 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>56</h1>
Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 1 of 13
Approved:	Karen Shea, Interim Deputy Commissioner	Effective: 12/2/2016
Supersedes:	Family Services Policy 56	Dated: 8/31/2016

Purpose

To guide case determinations regarding valid allegations of child maltreatment in cases assigned for an investigation response.

Table of Contents

Purpose.....	1
Table of Contents.....	1
Related Policies	1
Policy	1
Departmental Interpretation of Statutes	3
Considerations for Case Determination in Serious Physical Abuse Cases	8
Case Determination When the Perpetrator Has Not Been Interviewed	9
Determining Level Assignment on the Child Protection Registry.....	9
Entries in the SSMIS Child Abuse Report.....	10
Notification of Case Determination	11

Related Policies

Family Services [Policy 50](#): Child Abuse and Neglect Definitions

Family Services [Policy 51](#): Screening Reports of Child Abuse and Neglect


Family Services [Policy 52](#): Child Safety Interventions – Investigations and Assessments

Family Services [Policy 68](#): Serious Physical Injury – Investigation and Case Planning

Policy

At the conclusion of an investigation of alleged child maltreatment, the division will determine if the allegation is substantiated or unsubstantiated.

The decision to substantiate a report of child maltreatment shall be based on accurate and reliable information. The decision shall be based on pertinent information gathered during an investigation. Prior history of child maltreatment or criminal history that poses a significant risk to children will also be considered. Hearsay information from a reliable source may be considered. All information shall be weighed with other

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>56</h1>
Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 2 of 13

supporting or conflicting data. A statement or disclosure from the child that he or she was abused or neglected is not required.

In order to substantiate an allegation of child abuse or neglect, the division must determine that a reasonable person would conclude that:

- (1) The child is an abused or neglected child as defined in 33 V.S.A. § [4912](#) and
- (2) Unless the substantiated maltreatment is sexual abuse, a person responsible the child's welfare is the perpetrator.

The division will assume that any adult residing in the child's home serves in a parental role unless there is evidence to the contrary.

Ideally this determination is made **jointly** by the investigating worker and their supervisor. When the social worker and the supervisor disagree, the supervisor will make the decision. The rationale for the case determination will be outlined in the case determination tool. Upon review, the district director or other person in the supervisor's chain of command may change the supervisor's case determination.

In addition to determining whether the allegation of child maltreatment is consistent with the statutory definition of harm, the judgment of the social worker regarding the following issues, as applicable, enter into the decision to substantiate:

- If the allegation is not sexual abuse, is the person alleged to have abused or neglected the child a **person responsible for the child's welfare**?
 - Includes the child's parent; guardian; foster parent; any other adult residing in the child's home who serves in a parental role; an employee of a public or private residential home, institution or agency; or other person responsible for the child's welfare while in a residential, educational, or child care setting, including any staff person (33 VSA [4912](#) (10))
- Did harm (physical injury or emotional maltreatment, neglect, abandonment, or sexual abuse) occur?
- Was there intent to cause harm? Would a reasonable person have predicted that harm would occur to the child?
- Would a reasonable person see the harm as abuse or neglect?

If the division cannot determine the specific perpetrator, but determines that a reasonable person would conclude that the child was abused or neglected by a parent or other person responsible for the child's welfare, the record should reflect substantiation, with "perpetrator unknown".

Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 3 of 13

In all cases where the policy requirements for substantiation have been met and the supervisor recommends that the allegation be unsubstantiated, the division’s director of operations or child safety manager shall make the final determination.

When documenting information regarding domestic violence, the social worker should avoid language that blames the adult victim for the batterer’s abusive behavior.

Departmental Interpretation of Statutes

In addition to Vermont statute, departmental policy and regulations provide the following guidance about substantiation of child abuse or neglect.

