Courtesy: California Evidence-Based Clearinghouse**



- Many providers utilize Trauma-Focused Cognitive Behavioral Therapy (TF-CBT), in addition to other treatment modalities that are trauma focused.
- TF-CBT is widely regarded as the most effective treatment with sexually abused and traumatized children and their non-offending caregiver. This therapy emphasizes the importance of parent involvement during the course of therapy; it includes individual sessions with the child, individual sessions with the parent, and family sessions with the parent and child together.
- The mental health assessment and treatment (if indicated) may be provided at the local CAC or through a local behavioral health provider with experience and expertise in assessing and treating child trauma symptoms. The MDT will provide guidance for selecting a provider based on the needs of the child; the financial resources of the family; and the availability, credentialing, and experience of the provider. Minimally, that provider shall be a clinician trained and experienced in the assessment and treatment of child abuse and trauma symptoms, including with the use of standardized measures.
- Treatment referrals:  
When the history and clinical assessment results indicate that emotional or behavioral treatment is needed, the child and family shall be referred to a provider with sufficient training in the needed evidence-based, trauma-informed treatment. Typically, this involves a minimum of graduate education, training in trauma-informed practice, and clinical technique training that involves in-person and ongoing consultation by an expert on the treatment model. If a local, adequately-trained, trauma-informed clinician is not available, regional referrals should be provided. Telemedicine options should be pursued if they are available in the local community.

The MDT shall determine the best referral for the child/family based on the needs of the child; the resources of the family; and the availability, experience, and credentialing of the provider.

Two resources for identifying therapists who have met basic training requirements for Trauma-Focused Cognitive Behavioral therapy are listed on the following page.

It should be noted that the two resources listed are not wholly inclusive of all qualified therapist in South Carolina and the local Children's Advocacy Center may have additional resources to locate qualified therapists.

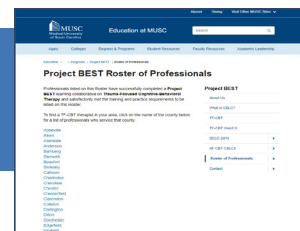
## Mental Health Services, continued

- Two resources for identifying therapists who have met basic training requirements for Trauma-Focused Cognitive Behavioral therapy are:
  - Project BEST (Bringing Evidence Supported Treatments to South Carolina) maintains a roster of South Carolina therapists who have completed all training requirements to deliver TF-CBT through Project BEST training initiatives. For a list of rostered therapists, go to the Medical University of South Carolina web site and type in Project Best Roster in the education at MUSC search bar.



**For a list of Project Best rostered therapists visit the MUSC website and search for Project Best Roster: [www.education.musc.edu](http://www.education.musc.edu)**

Courtesy: Medical University of South Carolina



- National TF-CBT Roster: For a list of therapists who have achieved national certification in TF-CBT go to the TF-CBT Therapist Certification Program webpage (“Find a Therapist,” sort by state).



**A searchable list of nationally certified TF-CBT Therapists is available under the find a therapist tab at: [www.tfcbt.org](http://www.tfcbt.org)**

Courtesy: TF-CBT Therapist Certification Program



## Service Plan for Child Victims of Human Trafficking and/or Sexual Exploitation

Trafficked/Sexually Exploited Children often have extensive histories of multiple traumas and high rates of trauma symptoms; therefore, therapists must be knowledgeable about trauma and skilled in the delivery of trauma-focused treatment, and also well-informed about human trafficking and sexual exploitation.

It is considered best practice for DSS, in consultation with law enforcement officials and the MDT, to develop a plan for the delivery of services to sexually exploited children, victims of trafficking of persons for labor servitude, and such children and persons who are at risk of becoming victims of such offenses.

In developing such plan, DSS should work with state and federal agencies, public and private entities, and other stakeholders as it deems appropriate and should periodically review such plans to ensure appropriate services are being delivered. Plans should include:

- Identifying children who need services;
- Providing assistance with applications for federal and state benefits, compensation, and services;
- Coordinating the delivery of physical and mental health, housing, education, job training, child care, legal, and other services;
- Preparing and disseminating educational and training materials to increase awareness of available services;
- Developing and maintaining community-based services;
- Providing assistance with family reunification or repatriation to a country of origin; and
- Providing law enforcement officials assistance in identifying children in need of such services.



