



Working with the criminal justice system

See, understand and respond
to child sexual abuse.

Issued by FACS for use by Child Protection Practitioners.

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Family &
Community
Services

Resources

The kit contains a number of practical resources for you to use in your work with children and families. Below are the resources for the Working with the criminal justice system section.



Helping to Make It Better: 📄 Factsheets in clear, plain English that respond to common concerns for parents, address myths about child sexual abuse and provide parents with advice.



The Child Protection Register Information Card: 📄 A card that must be read to all parents before providing them with information about the child sexual assault offences committed by a person on the Child Protection Register. You can find this card on the Casework Practice site.

Working with the criminal justice system

About this chapter

About this chapter

The differences between the child protection and criminal justice systems can cause confusion for practitioners, particularly when working closely with police, trying to meet eligibility requirements for JIRT, or trying to understand how the criminal justice system has responded to the suspected offender.

Some key differences between both systems



In Practice

The information in this chapter is meant as a guide only.

In the same way that child protection responses will vary according to a number of different factors, so too will the criminal justice system response. Please consult with Care Legal Support team or your local JIRT for specific advice.

THE CHILD PROTECTION SYSTEM:	THE CRIMINAL JUSTICE SYSTEM:
Is guided by the principal that the best interests of the child are paramount.	Is guided by upholding the law.
Considers the impact of historic abuse and neglect on the current risk of harm concerns.	Treats each offence separately. A person can only be charged once for the same offence.
Responds to reports about significant risk of harm to children and young people.	Responds to reports where there is evidence a crime has been or is currently being committed.
Forwards reports to a CSC when it meets the risk of significant harm threshold.	Will only progress a report of a criminal act to charges where there is sufficient evidence to prove beyond reasonable doubt that the reported offence occurred.
Needs to demonstrate it was more likely than not that the suspected offender has caused harm to a child to prove the offence occurred.	Needs to prove beyond reasonable doubt that the suspected offender has committed a crime to prove the offence occurred.
Regularly responds to serious risk of harm concerns that do not constitute a criminal offence.	Only responds to reports of criminal offences.

This chapter will help you to better understand and work with the criminal justice system so that you are able to keep children safe when working with cases of child sexual abuse.



1 Part one: Seeing and understanding

Key question:

- What factors affect the progress of reports through the criminal justice system and what does this mean for child protection?



2 Part two: Responding

Key questions:

- How can I work effectively with JIRT?
- How can I respond to matters where the suspected offender is on the Child Protection Register?

REGISTER

This chapter is informed by the current Child Protection Register policy and the practice wisdom of JIRT practitioners who are in daily contact with the criminal justice system.



① Part one: Seeing and understanding

Key question:

- What factors affect the progress of reports through the criminal justice system and what does this mean for child protection?

1 Part one: Seeing and understanding



The criminal process

We know that child sexual assault¹ is a crime that rarely leads to criminal prosecution. A nine-year study in NSW found that between 1995 and 2004, less than 16 per cent of child sexual offence matters reported to police resulted in charges that were proven in court.²

You might work with suspected offenders who have had allegations made about them that never progress to charges, a criminal prosecution or a guilty verdict. This section will outline the criminal process from a report through to a conviction and will explain the reasons why the majority of reports to police do not lead to a criminal conviction.



In Practice

When asking police for information about a suspected offender via section 16A it is important to ask for both COPS events and the criminal history.

This will provide you with information on allegations, charges and criminal convictions. The criminal history will only give you their convictions.

The reasons are described in detail in this chapter and could include the following:

- 1 A crime of child sexual assault is reported to the police (either JIRT or the LAC), but the police do not press charges.
- 2 There is a report of a sexual assault by a child.
- 3 The charges are withdrawn.
- 4 The charges are dismissed at the local court.
- 5 The defendant is found not guilty at trial.



Go to



the seeing and understanding section of the **'Risk assessment and casework'** chapter for information to help you conduct a holistic risk assessment. The criminal process alone should not determine the child protection risk assessment process.



¹We are using the term child sexual assault in this section as we are referring to criminal proceedings.

²Cossins, A. (2010). *Alternative models for prosecuting child sex offences in Australia*. National Child Sexual Assault Reform Committee, University of New South Wales.

1

A crime of child sexual assault is reported to the police (either JIRT or the LAC), but the police do not press charges

There are many reports of crimes that are investigated and do not proceed to charges, particularly in cases of child sexual assault. The decision to charge the suspected offender is made very carefully. The decision is based on two things:

- The police need enough evidence to prove in court beyond reasonable doubt that the offence occurred.
- The police have only one opportunity to charge the suspected offender with a specific count of sexual assault and therefore they need to make sure the charges are likely to be proven in court.



In Practice

FACS is able to substantiate a report of sexual abuse without police taking any criminal action when we believe it is more likely than not that the person sexually abused the child.

You do not need to wait for criminal proceedings to enter the person as a Person Causing Harm (PCH) on the system. You will need to follow the identifying and recording **POI and PCH practice mandate** and consult with police before talking to the offender (where the police investigation is ongoing).