- (1) In the following types of maltreatment, **a person responsible for the child’s welfare** must be the perpetrator of child maltreatment, including risk of harm. Child maltreatment is substantiated when a reasonable person would believe that the following criteria are met:

Type of Maltreatment	Substantiation Criteria
Abandonment	Failed or ceased to provide for the needs of the child and did not made arrangements for the child’s care. The situation must exist beyond a reasonable time based on the child's age and developmental level.
Emotional Maltreatment	Emotionally maltreating the child, which is evident when: <ul style="list-style-type: none"> • A pattern of behavior is present (the pattern does not have to be of the same behavior for the purpose of substantiating the report); • The behavior is malicious – cruel behavior intended to induce suffering, including torturing which does not result in physical harm; and • The behavior resulted in impaired psychological growth and development. In making this last decision, the social worker may seek the advice of a medical, mental health, or other professional if necessary.
Neglect	A pattern exists of failing to provide or maintain one or more of the following: <ul style="list-style-type: none"> • Adequate nutritious food needed to maintain age-appropriate physical and social activities and prevent nutritional deficiencies, illness, or impairment of physical and mental functioning (a medical or nutritional practitioner must support this finding); • Clothing and footwear appropriate to the environmental conditions; • Adequate shelter and protection from weather and hazards in the dwelling or on the property; or • Adequate medical, dental, or mental health care for a health

Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 4 of 13

Type of Maltreatment	Substantiation Criteria
	<p>problem which, in the opinion of a medical or mental health professional, has or may result in risk of physical or mental limitation or incapacity if untreated.</p> <p>The steps taken by the individual to reduce or eliminate the neglect shall be taken into consideration in making the decision to substantiate. If the neglect is solely the result of the parent or caretaker's lack of financial means, neglect shall not be substantiated.</p> <p>Also, if a parent or caretaker is legitimately practicing his or her religious beliefs by not providing specific medical treatment, neglect shall not be substantiated for that reason alone. In this case, court action may be initiated under 33 V. S. A. Chapter 53, if necessary, to assure the child's well-being.</p> <p>See Family Services Policy 53: Investigating Reports of Inadequate Health Care of Infants with Disabilities</p>
Physical Abuse	<p>A child has been physically injured, by other than accidental means, causing:</p> <ul style="list-style-type: none"> • Death; or, • Permanent or temporary disfigurement or impairment of any bodily organ or function. Visible bruises are not required in order to substantiate. Physical injury is abuse when the injury occurred non-accidentally, or there was intent to cause harm, or a reasonable person could have predicted the harm.
Risk of Physical Harm	<p>A significant danger that a child will suffer serious harm by other than by accidental means, which harm would be likely to cause physical injury. Risk of physical harm includes, but is not limited to:</p> <ul style="list-style-type: none"> • Engaged in a single, egregious act that has caused the child to be at significant risk of serious physical injury; • Allowed the child to be present during the production or pre-production of methamphetamines; • Failed to provide supervision or care appropriate for the child's age or development and, as a result, the child is at significant risk of serious physical injury; • Failed to provide supervision or care appropriate for the child's age or development due to use of illegal substances, or misuse of prescription drugs or alcohol; • Failed to supervise a child appropriately in a situation in which drugs, alcohol, or drug paraphernalia are accessible to the child; or

Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 5 of 13

Type of Maltreatment	Substantiation Criteria
	<ul style="list-style-type: none"> Allowed a registered, convicted, or substantiated sex offender to reside with or spend unsupervised time with a child. <p>Considerations related to substantiating risk of physical harm include, but are not limited to, the alleged perpetrator's history of child maltreatment or criminal history that poses a significant risk to children, the nature of the abuse or offense, and the history of treatment indicating he or she is still a risk to the alleged victim.</p> <p>Unless the risk of harm is due to a single, egregious act, the steps taken by the individual to reduce or eliminate the risk shall be taken into consideration and evaluated against the overall pattern of behavior(s) in making the decision to substantiate.</p>

(2) **Any person** may be substantiated for sexually abusing a child. Child maltreatment is substantiated when a reasonable person would believe that the criteria in the table below are met. In addition, the division will consider the following for all forms of sexual abuse:

- a. Was there a significant difference in age, size, or developmental level between the actor and victim?
- b. Was force, threat, or coercion used? Or was the victim unable or lacked the opportunity to consent?
- c. Was the alleged perpetrator a person responsible for the child's welfare, or the child's parent, step-parent, grandparent, or foster parent?
- d. Was the actor at least 18 years of age, residing in the victim's household, and serving in a parental role with respect to the victim?