# 8

## Prosecution & Victim Advocacy

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## Case Development

The prosecutor is a critical member of the local multidisciplinary team (MDT). When criminal charges involving a child victim are sought by law enforcement, it is recommended that the prosecutor provide counsel with regard to the appropriate charges based upon the facts and the evidence. Active participation in the MDT will provide a forum to make well-informed decisions for the pursuit of criminal charges, coordination between agencies such as DSS and DJJ for an appropriate resolution of the case, and limit additional trauma to the child victim. One goal of the MDT should be to review any and all possible evidence that could be gathered to assist in the development of proof beyond a reasonable doubt for the prosecution of the case. Such evidence includes, but is not limited to:

- Law enforcement reports detailing the scene, evidence gathered, and observations
- Witness/Victim contact information, interviews and statements
- Photographs and body camera videos of the scene and/or child victim
- Forensic interview of the child
- Forensic medical evaluation of the child
- Child's medical records
- Child's school records
- Phone records and social media accounts

## Special Evidentiary Issues Regarding Records

- Mental Health Records: In *State v. Blackwell*, 420 S.C. 127, 801 S.E.2d 713 (2017), the South Carolina Supreme Court adopted the following procedure for the review of a victim's private and confidential mental health records:
  - "[T]rial judges, prior to any disclosure of privileged mental health records, should conduct a hearing with the parties in which the judge inquires whether the witness consents to the disclosure of the privileged records. If the witness does not consent, the judge alone should review the contents of the records to determine whether disclosure is necessary for the conduct of proceedings before the court and that failure to make the disclosure is contrary to public interest. In making this determination, the judge should assess the importance of the witness to the prosecution's case and whether the records contain exculpatory evidence, including, but not limited to, evidence relevant to the witness's credibility."
- Medical records are not in the possession of a Children's Advocacy Center. The release of these medical records must follow the standards as established by HIPAA and require a court order.
- Forensic interviews and medical evaluations conducted at the Children's Advocacy Centers are released to law enforcement and DSS pursuant to S.C. Code Ann. § 63-11-310. For the release of these records to any other entity and/or necessary party, see the section related to Children's Advocacy Centers in the protocol.



## Criminal Statutes Involving Children

### Sexual Abuse and Exploitation Offenses

In selecting the appropriate criminal charges for sexual abuse against children, prosecutors should take note of the age of the child and the type of sexual contact. Also, because of statutory changes over the years and the frequency of delayed disclosures, the prosecutor should be sure to use the appropriate charge and applicable range of punishment for when the act was committed.

A limited list of crimes related to the sexual abuse and exploitation of children can be found in Appendix II (sex crimes list). Prosecutors may also consider S.C. Code Ann. § 63-5-70 Unlawful Conduct Toward a Child or S.C. Code Ann. § 16-17-490 Contributing to the Delinquency of a Minor depending upon the facts of the case. Cases involving obscene material, solicitation and sexual exploitation should be reviewed for applicable charges found in Article 3, Chapter 15, Title 16 of the S.C. Code of Laws.

### Physical Abuse and Neglect Offenses

Important factors in selecting the appropriate criminal charges for the physical abuse or neglect of a child should include the relationship between the child and the perpetrator, the degree of the injury, and the age of the child.

A limited list of crimes related to the physical abuse and neglect of children can be found in Appendix III (physical abuse list).

### Domestic Violence

Domestic violence is defined as the commission of certain acts between household members as stated in S.C. Code Ann. § 16-25-10. South Carolina law allows for increased penalties when the domestic violence offense is committed in the presence of, or while being perceived by a minor. See S.C. Code of Laws § 16-25-20. Prosecutors should make careful review and appropriate inquiries to see if the facts of the case warrant such enhanced penalties.