The decision of whether or not to charge a suspected offender is not related to the risk they pose to the child. Police are able to apply for an Apprehended Violence Order (AVO) or Personal Violence Order (PVO) to protect the child from the suspected offender. These orders indicate that police believe the suspected offender poses a risk to the child. In cases where police have applied for an AVO on behalf of a child, the child may need to give evidence in the local court. This means that the child may not have access to the protections that are normally available in the district court, such as cross-examination via CCTV.

A REPORT MAY NOT PROCEED TO A CHARGE WHEN:	WHAT THIS MEANS IN PRACTICE:
<p>The investigation is ongoing.</p>	<p>Police are gathering further evidence to see if they are able to lay charges.</p> <p>You can consult with the Officer in Charge (OIC) to understand the investigation process and gather information for your assessment.</p>
<p>The officer in charge (OIC) believes there is insufficient evidence.</p> <p>Important: in criminal cases the evidence must prove beyond reasonable doubt that the offence occurred. This is not the same as the level of evidence needed to substantiate a child protection report.</p>	<p>There will be times when one statement from a child is sufficient evidence to proceed with charges. There are also times where police cannot proceed with charges. This could be because:</p> <ul style="list-style-type: none"> ■ there are other (non-abusive) explanations for the report ■ there is no corroborating evidence ■ there is other evidence that contradicts the information provided by a child, and the suspected offender has denied the allegations ■ the report was made some time after the sexual assault occurred and the evidence provided is no longer reliable.

1 Part one: Seeing and understanding



The criminal process

continued...

A REPORT MAY NOT PROCEED TO A CHARGE WHEN:	WHAT THIS MEANS IN PRACTICE:
<p>The child or family do not want to go to court and give evidence, the child is medically unfit to give evidence or police do not believe it is in the child's best interests to give evidence.</p>	<p>Police are unlikely to proceed with charges where the child is unwilling to give evidence.</p> <p>They will also be less likely to proceed with charges if they believe the child's credibility as a witness could be questioned under cross-examination. For example, a child with a mental health issue or a developmental disability.</p> <p>Police generally prefer to suspend the investigation until the child is willing or able to give evidence, and to protect the child another way, such as with an AVO.</p> <p>There may be times when police proceed with charges against the child or family's wishes. In these cases there is usually physical evidence of the abuse. For example, a video recording that means the child's evidence is not as critical.</p>
<p>The suspected offender is not adequately identified or not able to be identified at all.</p>	<p>There were two or more people present when the sexual assault occurred and the child cannot clearly identify the suspected offender.</p> <p>A child is sexually assaulted by a stranger who is not able to be identified after a police investigation.</p>
<p>The suspected offender is not in NSW.</p>	<p>Police cannot charge someone who is currently in another state. Under these circumstances, a magistrate needs to issue a warrant to extradite the suspected offender to NSW. This requires police to prove to the magistrate that the offence occurred.</p> <p>When the suspected offender is overseas, the magistrate is only able to issue a warrant for extradition if the suspected offender is living in a country that is a signatory to the Hague convention.</p> <p>The decision to apply for extradition will depend on the severity of the charges, the level of evidence and whether the extradition is deemed to be in the public interest.</p>



In Practice

When we consider the increased rates of sexual abuse for children in care, children with mental health issues and children with a disability, we begin to notice that the reasons why a child may not be 'credible' under cross examination may be the same reasons why the child was targeted by the offender in the first place.



2

A report of a criminal act by a child

The decision to charge a child or young person with a crime has very specific parameters. All Australian jurisdictions consider that a child under 10 years old cannot be charged with a criminal offence. This is because children under 10 years of age have been deemed to be not capable of committing a crime because they are developmentally unable to understand the difference between right and wrong.

In order to charge a child aged 10-14 years the police must be able to prove that the child knew that what they did was wrong and understood the consequences for their actions.



Go to



the '[Working with children who display sexually harmful behaviour](#)' chapter for information on assessing risk and building safety for children with sexually harmful behaviour and child victims.

1 Part one: Seeing and understanding



The criminal process

continued...

3

Charges are withdrawn

Any charge can be reviewed and withdrawn by the prosecutor (a police prosecutor responds to less serious charges, the Department of Public Prosecutions (DPP) to more serious charges).



WHY A CHARGE MAY BE WITHDRAWN:	WHAT THIS MEANS IN PRACTICE:
Insufficient evidence.	The circumstances raised in the previous table mean the police have not been able to provide sufficient detail about the crime the suspected offender is charged with.
There is no reasonable prospect of a conviction.	<p>There are some matters where an allegation is very unlikely to lead to a conviction. One circumstance could be that the suspected offender committed sexual assault but they have a reasonable defense.</p> <p>For example, a 20 year-old has 'consensual' sex with someone who entered an over-18s night club with false identification. Later they find that the person was 15 years old.</p>
There is no public interest in the prosecution.	<p>There may be evidence that an offence has been committed, but taking the charges to court will not benefit the public or the victim.</p> <p>For example, two 15 year-olds have had 'consensual' sex with each other.</p>

4

Charges are dismissed at the local court (committal hearing)

When a charged person enters the local court system they become known as 'the defendant' and will attend the local court in front of a magistrate. This is called a committal hearing. The magistrate will decide if there is a reasonable possibility that a reasonable jury, who are properly instructed, would convict the defendant. If not, the magistrate must immediately order that the charges are dismissed. If this occurs the same charges can not be brought against the defendant again.