Type of Maltreatment	Criteria for Substantiation
<p>Child Pornography</p>	<p>A person possesses any visual representation of a child or portion of a child's body which depicts nudity, sexual conduct or sado-masochistic abuse and which is harmful to children or violates community standards of morality and decency. The definition of child pornography includes:</p> <ul style="list-style-type: none"> aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sado-masochistic abuse involving a child; OR viewing, possessing, or transmitting child pornography, with the

Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 6 of 13

Type of Maltreatment	Criteria for Substantiation
	<p>exclusion of the exchange of images between mutually consenting minors, including the minor whose image is exchanged.</p> <p>All criteria listed above is substantiated as 'Exploit'.</p>
Exploitation	<p>A person has taken unjust advantage of a child for their own gain or gratification. Exploitation is substantiated as 'Exploit'.</p>
Incest	<p>A sexual act or lewd and lascivious conduct between a child and his or her parent, step-parent, grandparent, sibling or half-sibling, aunt, uncle, niece or nephew.</p> <p>For allegations where the only involved parties are children, sexual abuse is not substantiated as incest – unless there is a significant difference in age, size, or developmental level OR the use of force, threat, or coercion.</p>
Lewd and Lascivious Conduct	<p>A person has committed a lewd or lascivious act upon or with any part of the body of a child or in the presence of the child when such conduct violates community standards of morality and decency.</p> <p>Lewd and Lascivious Conduct is substantiated only if:</p> <ul style="list-style-type: none"> • There is significant difference in age, size or development and the conduct would not be considered developmentally normal during childhood or adolescence; or • For children over the age of 16 who have been subjected to this conduct, the conduct was forced, threatened or coerced, or the victim lacked the opportunity or ability to consent.
Luring	<p>A person has solicited, lured, enticed or attempted to solicit, lure, or entice a person to engage in a sexual act or lewd and lascivious conduct when the person lured was:</p> <ul style="list-style-type: none"> • A child under the age of 16; or • Another person believed by the person to be a child under the age of 16. <p>Luring can be done in-person, or through written or telephonic correspondence or electronic communication. Luring is not substantiated absent a significant difference in age, size or development and the behavior would be considered developmentally normal during childhood or adolescence.</p>
Sex Trafficking of Minors	<p>A person has:</p> <ul style="list-style-type: none"> • Exploited a minor; • Recruited, enticed, harbored, transported, provided, or obtained a minor by any means for the purpose of sexual exploitation;

Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 7 of 13

Type of Maltreatment	Criteria for Substantiation
	<ul style="list-style-type: none"> • Exploited a minor through survival sex (exchanging sex/sexual acts for money or something of value, such as shelter, food, or drugs); • Used a minor in child pornography; • Exploited a minor through sex tourism, mail order bride trade, or early marriage; or • Exploited a minor by having her/him perform in sexual venues (e.g., peep shows or strip clubs). <p>All criteria for sex trafficking of minors is substantiated as 'Exploit'.</p>
<p>Obscenity</p>	<p>A person has sold, lent, distributed, given away, or showed to a child or cause a child to be shown, any visual representation of a person or portion of the human body which depicts nudity, sexual conduct or sado-masochistic abuse and which is harmful to children.</p> <p>Obscenity does not include conduct that would be considered developmentally normal during childhood or adolescence or to the exchange of images between mutually consenting minors, including the minor whose image is being exchanged. Obscenity is substantiated as 'Other Sexual'.</p>
<p>Risk of Sexual Abuse</p>	<p>A significant danger that a child will suffer serious harm by other than by accidental means, which harm would be likely to cause sexual abuse. Considerations related to substantiating risk of sexual abuse include, but are not limited to, the following:</p> <p>The alleged perpetrator's sexually harmful behaviors towards children (including, but not limited to, registered, convicted, or substantiated offenses), the nature of the abuse or offense, and the history of treatment indicate that he or she is still a risk to the alleged victim.</p> <p>In risk of sexual abuse cases, the perpetrator is considered to be the person whose behavior or history poses a risk to the child. The person responsible for the child's welfare may also be substantiated as a perpetrator of risk of sexual abuse if through his or her acts or omissions he or she knowingly places the child at substantial risk of sexual abuse.</p> <p>If an adult alleges he or she was sexually abused as a child and the alleged perpetrator has current access to children, the decision to substantiate will be based on current risk of sexual abuse to a child and informed by the interview of the now-adult victim.</p> <p>In a residential, educational, or child care setting, the person responsible</p>

Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 8 of 13

Type of Maltreatment	Criteria for Substantiation
	for the child’s welfare may include the hiring authority who knowingly maintains the employment of a person who poses an ongoing risk of harm to children or who does not create a plan approved by the department that adequately addresses and ensures child safety.
Sexual Assault	<p>A person has engaged in a sexual act with:</p> <ul style="list-style-type: none"> • A child under the age of 16, except where (a) the persons are married to each other and the sexual act is consensual; (b) the actor is less than 19 years old, the victim is at least 15 years old, the sexual act is consensual and the actor does not serve in a parental role; or (c) both persons are under 18 years of age and the sexual act is mutually agreeable and there is no information to suggest use of force, threat or coercion, lack of opportunity or ability to consent, or significant age, size or developmental differences between the involved persons. Conduct that would be considered developmentally normal during childhood or adolescence is not sexual assault. • A child over the age of 16, if the sexual act is forced, threatened or coerced, or was unable or lacked the opportunity to consent. <p>Sexual assault includes a sexual act with a child who is under the age of 18 and is entrusted to the actor's care by authority of law or resides in the victim’s household and serves in a parental role with respect to the victim.</p>
Voyeurism	<p>A person has viewed, photographed, filmed, or recorded in any format the intimate areas of a child naked or undergarment-clad, including genitals, pubic area, buttocks, or female breast of a child that is unrelated to a legitimate professional or caretaker purpose and the conduct violates community standards of morality and decency. Voyeurism should be substantiated as ‘Exploit’.</p>

Considerations for Case Determination in Serious Physical Abuse Cases

In accordance with Family Services [Policy 68](#), consultation and review of case determinations will occur with the assigned policy and operations manager prior to the finalization of serious physical abuse case determinations. In instances where a child has experienced serious injury or death and the perpetrator of the abuse is unknown, the case determination will include consideration of the parent(s) role in any harm as well as other categories of maltreatment including any neglect or risk caused by the parent. For information on consultation requirements for serious physical abuse cases post-case determination, see Family Services [Policy 68](#).

Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 9 of 13

Case Determination When the Perpetrator Has Not Been Interviewed

When efforts to interview the alleged perpetrator have been unsuccessful, because he or she cannot be located or refused to be interviewed, abuse or neglect may still be substantiated.

In the case of a perpetrator who could not be located, the social worker will first wait two weeks after sending the alleged perpetrator a registered letter at his or her last known address:

- Informing him or her that he or she is the subject of a child abuse/neglect investigation and
- Requesting that he or she contact the investigator immediately.


Determining Level Assignment on the Child Protection Registry

The names of substantiated perpetrators will be placed on the Child Protection Registry and assigned a level based on risk of future harm to children. The supervisor will make the level determination. The [Child Protection Registry Level Determination Form](#) (FS-503) guides and documents the decision.

Level	Criteria for Level Assignment	Eligibility to Apply for Expungement
1	Child maltreatment which: <ol style="list-style-type: none"> 1. Involves substantial child endangerment; 2. There are court adjudications for related conduct; or 3. There is a high risk of future harm based on the assessment of risk. 	Adult – 7 years Child or Youth – 3 years
1	Classified High or Very High on the Family Risk Assessment	Adult – 7 years Child or Youth – 3 years
2	All others	Adults – 3 years Child or Youth – 3 years

The following factors will also enter into the assessment of risk:

1. The person’s response to the investigation, acceptance of responsibility for the conduct, ability and willingness to engage in recommended services;
2. The person’s prior history of child abuse or neglect as either a victim or perpetrator;
3. The nature of the conduct and the extent of the child’s injury, if any; and,
4. The person’s age (adult or juvenile) and developmental maturity, as those factors relate to the individual’s ability to take responsibility for behavior and to govern his or her future behavior. In assessing these factors the department will, when requested by an individual who identifies themselves as having a disability, seek consultation from individuals with relevant expertise.

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		56
Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 10 of 13

The substantiation letter will inform the substantiated perpetrator of the number of years which must elapse before they may request an expungement review.

Entries in the SSMIS Child Abuse Report

The case determination and all required information will be entered into the SSMIS Child Abuse Report after a case determination has been made and the alleged perpetrator has been sent the determination letter.

The SSMIS entry is as follows:

Code	Definition
U	Unsubstantiated.
W	Substantiation is recommended and case remains in appeal window.
J	Judicial findings of CHINS (A) or CHINS (B) of abuse or neglect which would not be considered abuse or neglect as defined in Chapter 49.


The Commissioner’s Registry Review Unit (CRRU) will enter the following codes, as follows:

Code	Definition
A	Case is currently under appeal with the CRRU
S	Substantiation when the determination is upheld after review
O	Overturn after review by CRRU or Human Services Board. An overturn entry may also take place when, prior to a formal review, it has been determined by the Director of Operations or Deputy Commissioner that the investigation does not meet current substantiation standards.
R	Re-opened investigation.
E	Expunged following review by the Commissioner or designee

The Commissioner’s Registry Review Unit will notify the district office of its decisions regarding substantiation and expungement reviews.