## Child Hearsay in Criminal Trials and Juvenile Delinquency Proceedings

### Statute Governing the Admissibility of the Forensic Interview, S.C. Code Ann. § 17-23-175

An out-of-court statement made by a child describing any act of sexual contact, physical abuse or neglect, or any other form of defined abuse, is considered hearsay and is inadmissible at the trial of a perpetrator unless that statement is specifically made admissible under the S.C. Rules of Evidence or a statutory exception as enumerated in the S.C. Code of Laws.

S.C. Code Ann. §17-23-175 provides for the admissibility of the recorded forensic interview of the child in a general sessions court proceeding or a delinquency proceeding in family court. The specific requirements under § 17-23-175 are as follows:

- A “child” is defined as a person who is under the age of twelve years at the time of the making of the statement or who functions cognitively, adaptively, or developmentally under the age of twelve at the time of making the statement, and
- The child is the alleged victim of, or witness to, a criminal act for which the defendant, upon conviction, would be required to register as a sex offender pursuant to the provisions of S.C. Code Ann. § 23-3-430.
- Continued next page

## Child Hearsay in Criminal Trials and Juvenile Delinquency Proceedings, cont.

- The statement was given in response to questioning conducted during an investigative interview of the child;
- An audio and visual recording of the statement is preserved on film, videotape, or other electronic means, with limited exceptions. See § 17-23-175 (F)
- The child testifies at the proceeding and is subject to cross-examination on the elements of the offense and the making of the out-of-court statement; and
- The court finds, in a hearing conducted outside the presence of the jury, that the totality of the circumstances surrounding the making of the statement provides particularized guarantees of trustworthiness. Factors the court may consider include, but are not limited to:
  - Whether the statement was elicited by leading questions;
  - Whether the interviewer has been trained in conducting investigative interviews of children;
  - Whether the statement represents a detailed account of the alleged offense;
  - Whether the statement has internal coherence; and
  - Sworn testimony of any participant which may be determined as necessary by the court.

### SC Rules of Evidence (SCRE) Governing the Admissibility of Hearsay Statements

The SCRE provides for the admissibility of other certain types of out of court statements. These are laid out in Rules 801 and 803, SCRE.

Rule 801(d)(1), SCRE. Statements Which Are Not Hearsay, Prior Statement by Witness

- Inconsistent with the declarant's testimony
- Time and Place exception

Rule 803, SCRE – Hearsay Exceptions; Availability of the Declarant Immaterial

- Present Sense Impression  
(A statement describing or explaining an event or condition made while the declarant was perceiving the event or condition, or immediately thereafter.)
- Excited Utterance  
(A statement relating to a startling event or condition made while the declarant was under the stress of excitement caused by the event or condition.)
- Then Existing Mental, Emotional or Physical Condition
- Statements for Purposes of Medical Diagnosis or Treatment

## Testimony at Trial

### The Child Victim

- Court Preparation: Prosecutors should make age and developmentally appropriate efforts to prepare a child victim or witness to testify in the courtroom. It is recommended that prosecutors utilize the services of a victim advocate to orient the child to the courtroom, become familiar with the witness stand and become comfortable speaking to a courtroom audience.

## Testimony at Trial continued

- **Competency:** The child's competency to testify should be addressed with age and developmentally appropriate questions prior to his testimony at trial. Efforts, via appropriate motions, should be made to request the trial court to employ age and developmentally appropriate questions to ascertain the child's competency to testify
- **Accommodations in Special Circumstances:**
  - **Testimony via Closed-Circuit Television**  
The South Carolina Supreme Court acknowledged and endorsed the use of closed-circuit television through S.C. Code Ann. § 16-3-1550(E) which states, "[t]he circuit or family court must treat sensitively witnesses who are very young, elderly, handicapped, or who have special needs by using closed or taped sessions when appropriate." However, this is an exception to the preferred rule that a child victim must testify and the courts strictly scrutinize the process. If this procedure is used, you must follow and adhere to the procedure outlined in *State v. Murrell*, 393 S.E.2d 919 (S.C. 1990) and *State v. Bray*, 535 S.E.2d 636 (S.C. 2000).
  - **Support Person / Facility Dogs** are allowed in the courtroom to support and assist the child victim during testimony. When the assistance of a support person or facility dog is being used, address this matter with the court pre-trial to solidify the appropriate manner in which to proceed.