Contact offences of child sexual assault (where the offender has touched a child) are likely to be heard in a district court (before a judge) after the committal hearing. Non-contact offences such as grooming or viewing child pornography may be heard and resolved in a local court.

5

Found not guilty at trial

The trial is held in front of a judge and usually a jury. When the defendant enters the higher court system they become known as 'the accused'. At child sexual assault trials, the video of the JIRT interview or the transcript of a child's statement is usually presented as 'the evidence in chief'. There is usually technology that allows children to be cross-examined over CCTV rather than in the court room.

The jury decides if the accused is guilty beyond a reasonable doubt. If there is not a jury, the judge makes this decision.



In Practice

A finding of not guilty does not mean the child is safe or that the abuse didn't happen.

It means that a judge or jury had reasonable doubt that the accused committed the crime of sexual assault.

IMPORTANT

At a committal hearing the magistrate does not decide about the defendant's guilt or the risk they pose to the child. They are deciding whether the evidence in front of them could result in a conviction and should proceed to trial.



① Part one: Seeing and understanding



The criminal process

continued...



In Practice

Children in court

Child sexual assault matters are always heard in a closed court. The Witness Assistance Service has officers who can help the child get ready for court by:

- preparing them for giving evidence in court
- helping them understand their role and what to expect at court
- liaising with prosecution lawyers about their needs
- arranging a visit to a court and other facilities to become familiar with the environment
- arranging a court support person
- preparing them for court outcomes, such as a verdict of not guilty.

Children who give evidence can choose a court support person. The support person must not be giving evidence in the court case and is chosen by the child and approved by the judge.

A child who has been a victim of a sexual assault might be asked to prepare a victim impact statement to give to the court after an offender has been convicted and before they are sentenced. The victim impact statement is a written statement about the impact the sexual assault has had on the child. The statement can be read by the child or their representative. It is a way to make sure the child's voice is heard and can be considered as part of sentencing. While the child will receive help and support preparing their statement, it is important to be aware that this process may be a challenging time for them and a time where they may need additional support.





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② Part two: Responding



Key questions:

- How can I work effectively with JIRT?
- How can I respond to matters where the suspected offender is on the Child Protection Register?

2 Part two: Responding



Working with JIRT

While you share the same goal of child safety with your JIRT colleagues, there are also differences that may impact on the way each practitioner works with the child and family. For example, the FACS JIRT practitioner:

- generally has clear evidence that child sexual abuse has occurred, possibly because a child has given a detailed account of the abuse or there is physical evidence of the sexual abuse
- investigates and assists in gathering evidence to prosecute the criminal offence of child sexual assault
- makes decisions in partnership with NSW Police and NSW Health.

Because of these differences, some of the tools and approaches suggested in this kit will not be suitable for the JIRT context, but the practice will be the same.

Responding to reports of child sexual abuse can be complicated. There will be times when the dynamics of sexual abuse mean that information is conflicting or incomplete, children are deliberately silenced and it is difficult to determine and manage the risk posed by the suspected offender. Collaborative practice with JIRT practitioners can help to shed light on this grey area of practice.



In Practice

A 'non-acceptance' by JIRT does not mean that the child is not at risk of harm.

The JIRT eligibility guidelines are not an indication of the level of risk but rather, an indication of whether the information that is currently known could lead to a criminal conviction.




In Practice

Some suggestions for collaborative practice:

Build a relationship with your local JIRT colleagues. Invite them to attend meetings or group supervision sessions where appropriate.

If you are in doubt about how to respond to a child sexual abuse matter, call your local JIRT office. They can provide you with advice on talking with children, talking with parents and talking with the suspected offender.

You have expertise in safety planning and keeping children safe. If you are concerned that the JIRT plan is making a child unsafe, it is important to ask questions, request to be included in the Local Planning and Response (LPR) meetings and if necessary, escalate your concerns.

The **sibling case coordination mandate**  has been written to make sure there is collaborative practice between CSCs and JIRT where JIRT are involved with a child and their sibling is also believed to be at risk of significant harm. This collaborative practice involves shared decision making through the Local Planning and Response (LPR) meetings and collaborative casework.

2 Part two: Responding



Responding to the Child Protection Register (CPR)

The CPR is a tool for the police to monitor people they believe are a serious risk to children. Legislation across Australia prevents public access to the Register.

In NSW, police are only able to confirm that a person is on the CPR via a request that is submitted to the FACS Information Exchange Unit.

