

Developed by the  
**Apache County Youth Council**  
An Arizona Non-profit Corporation

# Apache County Children's Justice Project

*Created June 2004*

## **MULTIDISCIPLINARY PROTOCOL FOR THE INVESTIGATION OF CHILD ABUSE**

This protocol was published under the auspices of the Apache County Youth Council, with grant funding from the Governor's Division for Children.

Currently, there are 35 agencies participating in the Apache County Youth Council. As Coordinator, I wish to thank these member agencies and commend them for their commitment and dedication to working cooperatively in the handling of cases involving abused children. The delivery of professional services and treatment within a coordinated framework promotes a therapeutic environment within which a child can feel safe and secure. Every child deserves to be treated with dignity, compassion and respect. This protocol provides a model for treatment consistent with these principles.

Diana M. Ryan  
Coordinator, Apache County Youth Council

**MULTIDISCIPLINARY PROTOCOL FOR THE INVESTIGATION OF CHILD  
ABUSE**

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## **AGENCIES CURRENTLY PARTICIPATING ON THE INTERAGENCY COUNCIL**

Alpine School District	New Hope Safe House
Apache County Adult Probation Department	New Visions Academy
Apache County Attorney's Office	Northern Arizona Academy
Apache County Health Department	Northern Arizona Regional
Apache County Juvenile Probation	Behavioral Health Association
Department	Old Concho Community
Apache County School Superintendent	Assistance Center
Apache County Sheriff's Office	Parents Anonymous
Apache County Superior Court	Renaissance Academy
Apache/Sitgreaves National Forests	Round Valley School District
Aries Day Program	Sanders School District
Arizona Department of Public Safety	Springerville Head Start
Arizona Division of Developmental Disabilities	Springerville Police Department
Arizona's Children Association/AzEIP	St. Johns, City of
Child Protective Services	St. Johns Head Start
Concho School District	St. Johns Police Department
Eagar Police Department	St. Johns School District
Family Assistance Administration	University of Arizona Cooperative
Four Winds Academy, Inc.	Extension
Little Colorado Behavioral Health Center	Vernon School District
	White Mountain Regional Medical
	Center

## **INTERAGENCY COUNCIL ORIGINAL PROTOCOL AUTHORS – 2004**

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NARBHA

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Department

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Scott Garms, Chief  
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Linda Martin  
White Mountain Regional Medical  
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Chris Matthews, Director  
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Services

Chuck Moter, Chief  
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Steve West, Chief  
Springerville Police Department

Jim Zieler, Chief  
St. Johns Police Department

## STATEMENTS OF SUPPORT

In 2004 the following individuals, representing their professional agencies, signed statements supporting the Protocol as an effective tool to minimize trauma to children and to serve as a guideline for coordination of efforts with other community agencies.

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Criss Candelaria  
Apache County Attorney

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Chuck Moter  
Chief Apache County Adult  
Probation Department

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Brian Hounshell  
Apache County Sheriff

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Chris Matthews  
Director Juvenile Court Services

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Ann Russell  
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Jim Zieler  
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Michael Downs  
Little Colorado Behavioral Health  
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Donna Grimsley  
Presiding Judge

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Diana M. Ryan  
Coordinator Apache County Youth

## **STATEMENT OF PURPOSE**

This Protocol is offered to assist all children, both victims and witnesses, and to serve agencies in Apache County as a model for handling child neglect, physical abuse, sexual abuse and exploitation cases (collectively referred to as “child abuse cases”) within Apache County. The goal is to treat children with dignity and respect and to minimize secondary trauma that is often associated with child abuse investigations.

This Protocol is intended to provide guidelines and a reference source for interagency cooperation in the investigation, prosecution, and management of child abuse cases. While it is recognized each agency has its own mandate to fulfill, the Apache County Youth Council (“ACYC”) also acknowledges that no one single agency or discipline can fully address the problem of child abuse. Therefore, each agency must be cognizant of the needs of the victim, as well as sensitive to the needs of other professionals involved. We have chosen to make the best interest of children our overriding concern where any interagency conflict may exist.

Joined in the effort to mobilize our different strengths, the members of the ACYC endeavored to: 1) clarify each agency’s duties and responsibilities, 2) limit the number of interviews of the child victim, and 3) provide a consistent and efficient approach to the investigation, prosecution and management of child abuse cases in Apache County.

## **The Children’s Justice Project**

The Children's Justice Project is a federally funded, multi-agency effort intended to improve the handling of crimes against children. The three primary goals of the

Project are: (1) to improve interagency communication and cooperation; (2) to raise the skill level of all professionals involved in child abuse cases; and (3) to reduce trauma to the child by coordinating victim services and conducting joint videotaped interviews. The Apache County Youth Council, comprised of professionals representing all disciplines associated with child abuse cases, was created to achieve these goals.