## The Forensic Interviewer

South Carolina does not recognize forensic interviewing as an area of expertise. See *Kromah v State*, 737 S.E.2d 490 (S.C. 2013). Testimony of the individual who conducted the forensic interview of the child should be limited to the facts supporting the foundation of the admissibility of the interview under S.C. Code Ann. § 17-23-175.

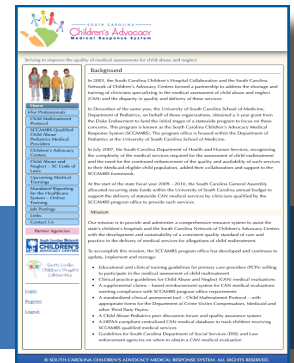
## Expert Witnesses

It is important that prosecutors seek the consultation of individuals who, due to their knowledge, skill, experience, training or education, have expertise regarding child abuse. These individuals can assist the trier of fact to understand the evidence presented at trial or to determine a fact in issue. Rule 702, SCORE. No witness, including expert witnesses, can give their opinion regarding the credibility or believability of the victim. Prosecutors should take great care to avoid eliciting such testimony. Two important experts to utilize include:

- **Child Abuse Dynamics Expert**  
Experts in the area of child abuse dynamics may be able to address a constellation of behaviors exhibited related to maltreatment. Such dynamics include, but are not limited to: delayed disclosure, grooming, secrecy, accommodation and entrapment, the process of disclosure, memory and suggestibility, and recantation. The preferred method for calling such an expert and eliciting this information to assist the judge and jury to understand the issues are detailed in the case of *State v. Brown*, 768 S.E.2d 246 (S.C. App. 2015).
- Continued next page

## Testimony at Trial, continued

- Child Abuse Pediatrician / SC Children's Advocacy Medical Response System Qualified Provider  
Medical experts provide vital testimony to include: the degree of injury sustained, whether the history provided by the perpetrator is consistent with the observed injury, explanation of the absence of injury, the mechanism of the injury, and rebuttal to proffered defense expert testimony. Please consult your local Children's Advocacy Center for the SCCAMRS provider that serves your region or access a healthcare provider specializing in the medical assessment of child abuse and neglect from the SCCAMRS website.



A list of SCCAMRS qualified Child Abuse Pediatrics Medical Providers is available at: [www.sccamrs.org](http://www.sccamrs.org)

Courtesy: South Carolina Children's Advocacy Medical Response System

## Juvenile Delinquency Proceedings in Family Court

### Statute Governing

See the child hearsay section, beginning on page 42, for information regarding the applicable statutes and rules of evidence governing the admissibility of hearsay statements in juvenile delinquency proceedings.

### Problematic Sexual Behaviors in Youth

According to an American Academy of Pediatrics clinical report, "The Evaluation of Sexual Behaviors in Children" Pediatrics 124;992 (2009), most children will engage in sexual behaviors at some time during childhood. These behaviors can range from normal and developmentally appropriate to abusive and violent. Not all situations that involve sexual behaviors in children require child protective services or juvenile justice intervention. Juvenile prosecutors should obtain knowledge and understanding of what sexual behaviors are age-appropriate and normal and what sexual behaviors are inappropriate and abusive. It is important to remember that unlike the vast majority of consequences stemming from an adjudication of delinquency in family court, an adjudication that requires placement on the sex offender registry is currently a lifelong consequence.

When identifying situations involving problematic sexual behaviors, prosecutors should seek appropriate agency collaborations to address safety, management, supervision and treatment of the juvenile involved. Juvenile prosecutors should make efforts to educate themselves on current empirical evidence regarding the prevalence and recidivism risk of juvenile sexual offending and the efficacy and consequences of various common treatment modalities and other post-adjudication interventions. An understanding of relevant evidence will focus the prosecutor's attention on the most relevant questions and issues in these cases, and put them in a position to do the right things to hold juvenile offenders responsible, impose appropriate sanctions and therefore, best protect the community.

