

 <b>VERMONT</b> DEPARTMENT FOR CHILDREN AND FAMILIES <b>Family Services Policy Manual</b>		<h1>66</h1>
Chapter:	Child Safety Interventions	
Subject:	Interviewing Children and Youth in DCF Custody	Page 1 of 4
Approved:	Aryka Radke, Deputy Commissioner	Effective: 9/8/2023
Supersedes:	Family Services Policy 66	Dated: 8/23/2007

## Purpose

To provide guidance and role clarity to division staff when interviewing children and youth in DCF custody when it is alleged that they have committed an act which could lead to substantiation on the Child Protection Registry or delinquent/criminal charges.

## Related Policies

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

Family Services [Policy 56](#): Substantiating Child Abuse and Neglect

Family Services [Policy 83](#): Juvenile Court Proceedings – Delinquency

## Policy

There are times when the division receives reports of abuse or information indicating a youth in DCF custody may have engaged in abusive or delinquent/criminal behavior.

The division is responsible for:

- Exploring these allegations to ensure the physical safety of everyone involved (including household members, other children the alleged actor may have access to or come into contact with, and community safety as a whole); and
- Assessing the youth’s needs and ensuring the appropriate services and supports are in place to meet their treatment needs.

This policy is applicable in the following situations:

- Allegations that a child or youth of any age in DCF custody has sexually abused another child;
- Allegations that a parenting youth in DCF custody has abused, neglected, or placed their child at risk of harm (per 33 V.S.A. § 4912 definitions); or
- Allegations that a youth aged 10 or older in DCF custody has engaged in delinquent or criminal behavior that may result in a charge in juvenile or adult court.

Within the above categories, this policy is applicable to child safety interventions commenced under the authority of Title 33, Chapter 49. The policy is applicable to both investigations and assessments because of the division’s ability to re-assign Chapter 49 assessments to an investigation track and thus making substantiation possible.

Assessments commenced under the authority of Title 33, Chapter 51 (often referred to as CHINS (B) assessments) are not applicable to this policy. See Family Services [Policy 52](#) for detailed information about child safety interventions.

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**Joint Investigations, CSIs, and Other Law Enforcement Investigations Pertaining to Youth in DCF Custody**

33 V.S.A. § 4915(g) requires that the division “report to and receive assistance from appropriate law enforcement” under certain circumstances, including:

- Investigations of child sexual abuse by an alleged perpetrator 10 years of age or older;
- Investigations of serious physical abuse or neglect requiring emergency medical care, resulting in death, or likely to result in criminal charges;
- Situations potentially dangerous to the child or worker;
- an incident in which a child suffers:
  - serious bodily injury as defined in 13 V.S.A. § 1021, by other than accidental means; and
  - potential violations of:
    - 13 V.S.A. § 2602 (lewd or lascivious conduct with child);
    - 13 V.S.A. chapter 60 (human trafficking);
    - 13 V.S.A. chapter 64 (sexual exploitation of children); and
    - 13 V.S.A. chapter 72 (sexual assault).

Before a child or youth can be interviewed by law enforcement or an investigative FSW, the young person must be given the opportunity to speak privately with an adult who is interested in their welfare and independent of the charge, prosecution, or potential substantiation. **Only the child/youth’s attorney satisfies these requirements, and this role will not be delegated to another party.**

In situations where the alleged actor is in DCF custody, division staff should refer all interview requests (both law enforcement and investigation/assessment FSWs) to the child’s attorney. Division staff must explicitly inform the child’s attorney that there is a child safety intervention where the youth is the alleged actor and/or a matter where the youth may have engaged in delinquent or criminal behavior.

<p>If the child’s attorney <u>grants permission</u> for the youth to be interviewed...</p>	<ul style="list-style-type: none"> <li>→ Law enforcement interviews about delinquent or criminal behavior may occur; and/or</li> <li>→ The investigation into the allegations should proceed as outlined in Family Services <a href="#">Policy 52</a>, including the alleged actor interview.</li> </ul>
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<p>If the child’s attorney <u>does not grant permission</u> for the youth to be interviewed...</p>	<p>→ Law enforcement interviews about delinquent or criminal behavior will <b>not</b> occur; and/or</p> <p>→ The alleged actor interview will <b>not</b> occur during the child safety intervention.</p> <p>If a timely response is not received by the child’s attorney, division staff may follow-up to request permission for the interview. If permission is not obtained within two weeks (14 days), the division will interpret the lack of response to be an interview refusal.</p> <p>The date of interview refusal from the child’s attorney should be documented in FSDNet. All other child safety intervention tasks (victim interview, collateral contact or witness interviews, gathering of evidence, etc.) will proceed without the alleged actor interview as outlined in in Family Services <a href="#">Policy 52</a>. Substantiation is still possible in instances where the alleged actor interview has been declined.</p>
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Family services workers should make children’s attorneys aware and ask them to inform their clients that youth may be substantiated for abuse and have their name placed on the Child Protection Registry even if they do not participate in an interview. Information may be shared with attorneys about the division’s child protection level assignment system and the ability to request expungement in the future.

Children’s attorneys may be invited to be present for any follow-up conversations the assigned family services worker has with the youth.

**Follow-Up by the Youth’s Assigned Family Services Worker**

As the child’s custodian, the family services worker assigned to the family’s open case will meet with the youth to:

- Assess their needs;
- Ensure the appropriate services and supports are in place;
- Determine appropriate case planning and treatment; and
- Make any necessary adjustments to safety plans, supervision arrangements, or placements to ensure the physical safety of other children residing in the home.

The assigned worker’s focus is to assess safety and the needs of the youth, other children in the home, and caregivers – **not** to investigate or gather information about the incident or allegations. The ongoing worker will document their conversation with the youth about their treatment needs, case planning, and general updates in a case note within FSDNet as they typically would with every contact. CSI family services workers can view these case notes, as can law enforcement if they request them.

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If there is credible information about sexual abuse between siblings or other children, a placement change may be considered. If an ongoing worker has information leading them to believe sexual abuse may have happened but they cannot interview the youth, a team discussion and decision-making should occur about the placement and the safety of all children in the home.

**Unsolicited Disclosures by the Youth**

If the child or youth makes an unsolicited disclosure to their assigned family services worker or RLSI staff, the worker should advise the youth to stop disclosing to protect themselves from self-incrimination and state *“I am not here to talk with you about the incident or allegations against you. Your attorney has specifically asked me not to speak to you about it. I’m here to meet with you generally about your open case and your needs.”*

If the youth continues to disclose information about the alleged abuse or delinquent/criminal act, the worker should end the meeting. If the youth disclosed new information about child abuse or neglect, as mandated reporters, division staff must make a new report to the Child Protection Hotline at 1-800-649-5285.

The family services worker should contact the child’s attorney immediately following any unsolicited disclosures to inform them of the information that was shared.

Family services workers may propose suggestions to the child’s attorneys for clinical treatment or other services that the youth could voluntarily engage in (separate from charges or adjudications), that may support healing, making amends, and/or meeting their therapeutic or treatment needs. If there is opportunity for a therapeutic outcome as opposed to legal intervention, this should be supported.

**Other Requests from Law Enforcement**

In other situations where a youth in DCF custody may have information about criminal activities or individuals of interest to law enforcement and a courtesy interview or conversation is requested, the youth’s attorney will always be notified. Division staff will not agree on the youth’s behalf and these requests will always be deferred to the child’s attorney.

If district office staff are uncertain about a request for information from law enforcement related to the contents of this policy, they should contact the assigned assistant attorney general (AAG).