

**FRESNO COUNTY
ELECTRONIC - SUSPECTED CHILD ABUSE REPORT SYSTEM
(E-SCARS)
MEMORANDUM OF UNDERSTANDING
AND OPERATIONAL AGREEMENT**

I. PURPOSE

The purpose of this Memorandum of Understanding (MOU) and Operational Agreement (OA) between County Departments/Offices, with independent city law enforcement agencies, is to establish defined policies and procedures for all participating agencies with Electronic Suspected Child Abuse Report System (E-SCARS).

II. OVERVIEW

A Suspected Child Abuse Report (SCAR) is a Department of Justice standardized form (SS8572) which must be prepared in "every known or suspected instance of child abuse or neglect." Whenever a mandated reporter reasonably suspects that child abuse, neglect, or child endangerment has occurred, he/she must report this information to either the Department of Social Services (DSS) or the law enforcement agency (LEA) with investigative jurisdiction. Once a SCAR is created, that document must be cross-reported between DSS, LEAs, and the Fresno County District Attorney's Office (DA) as required by statute. (Penal Code §§ 11166 (j) and (k)).

III. BACKGROUND

E-SCARS is a web-based application that allows agencies to share SCARs as well as review historical information about victims and suspects. E-SCARS is an information sharing system with built in accountability measures. Using E-SCARS to cross-report every instance of child physical/sexual abuse, severe neglect, or child endangerment and responding and investigating every appropriate allegation brought to the departments' attention through E-SCARS will enhance these departments' efforts to protect children.

IV. LEGISLATION

California's Child Abuse and Neglect Reporting Act (CANRA) defines child abuse, establishes procedures to report and investigate child abuse, imposes an obligation on certain individuals to report child abuse, and prescribes

penalties for failing to comply with the law. (Penal Code §§ 11164 *et seq.*)

V. TERM

This MOU shall become effective on the 14th day of December, 2021, and shall terminate on the 13th day of December, 2024.

VI. MODIFICATION

Any matters of this MOU may be modified from time to time by the written consent of all the parties without, in any way, affecting the remainder.

VII. LAW ENFORCEMENT AGENCIES RESPONSIBILITIES / BEST PRACTICES

A. RECEIVING A SCAR VIA E-SCARS

Any LEA personnel (including but not limited to dispatchers, watch commanders, records personnel, or records supervisor) who receives a SCAR shall:

1. Monitor their dispatching systems and/or check their email regularly for any SCARs that have been transmitted from the DSS Child Protection Hotline (CPH). Regularly means, at a minimum, at an interval not exceeding every three hours, including nights and weekends.
2. Upon receipt of a SCAR, LEAs shall verify that the incident location is within their jurisdiction. If the location is not within the agency's jurisdiction, or if the SCAR is missing critical information, the SCAR shall be re-routed to DSS through E- SCARS for transmission to the proper LEA or for additional information.
3. Newly received SCARs shall not remain in the Unopened category for more than three days. All SCARs should be opened (i.e., the allegations should be carefully reviewed) upon receipt, and the status of the SCAR shall be changed from Unopened to Pending, Crime Suspected, or No Crime Suspected. If the LEA does not intend to investigate, the SCAR status shall be updated to the No Investigation category, with a written explanation. For purposes of E-SCARS, the definition of "opened" means changing the category of an Unopened SCAR to a different category in E-SCARS.
4. Pursuant to Penal Code § 11165.9, reports of suspected child abuse or neglect shall be made by mandated reporters, or in the case of reports pursuant to Section 11166.05, may be made to any police department or sheriff's department, not including a school district police or security

department, county probation department, if designated by the county to receive mandated reports, or the county welfare department. Any of those agencies shall accept a report of suspected child abuse or neglect, whether offered by a mandated reporter or another person, or referred by another agency, even if the agency to whom the report is being made lacks subject matter or geographical jurisdiction to investigate the reported case, unless the agency can immediately electronically transfer the call to an agency with proper jurisdiction. When an agency takes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction. Agencies that are required to receive reports of suspected child abuse or neglect may not refuse to accept a report of suspected child abuse or neglect from a mandated reporter or another person unless otherwise authorized pursuant to this section, and shall maintain a record of all reports received.

5. LEAs shall prepare a courtesy report, unless the agency taking the call can immediately electronically transfer the call to an agency with proper jurisdiction.

When an agency writes a report about a case of suspected child abuse or neglect in which that agency lacks jurisdiction, the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction. Agencies that are required to receive reports of suspected child abuse or neglect may not refuse to accept a report of suspected child abuse or neglect from a mandated reporter or another person, unless otherwise authorized pursuant to this section, and shall maintain a record of all reports received.

This courtesy report process encourages other agencies to do the same by building upon the information provided. This section does not refer to SCARs that are re-routed to DSS for wrong jurisdiction based on what is written on the SCAR.