### Dually-Involved Youth: DSS and DJJ

Children involved with the child welfare system are more likely to become delinquent, be arrested, and advance deeper into the juvenile justice system. To improve outcomes for youth involved with both the South Carolina Department of Social Services (DSS) and the South Carolina Department of Juvenile Justice (DJJ), the two agencies have a Memorandum of Understanding (MOU). The MOU directs the two agencies to share information and collaborate with each other. Additionally, these agencies should work with other child serving agencies that are providing services for the youth.



## Juvenile Delinquency Proceedings in Family Court, continued

In order to better improve the outcomes for dually involved youth, these youth need to be identified as early in the process as possible. According to the MOU, each county DJJ and DSS office is to appoint a primary and secondary liaison that will serve as the primary contact between the agencies. Their duties include providing verification if a youth is involved or has a history with their agency. Upon identification of a youth involved with both agencies, the relevant and permissible records described in the MOU should be shared promptly with the other agency.

When a dually involved youth has concurrent involvement with both DSS and DJJ, the MOU requires a mandatory interagency staffing within 30 days of the youth becoming known to both agencies. This interagency staffing should include: the DSS caseworker, the DJJ case manager, the prosecutor assigned to the case, the juvenile's attorney, and the guardian ad litem. This interagency staffing should attempt to give all parties an understanding of the background and life circumstances of the child. The goal of this staffing is to help the parties decide what treatment options and services would best benefit the youth and family as a whole.

If it is determined that diversion or deferred prosecution would be an appropriate resolution in this case, then the terms of that diversion or deferred prosecution can be discussed at this staffing. The prosecutor should consider the child welfare factors in conjunction with the delinquency factors in determining whether diversion or deferred prosecution is appropriate. Additionally, the inability to pay any fees should not be a barrier to allowing the juvenile to participate in a diversionary program.

After the initial interagency staffing, the MOU requires an additional staffing every 90 days to monitor the juvenile's progress and to address any additional needs that the juvenile may have while on supervision. If a juvenile appears to be at risk of re-offending, violating their supervision, or being dismissed from placement, then another staffing is promptly required to offer possible solutions or treatment options.

The DSS caseworker should be available to attend any delinquency proceedings. Often times, the caseworker has the most useful and relevant information to the juvenile's current situation. The caseworker should be available to answer any questions the judge or parties have concerning the case. When requested, the DJJ case manager should be available to attend the child welfare proceeding.

Increased collaboration is necessary for youth involved with both DSS and DJJ. Many times,

The abuse and neglect that the youth has experienced is a contributing factor in the delinquency charge. The only way to make an informed decision regarding the services that the youth will need to succeed is to consider the child welfare factors in conjunction with the delinquency proceeding.

## Victim Advocacy and Victim Rights

The prosecutor must take care in ensuring the preservation and protection of victim's rights which are enumerated in South Carolina's Constitution, S.C. Const. art. I, § 24. Victim advocacy and support services are coordinated by the CAC/MDT and are defined in the CAC/MDT's written documents.

In the context of the prosecution of crimes involving children, prosecutors should be complying with the victim's rights through the child's non-offending parent, guardian, or caretaker. To the extent possible, considering the child's age and developmental level, the prosecutor should make efforts to help the child understand the criminal justice process, the case status, and the case resolution. Care should be taken to assist the child in submitting a victim impact statement, whether in writing, in person, or pre-recorded.



# Appendix

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- II Crimes Related to Child Sexual Abuse, page 49
- III Crimes Related to Child Physical Abuse or Neglect, page 50



### Minimal Facts Interview

#### DSS/Law Enforcement First Response for Child Abuse Cases

When a Victim or Witness is a CHILD (under the age of 18):  
Assess whether the child is safe and/or needs immediate medical attention.

**1) Gather information from the reporter or a non-offending adult AWAY from the child/victim to include at a minimum:**

- Names, ages, and current location of victim(s) and suspect(s)
- Type of abuse and how they learned about it
- Where it happened/jurisdiction
- When it most recently happened\*
- Any witnesses

\*If child is injured, sick, or a sexual assault incident occurred within last 72 hours, seek immediate medical attention.