When FACS receives information from the Information Exchange Unit that a person is on the CPR, the manager casework must then seek approval from FACS directors community services level or above to disclose information about the criminal history of a registered offender on the CPR to a parent. There are very strict protocols and legislation in place that determine what you can do or say about the CPR. Read the **Responding to matters involving registrable offenders Practice Mandate** ³ on the **Casework Practice** site and consult with the CPR team³ to make sure that you are operating within the legislation.

Under the *Child Protection (Offenders Registration) Act 2000* a person can be placed on the register for:

Class 1 offences including: the murder of a child and sexual intercourse with a child.⁴

Class 2 offences including: acts of indecency (where the offender was sentenced to 12 months or longer), possession of child pornography, kidnapping of a child, filming a child for indecent purposes, and grooming offences.

Class 2 offences can also include: any offence in which there is an intention to commit a like offence with a child; attempting, conspiring or commissioning someone else to commit an offence.

³ CPR@facs.nsw.gov.au

⁴ Under the Crimes Act 1900 s 61H (1), sexual intercourse is defined as:

- The penetration to any extent of the genitalia (including a surgically constructed vagina) of a female person or the anus of any person by:
 - any part of the body of another person; or
 - any object manipulated by another person, except where the penetration is carried out for proper medical purposes;
- sexual connection occasioned by the introduction of any part of the penis of a person into the mouth of another person;
- cunnilingus; or
- the continuation of sexual intercourse as defined in paragraph (a), (b) or (c).

⁵ A registered person who has a disability that makes it difficult for them to report can nominate a person to report on their behalf.



In Practice

In this section we refer to the person on the CPR as 'the registered offender'.

What does it mean to be a registered offender?

A registered offender must report to police once a year and report any change in personal circumstances within 14 days of that change. A registered offender must also provide police with information about any interstate trips of more than two weeks or any regular short interstate trips.⁵ A registered offender must have the approval of the Commissioner of Police to change their name. Their DNA profile, fingerprints and identifying photographs are also recorded on the register.



The registered offender must provide police with the following information:

- all their names
- date of birth
- principal address
- their employment details
- details of their motor vehicle
- details of their registrable offences
- names and ages of any children with whom they ordinarily reside or have unsupervised contact
- details of any club or organisation they are affiliated with that has child participation or membership
- details of tattoos or other distinguishing marks
- details of their telephone and internet service providers and the type of internet connection (wireless, broadband, ADSL or dial-up)
- details of their email addresses, internet user names, instant messaging user names, chat room user names or any other names or identities used or intended to be used.

What happens to people who committed serious offences against children before the CPR was introduced?

The CPR was introduced on 21 October 2001. People who were convicted of a Class 1 or 2 offence and were serving a term of imprisonment or were subject to a community service or supervision order on 21 October 2001 were placed on the CPR. This means there will be people who have been convicted of a Class 1 or 2 offence that are not on the CPR.

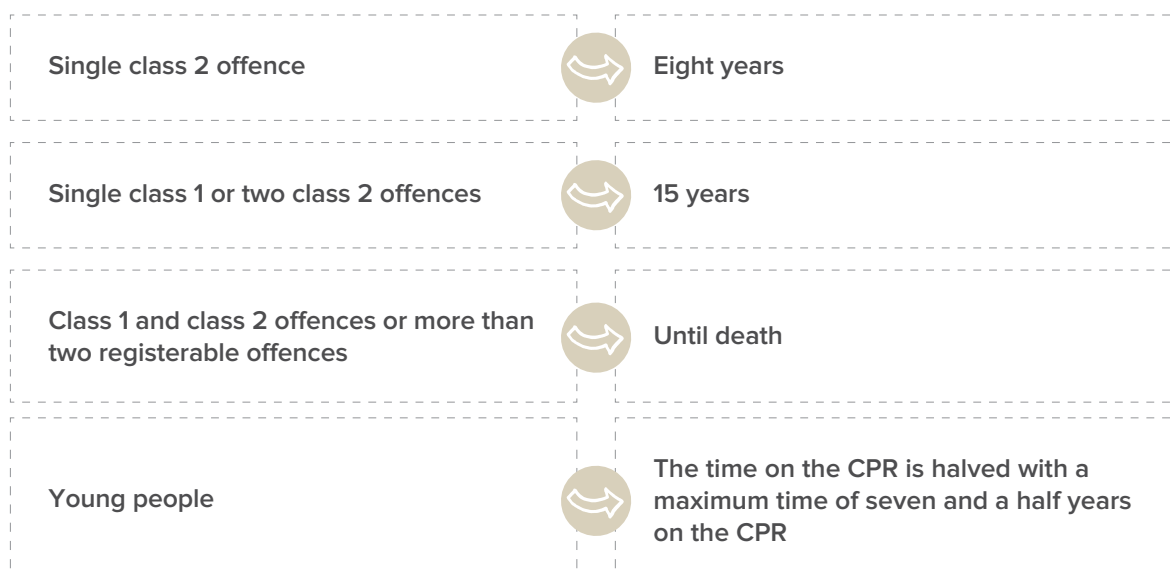
Are there any times when a person who has been convicted of Class 1 or Class 2 offences will not be placed on the CPR?