The ACYC has developed this *Multidisciplinary Protocol for the Investigation of Child Abuse* to serve as the model for how child abuse cases should be handled by each discipline. This Protocol is intended to provide guidelines and reference sources for interagency cooperation in the investigation, prosecution, and management of child neglect, physical abuse, sexual abuse and exploitation cases. To ensure accuracy in regard to changes in law, technology, and community need, the Protocol will be revised on an ongoing basis. Free training on the Protocol have been and continue to be provided to all disciplines involved. Research has shown that when multidisciplinary protocols are followed, arrest and prosecution rates increase and trauma to the child decreases.

The model set forth by the Children's Justice Project and the Multidisciplinary Protocol for the Investigation of Child Abuse strongly supports and encourages the use of Child Abuse Assessment/Child Advocacy Centers. These specially designed Centers help reduce the trauma to the child victim and his/her family by offering investigative and victim service needs at one child-friendly location. These services include, but are not limited to, Police and CPS investigations, child-friendly interviews, medical exams, County Attorney consultation, crisis counseling, and referrals.

Due to its small population and lack of financial resources, Apache County currently does not have any Child Abuse Assessment/Child Advocacy Centers. However, these Protocols will attempt to achieve the same goals as the Child Abuse

Assessment/Child Advocacy Centers through interagency cooperation.

## **LAW ENFORCEMENT PROTOCOL**

The purpose of law enforcement's response to incidents of child abuse involving children is to determine if a crime has been committed and to bring to light those facts and circumstances necessary to bring the perpetrators into the Criminal Justice System. While pursuing the criminal investigation, law enforcement must be concerned with more than just statutory requirements and case law. Law enforcement personnel must be cognizant of the needs of the victim, as well as the responsibilities of other organizations involved in the treatment, support and recovery of the victim. To this end, law enforcement is encouraged to coordinate their efforts with those of Child Protective Services (CPS), as well as the prosecuting agency.

The relatively small populations of the communities and unincorporated areas of Apache County, the small number of law enforcement officers in each agency, and the lack of financial resources prohibit local law enforcement agencies from establishing a specialized unit to investigate child abuse cases. However, recognizing the need for specialize training in cases involving children, and in an attempt to maximize the limited resources available, local law enforcement agencies are designating a "Specialized Officer" to handle child abuse cases. This "Specialized Officer" should: 1) be a voluntary assignment; 2) receive intensive training in the investigation of the neglect, physical abuse, sexual abuse and exploitation of children; 3) establish and maintain a close working relationship with CPS and the Apache County Attorney's Office; 4) have the "Specialized Officer" a permanent component of the agency; and 5) encourage trained and skilled officers to be retained as long as possible in this position.

Apache County does not have a Child Abuse Assessment Center, or Advocacy. However, a special interview room for children witnesses and victims has been created at the St. Johns Family Health Center in St. Johns, Arizona. Specialized



Officers are encouraged to use this facility to interview child abuse victims and witnesses.

### Child Sexual Abuse

#### I. Initial Report

A. Patrol Officers may establish the elements of the crime and jurisdiction.

1. Patrol Officers may interview the reporting source, away from the victim, witnesses, or other reporting sources, in order to:

- a. obtain the facts of the reported crime;
- b. determine if the child is in imminent danger;
- c. determine if the victim may require medical attention;
- d. determine jurisdiction:

(1) if within departmental jurisdiction, continue per this Protocol; or

(2) if not within departmental jurisdiction, Patrol Officer will document their actions and coordinate with the appropriate jurisdiction.

2. Interview qualified "Specialized Officer" or CPS Specialists should conduct interviews of the victim utilizing the interview protocol.

3. Patrol Officers should only interview the suspect if the suspect is present and aware of the investigation. If suspect is not aware of the investigation, the suspect should not be contacted without prior consultation with the "Specialized Officer".
  4. Patrol Officers may interview witnesses. Dates of birth, social security numbers, and other biographical information including where child witnesses attend school shall be obtained. It is recommended that child witnesses and any siblings or children within the home be interviewed by interview qualified "Specialized Officer" or CPS Specialists.
- B. Once it is determined that a crime has been committed, Patrol Officers may then continue the initial case preparation.
1. Assess the need for immediate medical evaluation. If a medical evaluation is needed, promptly contact a "Specialized Officer". Note that in cases of sexual abuse in which the incident occurred *within* the past seventy-two (72) hours it is imperative that a "Specialized Officer" be contacted promptly. The victim should receive a forensic medical exam.
  2. Assess the need for a search warrant. If a search warrant is needed, immediately contact a "Specialized Officer". The "Specialized Officer" may contact the County Attorney's Office in regard to sealing the affidavit of the search warrant.
  3. Assess the need for immediate arrest if the suspect is present. The officer should examine:
    - a. the suspect's risk of flight to avoid prosecution; and

- b. the suspect's danger to the community.

Patrol Officers may consult with the "Specialized Officer" or the Deputy County Attorney handling child abuse cases, if necessary.