**2) ONLY if the reporter or a non-offending adult is NOT available to provide information, ask the child minimal fact questions:**

WHAT happened? (type of abuse)

- Are you hurting?

WHO did this? (relationship to child)

- Do they live with you?

WHEN did it happen? (\*assess immediate medical needs)

- When did you last see the person?

WHERE did it happen? (jurisdiction)

\* If child is injured, sick, or a sexual assault incident occurred within last 72 hours, seek immediate medical attention.

**3) Contact your local Children's Advocacy Center (CAC)** where a more detailed interview will be conducted by a trained interviewer.

To locate your local CAC, visit:

[www.cac-sc.org](http://www.cac-sc.org)

South Carolina Network of Children's Advocacy Centers, updated September 2019



### Crimes Related to Child Sexual Abuse

	Effective June 18, 2012	Omnibus Crime Bill Effective June 11, 2010	Sex Offender Accountability Act Effective July 1, 2006	Effective June 1, 2005	Effective June 4, 1996	Effective Jan 1, 1994	1977	1962
<b>CSC 1<sup>ST</sup> DEGREE</b>							0-30 § 16-3-652	
Aggravated force								
Also a V of forcible confinement, kidnapping, robbery, extortion, burglary, housebreaking, or other similar offense or act								
D causes V to become incapacitated								
<b>CSC 2<sup>ND</sup> DEGREE</b>							0-20 § 16-3-653	
Aggravated coercion								
<b>CSC 3<sup>RD</sup> DEGREE</b>							0-10 § 16-3-654	
Force								
Mentally defective, incapacitated or physically helpless								
<b>CSC WITH A MINOR 1<sup>ST</sup> DEGREE</b>								
Under 11 yrs of age	25 – life § 16-3-655(A)(1) & (D)(1)		25 – life § 16-3-655(A)(1) & (C)(1)	10-30 § 16-3-655(A)(1)			0-30 § 16-3-655(1)	
(with prior CSC with a minor 1 <sup>st</sup> )	Life § 16-3-655(D)(1)		Life § 16-3-655(C)(1)					
Under 16 + prior SOR	10-30 § 16-3-655(A)(2) & (D)(2)		10-30 § 16-3-655(A)(2) & (C)(2)	10-30 § 16-3-655(A)(2)				
<b>CSC WITH A MINOR 2<sup>ND</sup> DEGREE</b>								
14 or less but at least 11	0-20 § 16-3-655(B)(1) & (D)(3)		0-20 § 16-3-655(B)(1) & (C)(3)	0-20 § 16-3-655(B)			0-20 § 16-3-655(2)	
At least 14 but less than 16 & D is older OR D is in a position to coerce	0-20 § 16-3-655(B)(2) & (D)(3)		0-20 § 16-3-655(B)(2) & (C)(3) Romeo Clause enacted (14-18 years old)	0-20 § 16-3-655(C)			0-10 § 16-3-655(3)	
<b>CSC WITH A MINOR 3<sup>RD</sup> DEGREE</b>	0 – 15 § 16-3-655(C) & (D)(4) Replaced Lewd Act; Romeo Clause made applicable							
<b>LEWD ACT UPON A MINOR</b>	Repealed	Became "violent"			(child under 16)	0-15		§ 16-15-140 0-10 (child under 14)
<b>ASSAULT W/ INTENT TO COMMIT</b>							§ 16-3-656	
<b>C/L ABHAN</b>		Repealed						
<b>ASSAULT &amp; BATTERY CRIMES</b>								
A&B first degree		§ 16-3-600(C)(1)(a)(i)						
A&B second degree		§ 16-3-600(D)(1)(b)						
<b>INCEST</b>								§ 16-15-20 1 – 10
<b>TRAFFICKING IN PERSONS</b>	§ 16-3-2020							
<b>SEX OFFENDER REGISTRY</b>					SOR "catch all"	ENACTED		

Mistake of Age is not a defense – effective until July 1, 2006 / Mistake of Age is a defense – July 1, 2006 through June 16, 2008 / Mistake of Age is not a defense – as of June 16, 2008