Yes. There are times when the offender is found guilty but the charges are dismissed and the offender is discharged. This should only occur for less serious, non-contact child sexual assault offences, for example, an act of indecency or possession of child pornography.

This may occur under:

- section 10 of the *Crimes (Sentencing Procedure) Act 1999*.⁶
- section 33 (1) (a) of the *Children (Criminal Proceedings) Act 1987*.⁷

How long do people remain registered offenders?



⁶ There are no restrictions that prevent offenders from applying for a section 10. In deciding whether to grant a section 10 the court will need to consider the age, record, health and mental condition of the offender, the trivial nature of the offence, any extenuating circumstances and anything else the court considers is relevant.

⁷ Section 33 (1) (a) applies to offenders who were 18 years or younger at the time of the offence and 21 years or younger when charged for the offence. This section provides alternatives to court proceedings for children who have committed some offences.

2 Part two: Responding



Talking to the parent about the registered offender's criminal history



In Practice

Some important questions to ask yourself before talking to the parent about the registered offender's criminal history:

- Has the manager casework been given approval from the FACS director community services (or the level above) to provide information to the parent about the criminal history of the person on the CPR?
- Has the crime manager at the Local Area Command (LAC) been told that you plan to meet with the parent?
Important: you can request that a police officer attends with you if possible.
- Do we know if there are any bail conditions / parole conditions / orders that prevent the registered offender living with children?
- Have I reviewed the criminal history, and prioritised information that represents a danger to the child? For example: You can provide information about other offences that do not represent an immediate danger to the child during the risk assessment stage of your casework.
- Do I understand the language in the criminal history and am I able to translate this into everyday language the parent understands? (The local JIRT office can help you do this).
- Have I practiced having a conversation about the registered offender's criminal history?

IMPORTANT

Talking with the parent about the registered offender's criminal history

Telling a parent that a household member or partner has harmed a child is difficult. The restrictions in the CPR legislation present unique challenges for your initial conversation with the parent and for your ongoing work. This table will provide you with some initial guidance. We suggest you practice these ideas with your colleagues, manager or specialist to make sure they will work for you in practice.

IMPORTANT

Gendered language is used in this section because the vast majority of people on the CPR are men.⁸



In Practice


Some ideas for effective conversations with parents:

- stay calm, focused and empathic
- remember that the parent is likely to have been groomed by the registered offender
- provide parents with information about the offences rather than general labels for the offences like child sexual assault, indecent assault
- avoid language or jargon that stigmatises the suspected offender. For example, perpetrator, offender, POI
- avoid providing parents with the specific ages and genders of the children who were sexually abused by the registered offender. Some parents may then believe the registered offender will only target children of a certain age or gender.

⁸ The 2003 Ombudsman review of the child protection register found that nearly 98 per cent of registered persons (809) were male. Of the 19 women on the register, seven were registrable as a result of convictions for 'non-sexual' offences against children.


PRACTICE CONSIDERATIONS:	CONVERSATION IDEAS:
<p>You only need to read the CPR statement just before you provide the parent with the registered offender’s criminal history.</p> <p>Check if the registered offender is currently home (if they are home you may need to ask them to leave while you talk with the parent).</p> <p>Check if the children are currently at home (if they are at home you will need to make sure you can speak privately with the parent).</p>	<p>‘I am worried about the kids and need to talk to you. Can I come in? Is there anyone else home?’</p>
<p>Read the parent the CPR statement before providing any information about the registered offender.</p>	<p>‘I have some difficult information to share with you about [registered offender]. I need to read you a statement before I can tell you this information. The statement is quite formal and you will probably have lots of questions. There will be time to ask me questions when I have finished reading the statement.’</p>
<p>Make sure the parent understands the CPR statement.</p>	<p>I also need to check that you have understood the statement before I can tell you about [registered offender]. I am going to ask you some questions:</p> <ul style="list-style-type: none"> ■ ‘Are you allowed to tell anyone the information I am about to tell you about [registered offender]?’ ■ ‘What can happen if you tell someone this information?’
<p>When talking about the registered offender’s criminal history:</p> <ul style="list-style-type: none"> ■ ask the parent to tell you what the person has said about their offence history ■ describe the offence history in simple, practical language ■ explain the court process in simple, practical language. 	<p>‘Did [registered offender] tell you about their time in jail and why they were sent there?’</p> <p>‘I can hear that you trust [registered offender], and he has told you all about why he was sent to jail but I would like to give you some information based on police records to help you keep the kids safe.’</p> <p>‘The court would have had information from lots of different people to be able to say that [registered offender] is guilty. The court believed that there was no doubt that [registered offender] did what I just told you.’</p>

In Practice




If a police officer is unable to attend a meeting with you and the parent or suspected offender, it is important to provide the police with information about what was discussed in the meeting.

This information may assist police to work with the person and family and may also impact on the conditions attached to the CPR.