B. RESPONDING TO A SCAR FROM DSS

Patrol officers/deputies or detectives shall:

1. LEAs must, by law, conduct an independent investigation in all cases where physical or sexual abuse or severe neglect is suspected [Penal Code § 11166 and Alejo v. City of Alhambra (75 Cal. App. 4th 1180)]. Every SCAR received shall be assigned to a patrol officer/deputy or detective from the agency of jurisdiction, to investigate the allegation(s), and shall be treated just as if it were a "call for service." The failure to conduct a reasonable

investigation, such as the failure to send a patrol car in response to a child abuse report, may result in a finding of departmental/personal liability. More importantly, a failure to timely investigate reported abuse can lead to serious injuries to the child, including potentially fatal injuries.

2. LEAs shall respond as soon as practical to every allegation of suspected physical or sexual abuse with few exceptions (e.g., a significant delay in reporting might not warrant immediate response). "Respond" means to make contact with the alleged victim, parent/guardian of the victim, and any potential witnesses to the alleged abuse.
3. If the first responding officer/deputy or detective is unable to make contact with the primary parties involved, and is unable to respond again in a timely manner, the SCAR shall be assigned to another officer/deputy or detective until contact is made, or all reasonable attempts to make contact have been exhausted. The actions by all sworn personnel shall be (briefly) documented in the Comments section on the LEA/DA Update page in E-SCARS.
4. Penal Code § 11166.05 makes reporting of emotional child abuse discretionary. A LEA agency shall evaluate and encourage an investigation of an allegation of suspected emotional child abuse, given the potentially grave consequences that may occur when a child feels isolated and/or without support.
5. Upon conclusion of an initial criminal investigation by an officer or detective, a LEA representative shall update E-SCARS with the findings. LEAs shall update the LEA/DA Update page with the report number or tag number (call number) as soon as feasible. Each LEA shall provide an identifying number designated by their department in E- SCARS which documents their response to a SCAR, even if a written report is not prepared. Consideration shall be given to writing a report documenting actions undertaken by the LEA, rather than relying upon an alternative manner of recording the incident (such as a tag or call number), in order to ensure an accurate record for review in case of future incidents involving the same suspect or victim.

C. RESPONDING TO A MANDATED REPORTER/CITIZEN REPORT

1. If a mandated reporter or concerned citizen contacts law enforcement directly and actual or suspected child abuse is determined, the LEA must telephonically report the allegations to DSS CPH as soon as practical. DSS shall generate a SCAR with the information obtained from the LEA in order to reduce the incidence of multiple "hard copy" SCARs being generated

from a single incident. DSS shall ensure the report is entered into E-SCARS and available for the LEA to download and print.

2. LEAs shall handle the report of actual or suspected child abuse as if it was received via the E-SCAR system.

D. DETECTIVES INVESTIGATING A SCAR

1. Once the incident is fully investigated, the assigned investigator or his/her designee will ensure the status on the LEA/DA Update page properly reflects the accurate status of the allegations.
2. LEAs shall update the LEA/DA Update page Comments field when No Crime Suspected or No Investigation has been categorized. This will keep all E-SCARS partners informed as to why these actions were taken or conclusions were drawn from the available facts.
3. LEAs shall cross-report to DSS CPH any allegation involving suspected or actual child physical or sexual abuse or severe neglect situations involving a family member or caretaker, or when a child needs to be taken into protective custody for any reason. LEAs shall cross-report allegations of any other suspects or non-family members to ensure E-SCARS maintains a complete history of all child abuse cases within Fresno County.
4. LEAs shall report to DSS CPH all cases of child endangerment (e.g. driving under the influence with a child in a vehicle, domestic violence committed in the presence of a minor, possessing, selling, or manufacturing narcotics while a child is present, shoplifting in the company of a minor, any other situation involving the physical arrest of the only adult caretaker of a child, or possessing weapons/narcotics in the presence of a child).

E. TRAINING

1. LEAs, DSS, and DA shall ensure that appropriate training is provided to all sworn personnel in the areas of: recognizing possible child abuse and neglect, skilled interviewing of child victims/witnesses, and when and how allegations of child abuse, neglect or endangerment shall be cross-reported.
2. LEAs, DSS, and DA shall provide ongoing training to their respective staff related to E-SCARS.

VIII. DSS RESPONSIBILITIES / BEST PRACTICES

DSS receives on average over 14,000 reports annually of potential child abuse, with an average of 55% required to be cross-reported to law enforcement and the DA. Allegations reported to DSS requiring a cross-report to law enforcement and the DA are processed and relayed via E-SCARS virtually immediately to both DSS and the LEA with jurisdiction to investigate the allegations, as well as to the DA, as required by law.