Children's Law Center, University of South Carolina School of Law, updated March 2019



**Crimes Related to Child Physical Abuse or Neglect**

CRIME	STATUTE	RELATIONSHIP	ACT / DEGREE OF INJURY / MENS REA	PUNISHMENT
<b>CRUELTY TO CHILDREN</b>	§ 63-5-80	<ul style="list-style-type: none"> <li>whoever</li> <li>whether the person is the parent or guardian or has charge or custody</li> </ul>	<ul style="list-style-type: none"> <li>Cruelly ill-treats</li> <li>Deprives of necessary sustenance or shelter</li> <li>Inflicts unnecessary pain or suffering</li> <li>or causes the same to be done</li> </ul>	0 – 30 days
<b>UNLAWFUL CONDUCT TOWARD A CHILD</b>	§ 63-5-70	<ul style="list-style-type: none"> <li>Charge or custody</li> <li>Parent or guardian</li> <li>person responsible for the welfare of the child (63-7-20)</li> </ul>	<ul style="list-style-type: none"> <li>place child at unreasonable risk of harm affecting child's life, physical or mental health or safety</li> <li>do or cause to be done unlawfully or maliciously any bodily harm so that the life or health is endangered or likely to be endangered</li> <li>wilfully abandon the child</li> </ul>	0 – 10 years
<b>ASSAULT &amp; BATTERY</b>	§ 16-3--600	Any person		
ABHAN	§ 16-3-600(B)		Injury + <ul style="list-style-type: none"> <li>GBI results OR</li> <li>Act is accomplished by means likely to produce death or GBI</li> </ul>	0 – 20 years
First degree	§ 16-3-600(C)(1)(b)		Offers or attempts to injure another person with present ability to do so, and the act is likely to produce death or GBI	0 – 10 years
Second degree	§ 16-3-600(D)		Moderate bodily injury results	0 – 3 years
Third degree	§ 16-3-600(E)		Injury	0 – 30 days
<b>INFLICTION OF GBI UPON A CHILD</b>	§ 16-3-95			
Intentional	§ 16-3-95(A)	Any person	Great bodily injury results	0 – 20 years
Knowingly allow	§ 16-3-95(B)	<ul style="list-style-type: none"> <li>Parent or guardian</li> <li>person with whom the parent or guardian is cohabitating</li> <li>person responsible for the welfare of the child</li> </ul>	Great bodily injury results	0 – 5 years
<b>HOMICIDE BY CHILD ABUSE</b>	§ 16-3-85(A)(1)	Any person	<ul style="list-style-type: none"> <li>causes the death of a child under the age of 11,</li> <li>while committing child abuse or neglect, &amp;</li> <li>the death occurs under circumstances manifesting an extreme indifference to human life</li> </ul>	20 years - life
	§ 16-3-85(A)(2)		<ul style="list-style-type: none"> <li>knowingly aids and abets another</li> </ul>	10 – 20 years
<b>INVOLUNTARY MANSLAUGHTER</b>	§ 16-3-60	Any person	"criminal negligence" = reckless disregard for the safety of others	0 – 5 years
<b>MANSLAUGHTER</b>	§ 16-3-50	Any person	Unlawful killing, without malice, either express or implied	2 - 30 years
<b>MURDER</b>	§ 16-3-10	Any person	Unlawful killing with malice aforethought, either express or implied	30 years - life







*The South Carolina Children's Justice Act Task Force and the South Carolina Network of Children's Advocacy Centers (SCNCAC) collaborated on this protocol project. The South Carolina Department of Children's Advocacy (SCDCA) maintains the protocol and updates to the protocol. Additional copies of this protocol can be obtained by contacting SCDCA or SCNCAC at the below links.*

***South Carolina Department of Children's Advocacy***  
***[ca.sc.gov/about-us-0](https://ca.sc.gov/about-us-0)***

***South Carolina Network of Children's Advocacy Centers***  
***[cac-sc.org/protocol](https://cac-sc.org/protocol)***

*Children's Advocacy Centers and their multidisciplinary team partners can obtain copies of the protocol from SCNCAC*