Go to



the case study on pages 30-33 of **this chapter** for ideas on how to describe a registered offender’s history in simple, practical language.

2 Part two: Responding



Talking to the parent about the registered offender's criminal history continued...

PRACTICE CONSIDERATIONS:	CONVERSATION IDEAS:
<p>Tell the parent about the person's other offences or other allegations of sexual abuse which did not lead to him being placed on the CPR.</p>	<p>'I'm now going to tell you about some of the other reports that have been made about [registered offender]. Even though [registered offender] was not charged for these reports, they are still very serious. The same legal rules about telling people this information do not apply, but let's work together to decide what you tell other people.'</p>
<p>Help the parent talk to their children about how they think the children might respond to the child protection concerns.</p> <p>Plan to talk to the children together and agree on what will be said.</p> <p><i>Note: the following page provides guidance on talking to children about the registered offender's criminal history.</i></p>	<p>'I have given you lots of information today. You know the kids better than anyone; how do you think we should tell them about our worries?'</p> <p>'What do you think the kids like about [registered offender]? What don't you think they like? How do you think they will feel about him leaving?'</p>
<p>Link the parent to appropriate crisis and longer term services by telling the service:</p> <ul style="list-style-type: none"> the registered offender is a 'serious risk to children' about the parent's needs rather than the registered offender's criminal history. 	<p>'I am ringing to ask you to work with [parent]. I have seen [parent] today to tell her that her partner poses a serious risk to children. This is very tough news for her and she is still processing it. Could you please support her and talk to her about the dynamics of child sexual abuse?'</p>



In Practice

When a registered offender is on the CPR the safety plan will generally involve them leaving the household. This could have a significant impact on the parent, who may have been relying on the person for financial, emotional or practical support.

It is important that the safety plan includes people who can monitor the plan and support the parent. The safety plan will also need to consider any possible contact arrangements for the children.



Go to



the responding section of the '[Safety planning](#)' chapter to help you identify people who can develop, monitor and implement a safety plan (using the safe family rules approach) for contact with the children (if appropriate).



Go to



the responding section of the '[Risk assessment and casework](#)' chapter for ideas to support children to speak out if they are feeling unsafe or unsure.

PRACTICE CONSIDERATIONS:	CONVERSATION IDEAS:
<p>Support the parent to talk to their family and friends by agreeing to some words they can use to explain the safety plan.</p>	<p>The parent may want to tell people that: ‘Child protection and the police think [registered offender] poses a serious risk to the kids. I am not legally allowed to say any more than that. I am keeping the kids safe by asking [the person] to leave our home.’</p>
<p>Predict and plan for the future by:</p> <ul style="list-style-type: none"> ■ acknowledging there may be times when the parent struggles to believe the child protection concerns ■ planning for times when the parent is at greatest risk of allowing the person back into the household. 	<p>‘Do you think there might be times when it is hard to believe [registered offender] is a risk to the kids? What do you think you might do during these times? Who could support you?’</p> <p>‘What does [registered offender] do to help you and the kids? How do you think you might cope without that help? Is there anyone else who can support you?’</p>

In Practice



Once you have spoken to the parent and given them information about the registered offender’s criminal offences, email a brief summary to: cpr@facs.nsw.gov.au ➔

Include the names of the parent, children and registered offender as well as any other relevant identifiers.



2 Part two: Responding



Talking to children about the registered offender's criminal history

Children living in the home will be very aware of your involvement with their family. They may be confused, distressed and worried about their family members. The children may have had positive experiences with the registered offender and may like them living in their home. They may have also been groomed or sexually abused by the registered offender.

The CPR disclosure policy allows children to receive any of the developmentally appropriate information about the registered offender's criminal history that led to him being placed on the CPR. This information helps the child to understand what's happening in the household and be aware of the risk posed by the registered offender, and may help them to tell others if they have been sexually abused. Practitioners also need to be mindful that the CPR disclosure policy prevents the child from telling anyone else about the registered offender's past offences. In deciding whether to tell a child specific details, you will need to consider the impact this information may have on them and whether it is reasonable to expect them to keep this information secret from their friends, extended family, community members and other professionals. Your knowledge of child development and your experiences with the individual child will help you to make this decision. You can also consult with your FACS psychologist, the casework specialist and the clinical issues team.

In Practice



Ideas for working with children when a person in the home is on the CPR:

Understand the child's relationship with the person and acknowledge positive experiences that the child describes: 'It sounds like there were things you really liked about (registered offender). You will probably feel sad and miss them.'

Talk generally:


'(Registered offender) has done things to other children. This is why they can't live with you. Have they ever done anything that made you feel scared or worried?'
Or: '(Registered offender) has made some children feel unsafe and worried by ways they have touched them. Has (registered offender) ever said or done anything to you that has made you feel unsafe or worried?'

Identify what the child can do if the person visits or starts living in the home again.



Go to




the responding section of the '**Risk assessment and casework**'  chapter to find out more about the safe object and safe people concepts. These concepts provide the child with opportunities to tell adults about times when they are worried or the safety plan is not followed.