A. CHILD PROTECTION HOTLINE (CPH)

1. The DSS CPH shall generate a referral when any mandated reporter, or any concerned citizen, calls to report possible abuse and/or neglect, as defined in Penal Code § 11165.6. DSS shall assess and determine if an in-person response is necessary (if it meets criteria of abuse or neglect), or if the referral may be safely "Evaluated Out" and offer support services to the victim/family when needed. DSS shall generate a SCAR for all allegations of "child abuse or severe neglect", as defined in Penal Code § 11165.6.
2. After taking the referral and determining that an allegation requires a cross-report, DSS shall route the SCAR via E-SCARS as soon as practically possible to the LEA with jurisdiction to investigate the allegation, as well as to the Fresno County DA. If an immediate response from a LEA is needed, the CPH SW shall follow-up the E-SCAR with a phone call.
3. DSS shall handle all SCARs re-routed to the CPH as soon as practically possible upon receipt of the re-routed SCAR in order to ensure prompt action by the LEA with investigative jurisdiction. Re-routing is the process by which SCARs are returned to the CPH by a law enforcement agency that believes the SCAR in question was routed to the wrong jurisdiction, and then re-routed by the CPH to the correct law enforcement agency.

B. SOCIAL WORKERS (SW)

1. When CPH determines that an in-person investigation is required, a SW shall conduct a child welfare investigation of the alleged child abuse or neglect. In those instances, where a LEA is conducting a criminal investigation arising out of, or related to, the alleged child abuse or neglect, the child welfare investigation shall be performed concurrently.
2. At the conclusion of their investigation and documentation on the Child Welfare Services Case Management System (CWS/CMS), the assigned SW's findings will be reflected in E-SCARS on the SCAR Detail page, DSS' Conclusion(s) tab.

C. SOCIAL WORKER SUPERVISOR (SWS)

1. SWS' shall ensure that, prior to approving the closure of any referral in which a cross-report to a LEA was made, the E-SCARS SCAR Details page, LEA/DA Update tab is reviewed to determine the involved LEA's finding on the referral.
2. SWS' shall ensure that apparent inconsistent findings between DSS and the involved LEA in E-SCARS are evaluated, and the reasons for the discrepancy and actions taken are documented in CWS/CMS.

IX. DA'S OFFICE AUDITING COMPLIANCE AND OTHER RESPONSIBILITIES

The DA will continue its auditing of cross-reporting suspected child abuse allegations throughout Fresno County, as well as expand awareness for all mandated reporters of their statutory obligation to report suspected child abuse, neglect, or child endangerment situations.

A. PROSECUTOR/FILING ATTORNEY

When any case is presented for filing (felony or misdemeanor) involving child abuse, severe neglect, or child endangerment, the filing deputy DA reviewing the case shall:

1. Ensure that the filing law enforcement officer has attached a copy of the SCAR to the filing packet.
2. If the allegations were investigated by the LEA but not cross-reported, the filing deputy DA shall advise the filing officer or investigating officer to cross-report the allegation immediately to the DSS CPH.
3. The filing deputy DA shall access and review E-SCARS in every case where a minor is a victim of child abuse, neglect, or endangerment, and in some appropriate cases where a minor is a witness to a crime.
4. The filing deputy DA will review all available SCARs, including associated and historical SCARs that are potentially related to the same incident or a prior incident for the same victim, witness, suspect, or victim's address.
5. The filing deputy DA, or their designee, shall access E-SCARS and enter the court case number, assigned prosecutor, and/or investigator

for all filed cases into E-SCARS.

B. E-SCARS AUDITOR

The E-SCARS auditor shall do all of the following:

1. Monitor the consistency of handling and timeliness of opening SCARs by all LEAs.
2. Audit all 18 independent LEAs in Fresno County, as well as the Fresno County Sheriff's Office, DSS, and the DA for statutory compliance with Penal Code §§ 111660(j) and (k).
3. Review E-SCARS statistics for every LEA at least once a week for all categories (Unopened, Pending, Crime Suspected, No Crime Suspected, and No Investigation), to determine whether SCARs are being opened and handled in a timely and appropriate manner.
4. Monitor that SCARs are not being placed in the Pending category as a holding spot without further review.
5. Read and evaluate selected SCARs and associated SCARs for the purpose of viewing prior history involving a victim, sibling, perpetrator, and witnesses as a check and balance to ensure cases do not fall through the cracks.
6. Read every sensitive and fatality SCAR to ensure it is investigated in a timely manner and brought to the attention of the designated deputy district attorney (if appropriate).
7. Monitor all SCAR logs to ensure SCARs are being reviewed and updated by LEAs, DAs, and Social Workers.
8. Ensure the court case numbers of all filed cases are updated by DA staff in E-SCARS.
9. Monitor both DSS and LEAs to ensure their findings are included in E-SCARS.
10. Make telephonic contact or send emails or other correspondence to any agency that appears to have failed to perform any statutory duty or appears to have failed to comply with any portion of this signed MOU/OA.
11. Facilitate/liaise with any agency asking for support with E-SCARS.