At times, the Commissioner can approve the immediate placement of a substantiation determination into the Child Abuse Report, causing immediate placement of the person’s name on the Child Protection Registry. Examples of situations that will be considered are:

- Serious physical abuse (broken bones, central nervous system trauma, serious burns, poisoning, etc.)

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		<h1>56</h1>
Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 11 of 13

- Serious sexual abuse (examples might include penetration with a significant age, size, developmental difference)
- A pattern of sexual abuse and when the perpetrator has access to other children/vulnerable adults or seeks the same
- Indications of significant psychological impairment, substance abuse, developmental challenges or other obstacles which impair the perpetrator’s ability to control behavior and when the perpetrator has access to children/vulnerable adults or is known to be seeking access

District Directors or the RLSI Director should bring these requests to Director of Operations for immediate action.

The following information, although entered into the child abuse report, is excluded from the Child Protection Registry:

Automatic Expungement of Registry Records – Child Protection Registry entries concerning a person who was substantiated for behavior occurring before the person reached 10 years of age shall be expunged when the person reaches the age of 18, provided that the person has had no additional substantiated registry entries.

Court Findings of Child Abuse or Neglect – The juvenile court, at times, makes a CHINS(A) or CHINS(B) finding of abuse or neglect when that abuse or neglect **would not be considered abuse or neglect under Chapter 49**. In these instances, information should be entered into the child abuse form. However, the code “J” (judicial finding) will be used instead of “S” for substantiation. Persons so coded will appear in the master index with a “J” next to their name. They will not be sent a substantiation letter, nor do they have appeal rights.

Notification of Case Determination

Reporter

Upon the request of a mandated reporter, the social worker shall inform him or her of the case determination. All such notifications will be documented in the case record.

Perpetrator or Alleged Perpetrator

The person alleged to have abused or neglected the child will be informed of the division’s determination verbally, whenever possible, and subsequently documented in the case file, and by the following letters.

Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 12 of 13

Form	Determination	In-home	Risk Level	To Whom	Services Recommended
306A	Unsubstantiated	In-home	Low/Mod	Parent/Caretaker	No
306B	Unsubstantiated	In-home	High/V. High	Parent/Caretaker	Yes
306C	Unsubstantiated	Out-of-home		Alleged Perpetrator	N/A
306D	Unsubstantiated	Out-of-home	Low/Mod	Parent/Caretaker	N/A
306E	Unsubstantiated	Out-of-home	High/V. High	Parent/Caretaker	N/A
306F	Substantiated	In-home		Parent/caretaker	Yes
306G	Substantiated	Out-of-home		Parent/caretaker	Yes
30H	Substantiated	Out-of-home		Parent/caretaker	No
306 I	Substantiated	Out-of-home		Parents of Minor Sexual Abuse Perpetrator	No

In all cases, the perpetrator must be notified of the outcome and of appeal rights, when applicable. In all cases, the notification letter must be sent on the date of the division's determination decision.

In cases where the alleged perpetrator is also a perpetrator of domestic violence, notification may cause risk to the child and adult victims. The social worker should attempt to contact the adult victim to inform her or him that the perpetrator is receiving notice.


When the alleged actor is under the age of 18, notification should be made in care of the parents or in care of the social worker if the actor is in DCF custody.

Perpetrator or Alleged Actors Who Are Minors

If the person alleged to have abused or neglected a child is a minor, any substantiation notice shall be sent:

- (1) To the minor's parents or guardian; or
- (2) If the child is in DCF custody, to the social worker assigned to the child by the department **and** the child's counsel of record.

The division will inform the parents of a perpetrator of sexual abuse by letter that the child has engaged in inappropriate sexual activity and has been entered into the Child

 VERMONT DEPARTMENT FOR CHILDREN AND FAMILIES Family Services Policy Manual		56
Chapter:	Child Safety Interventions	
Subject:	Substantiating Child Abuse and Neglect	Page 13 of 13

Abuse and Neglect Registry. The social worker should assist the family of the perpetrator in arranging treatment, where appropriate. If a family refuses treatment and there are concerns about ongoing risk to a child, a CHINS petition may be considered.