Go to



the responding section of the '**Working with children**'  chapter for practice and conversation ideas that help children to tell you if they have been sexually abused.


Working with a registered offender

It is fair to let the registered offender know that you have provided information about their criminal history to the parent after you have permission from the police to do so.


It is also useful to hear their version of events so you are able to understand how they might be representing their past offences to the parent or children in the home.

If possible have a police officer attend the meeting with you. You will also need to have some ground rules to make sure the registered offender does not take control of the meeting. For example: who can talk, when they can talk, the purpose of the meeting and the facts of their offences.

 Go to

the **'Risk assessment and casework'**  chapter, (pages 17-23) for information to help you assess the risk posed by the registered offender.

 Go to

the **'Working with the suspected offender'**  chapter for ideas on how to work with the registered offender.



Case Study



**Ashlee (4)
Paige (6) and
Maddison's (8) story**

Ashlee, Paige and Maddison's Story

Kelly is a manager casework at Wombeyan CSC. Kelly has received information from the FACS Information Exchange Unit that Phillip Whittington is on the CPR and is currently living with Ashlee (four), Paige (six) and Maddison (eight) and their mum, Kate.

There are over 20 reports for the children due to concerns about their exposure to physical, verbal and financial domestic violence perpetrated by Kate's ex-partner, David. There were also reports that the children were being left at home alone and were not attending school. Kate and the children have received intermittent, short term casework from practitioners at Wombeyan CSC over the past eight years. Casework has focused on supporting Kate to find crisis accommodation and enforce AVOs against David.

The information states the following:

'Please be advised that the name of the person provided is known on the Child Protection Register. Phillip Whittington is currently managed by Inspector Bill Blaney and Senior Constable Jasmine Smith. Phillip Whittington is on the CPR until death for one class one and one class two offence.

'Relevant criminal history:

- Aggravated indecent assault DV
- Sexual intercourse with a person under 10 years of age
- Indecent assault of a person under 16 years of age
- Providing false or misleading information
- Failure to comply with CPR reporting.'

Case Reflection

Kelly has received information that Ashlee, Paige and Maddison are at serious risk of harm. Kelly will need to work closely with Kate to develop an effective safety plan that ensures Phillip has no more contact with the children. Her ability to build rapport with Kate and clearly explain why Phillip poses a serious risk to the children will be critically important. An effective response will also need to include ongoing support for Kate. Practitioners have found that parents are often willing and able to put a safety plan in place when they first receive information about a person on the CPR. However, stressors, the impact of grooming from the registered offender and the influence of other family and community members can make it difficult to maintain this response.



In Practice

The JIRT office can help you to understand the information about the CPR provided by the Information Exchange Unit and translate it into information the parent can understand.



In Practice

When meeting a parent for the first time it can be helpful to reflect on their history with FACS and consider how this may influence their responses.

For example, Kate's history of short and intermittent casework may mean that she finds it difficult to trust child protection practitioners or may see practitioners as ineffective. She may also feel worried that she will be blamed by practitioners for 'choosing the wrong man'.

It can be useful to find out what the parent has and hasn't liked about working with FACS and come to an agreement on how you will work differently.

Good practice example

Kelly and Leanne (a caseworker on Kelly's team) review the information provided by the Information Exchange Unit. They call their JIRT team to discuss Phillip's criminal history and to make sure they understand what the information means. They also call the LAC to ask if a police officer can come to Kate's home with them. The LAC say they are not able to come to Kate's home, but they would appreciate receiving information about how the visit went and where Phillip will be living after the visit.

Kelly and Leanne decide to focus on giving information about Phillip's sexual offences that day because that will be enough information for Kate to process at one time. They plan to tell Kate that Phillip has been found guilty of raping a primary school aged child and of sexually touching a child who was under the age of 16. Kelly practises reading the official CPR statement and Leanne tells her that she is reading the statement too quickly. Kelly acknowledges that she tends to talk quickly when she is nervous. Kelly and Leanne agree that Leanne will make a small sign with her hand to remind Kelly to slow down if she begins to talk too quickly. Kelly and Leanne also agree on some questions they can use to make sure Kate has understood the official CPR statement.

Kelly and Leanne visit Kate at her home while the children are at school. Kelly explains that they are from FACS and asks Kate if they can come inside to talk privately about the children. Kelly asks where Phillip is today and Kate says he is at the shops and will be home in an hour or so. Kelly acknowledges that having FACS visit could be very stressful; she tells Kate she has some information about Phillip that Kate might find difficult to hear. Kate says that she knows all about Phillip's past and that 'he has nothing to hide'. Kelly asks her what she knows and Kate says 'Three years ago, Phillip was at a night club and he touched some girl who looked like

she was 18 on the arse. Phillip would never do something like that normally, but he was drunk.' Kelly asks Kate if she has any information about other things Phillip has done and Kate says 'he hasn't done anything else. He made one mistake and now he has to pay for it by telling the cops wherever he goes.'