X. CONFIDENTIALITY

The parties to this MOU agree that juvenile case files and the information contained therein, as well as records of Federally funded public social services, are confidential under applicable law, which includes, but is not necessarily limited to, California Welfare and Institutions Code §§ 827 and 10850, as well as the California Department of Social Services Manual of Policies and Procedures, Division 19. The parties further agree that confidential information shall be shared and further disseminated only in a manner which is consistent with all applicable laws.

The E-SCARS is designated to comply with State law in the area of protecting children and preventing child abuse. By adopting the best practices set forth in this MOU, and fulfilling all responsibilities herein, the parties act on behalf of the children of Fresno County to keep them safer, through a commitment to act collectively, and with commitment to assist one another in furthering the child protection mission of each agency.

XI. INSURANCE REQUIREMENTS

All parties to this MOU shall each maintain their own expense insurance and general liability coverage satisfying the requirements for liabilities that may arise from or relate to this Agreement.

XII. INDEMNIFICATION PROVISIONS

Each party to this MOU agrees that, pursuant to Government Code 895.4, that party shall fully indemnify, and hold all other parties to this MOU, including their officers, board members, employees and agents, and special districts, harmless from any claim, expense or cost (including attorneys' fees), damage or liability imposed for injury, occurring by reason of the indemnifying party's negligent acts, omissions, or willful misconduct of its officers, board members, employees or agents, under or in connection with or arising out of any actions, work, authority, or jurisdiction delegated to the indemnifying party relating to this MOU.

XIII. TERMINATION

This MOU, and its agreed-upon protocols, may be terminated by any party by giving thirty (30) days advance written notice of an intention to terminate to all other parties. Written notice of termination given by a party to the other parties shall only terminate the MOU in relation to the party giving notice, and the MOU shall continue in full force and effect with respect to all other parties.

XIV. ADDITIONS/DELETIONS OF PARTICIPATING AGENCIES

Fresno County's District Attorney, or its designee, reserves the right at any time during the term of this MOU, to add law enforcement agencies to those listed in Exhibit A.

Exhibit A – Partner Agencies

**Fresno County
Electronic Suspected Child Abuse Report System (E-
SCARS)**

District Attorney's Office (DA)

Fresno County Sheriff's Office (FSO)

Department of Social Services (DSS)

Law Enforcement Agencies (LEA):

Clovis PD

Coalinga PD

Firebaugh PD

Fowler PD

Fresno PD

Huron PD

Kerman PD

Kingsburg PD

Mendota PD

Orange Cove PD

Parlier PD

Reedley PD

Sanger PD

Selma PD

California State University Fresno PD

State Center Community College PD

Fresno Yosemite International Airport PD

California Highway Patrol (CHP)

IN WITNESS WHEREOF, the parties have executed this Memorandum of Understanding effective upon execution by all parties.

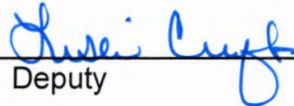
COUNTY OF FRESNO:



Steven Brandau, Chairman of the
Board of Supervisors of the County of
Fresno

ATTEST:

Bernice E. Seidel,
Clerk of the Board of Supervisors
County of Fresno, State of California

By _____
Deputy

**PLEASE SEE ADDITIONAL
SIGNATURE PAGES ATTACHED**

CLOVIS POLICE DEPARTMENT

By _____

Print Name: _____

Title: _____

Date: _____

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COALINGA POLICE DEPARTMENT

By _____

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FIREBAUGH POLICE DEPARTMENT

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FOWLER POLICE DEPARTMENT

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FRESNO POLICE DEPARTMENT

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HURON POLICE DEPARTMENT

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KERMAN POLICE DEPARTMENT

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KINGSBURG POLICE DEPARTMENT

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MENDOTA POLICE DEPARTMENT

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ORANGE COVE POLICE DEPARTMENT

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PARLIER POLICE DEPARTMENT

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REEDLEY POLICE DEPARTMENT

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SANGER POLICE DEPARTMENT

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SELMA POLICE DEPARTMENT

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CALIFORNIA STATE UNIVERSITY FRESNO POLICE DEPARTMENT

By _____

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Title: _____

Date: _____

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STATE CENTER COMMUNITY COLLEGE POLICE DEPARTMENT

By _____

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FRESNO YOSEMITE INTERNATIONAL AIRPORT POLICE DEPARTMENT

By _____

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Title: _____

Date: _____

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CALIFORNIA HIGHWAY PATROL

By _____

Print Name: _____

Title: _____

Date: _____