Kelly thanks Kate for the information and tells her she has more information to share with her. She reads Kate the plain English official CPR statement.

Kelly acknowledges that the statement can be a bit hard to understand and explains to Kate that it is illegal for her to share any of the information she is about to give her with anyone else. Kelly tells Kate that this will be really tough but explains she and Leanne will help her to work out ways that she can get support from her friends and family without telling them about Phillip's crimes. Kelly then asks Kate a couple of questions to make sure she has understood the information. This includes, 'can you tell anyone about the information I am about to share?' 'What will happen if you tell anyone?' Kate's answers show that she has understood the official CPR statement.



Talking about Phil's offenses against children

Kelly tells Kate that Phillip has been found guilty of raping a child who was at primary school. She checks in with Kate and asks how she is coping. Kate tells her she is 'shocked and sick - my kids are that age'. Kelly tells Kate that Phillip has also been found guilty of sexually touching a child who was under 16 years of age. Kelly and Leanne wait a few minutes in silence while Kate processes the information.



Ashlee, Paige and Maddison's Story

Kate looks distressed and shocked. She tells Kelly 'I didn't know about any of this stuff'. Kelly explains that men who hurt children sometimes tell people part of the story because they want people to like them and they want to be able to have relationships with women and children. She explains that no one can tell if a person has hurt children by looking at them and that Kate has done nothing wrong. Phillip is the person who has hurt children, not her. Kelly asks Kate about what she plans to do. Kate says she plans to tell Phillip to leave as soon as he gets home. Kelly and Leanne ask Kate if she would like them to be there when she tells Phillip to leave. Kate agrees that she would like some support.

When Phillip gets back to the house, Kelly and Leanne support Kate to ask him to leave. Kate tells Phillip that she 'knows what he has done to kids'. Kelly explains that FACS has information from the police that he has raped a primary school aged child and sexually touched another child. Kelly also explains that Kate will be signing a safety plan with FACS that day that says that she will not allow her children to have any contact with Phillip. Kelly also explains that she will be working to understand the risk to the children. Kelly asks Phillip to meet with her and Leanne tomorrow so that they can understand his point of view. Phillip agrees to meet tomorrow and tells Kelly that he will stay at his mum's house. Kelly asks if there are any children living there and Phillip says that his mum lives on her own. Kate asks Phillip for his mum's address and tells him that she will be giving the police this information. Phillip tells Kate that he will report his change of address to the police also. Phillip agrees to leave the house immediately, before the children come home from school.



Kate's response

Kate appears distressed and shaky after asking Phillip to leave. Kelly asks her if she has any close friends nearby. Kate tells her she has an old friend from school, Lauren who has been really good to her. Kelly explains that it can be really helpful to let close friends know that she is having a tough time. Kelly, Leanne and Kate work out some words to use with Lauren. Kate decides to tell Lauren 'Phillip has done some really bad things to kids and I have asked him to leave. FACS and the police have told me I can't tell you anything more, or I could get arrested.' Kate says that Lauren will help out with the kids and will be a really good person to talk to when she is feeling down. Kelly also makes a phone call to Parentline (a professional phone counselling service for parents in NSW, funded by FACS) in front of Kate. Kelly explains that 'Kate has just been told that her partner Phillip has done some really bad things to kids'. Kelly explains that by law she and Kate can't give the counsellor any more information but that she would like the service to talk to Kate about 'the dynamics of sexual abuse'. Parentline agrees to call Kate back that night after the kids are in bed to give her some support.

Kelly and Leanne ask Kate about what she plans to tell the kids. Kate says that today she will just tell them that 'Phillip will not come home tonight.' Kate said the kids will be upset because Phillip played with them every afternoon after school. Kelly tells her that it will be quite normal for the kids to feel upset about Phillip leaving. She also warns Kate that it might be hard for her to see the kids upset and that it might make it hard to believe Phillip has harmed children, especially if they tell her how much they miss him. Kelly tells Kate that it is important that the kids get a chance to talk about Phillip and understand a bit more about what he has done. Kelly and Leanne ask if they can visit Kate and the children tomorrow after school. They explain that kids who are Ashlee, Paige and Maddison's age wouldn't be told everything, they would just be told that 'Phillip has made some other children feel sad and worried. He needs to leave your house because we don't want him to make you feel this way'. Kelly tells Kate that she and Leanne will also need to talk to the kids on their own so that they can understand more about their relationship with Phillip and make sure that they are safe. Kate agrees that Kelly and Leanne can visit the kids tomorrow. Kelly explains that she and Leanne will keep supporting Kate to talk to the kids and to keep the safety plan in place.





Key messages
from this
Chapter

The criminal justice system needs a certain level of evidence to respond. If a case of suspected child sexual abuse does not lead to a criminal response it does not mean the child is not at serious risk of harm.

It is important to understand the way the criminal justice system works so that you are able to provide accurate information to children and families and guard against incorrect information that may be provided by the registered offender.

You can and should connect parents and children to supports and services even where CPR disclosure policy restricts what information can be shared about the registered offender's criminal record.

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