- 4. Assess the need for scene preservation and/or photographs.
- 5. Assess the need for a "Specialized Officer" to respond to the crime scene, hospital, school or other location.
- 6. Notify CPS by phone. The victim's need for shelter should also be assessed, and recommendations made to CPS.

## II. Investigation

- A. The investigation should be conducted by a "Specialized Officer". The "Specialized Officer's" responsibilities include:

- 1. Interviewing the reporting source to determine the circumstances of disclosure.
- 2. Interviewing the victim:
  - a. Arrange an interview of the victim. The child's interview should be conducted per the Interview Protocol for Children.
  - b. Coordinate the interview with CPS if they are involved in the case. If a joint interview with CPS is not feasible and the circumstances

dictate CPS involvement, the victim interview should be shared with CPS in order to ensure that there is only one victim interview conducted. This will eliminate unnecessary or multiple interviews of the child victim.

- c. Arrange for a medical examination at a qualified medical facility. The "Specialized Officer" may consult with the Apache County Attorney's Office for appropriate medical response.

3. Conducting crime scene(s) investigation and evidence processing.
4. Interviewing the family and other witnesses. Obtain dates of birth, social security numbers, and other biographical information including where child witnesses attend school.
5. Obtaining a copy of the medical examination report and interview medical personnel. Send a copy of the medical examination report to CPS.
6. Conducting investigative research on:
  - a. Prior convictions of the suspect;
  - b. Prior police reports involving the suspect, victim(s) or witness(es);
  - c. Prior unreported allegations involving the suspect, victim(s) or witness(es); and
  - d. Current and prior CPS reports.

7. Interviewing the suspect.

- a. The suspect should be interviewed only with law enforcement personnel present; and
- b. CPS should be aware of the content of the suspect interview; and
- c. The interview should be videotaped or, if not possible, audio-taped.

8. Determining the need to arrest the suspect based on:

- a. The risk of flight to avoid prosecution; and
- b. The danger to the community.

III. Case Presentation

- A. The case file should include a complete copy of the police report; a copy of audio-tapes; video-tapes; any photographs; tapes of 911 calls; all medical records of the child; Child Protective Services files on the child and family; prior relevant police reports; and any other information obtained during the investigation.
- B. If the case is filed and the case goes to Preliminary Hearing, the "Specialized Officer" may be subpoenaed.
- C. If the case is turned down, notification of the turn down shall be the responsibility of the County Attorney's Office. The victim's representatives as well as CPS should be notified of the turndown.

- D. If a post-filing further information is requested and the suspect is in custody, a "Specialized Officer" shall be assigned. All requested information should be presented to the Deputy County Attorney twenty-four (24) hours prior to the Preliminary Hearing.
- E. If the Deputy County Attorney refers the case back to the law enforcement for further investigation:
  - 1. The case should be returned to the original "Specialized Officer", if possible.
  - 2. The requested information should be obtained as soon as possible; and,
  - 3. The Apache County Attorney's Office must be advised if the investigating agency decides to close the case.

#### Child Physical Abuse/Neglect

##### I. Initial Report

- A. Patrol Officers may establish the elements of the crime of physical abuse or neglect, and jurisdiction.
  - 1. Patrol Officers may interview the reporting source, away from the victim, witnesses, or other reporting sources, in order to:
    - a. obtain the facts of the reported crime;
    - b. determine if the child is in imminent danger;

- c. determine if the victim may require medical attention; and
  - d. determine jurisdiction:
    - (1) if within departmental jurisdiction, continue per this Protocol;
    - (2) if not within departmental jurisdiction, patrol officer will document their actions and coordinate with the appropriate jurisdiction.
2. Patrol Officers may interview the child victim, only if the child is verbal and has not spontaneously provided the following information about the abuse to law enforcement. Only these specific questions should be asked:
- a. What happened?
  - b. Who did this?
  - c. Where were you when this happened?
  - d. When did this happen? and
  - e. Where do you go to school?

Patrol Officers should document the child's demeanor and any spontaneous statements.

3. Patrol Officers may interview witnesses. Dates of birth, social security

numbers, and other biographical information including where child witnesses attend school will be obtained. It is recommended that child witnesses and any siblings or children within the home be interviewed by interview qualified "Specialized Officer" or CPS Specialists.

4. If the suspect is at the scene and:

- a. The child is not taken to the hospital the Patrol Officer may conduct an initial interview of the suspect or ensure that a "Specialized Officer" does so immediately. Obtain the suspect's version of what happened (*e.g.*, determining if it was a discipline measure, if a weapon or instrument was used, or if it was an alleged accident).
- b. The child is admitted to the hospital, a decision as to whether or not the Patrol Officer may interview the suspect and/or caretaker should be made in consultation with the "Specialized Officer". The Patrol Officer should not disclose any medical information to the caretaker(s) regarding the condition of the child or possible mechanisms of injury. The Patrol Officer should also encourage the medical personnel not to disclose this information until they consult with the "Specialized Officer".

B. Once it is determined that a crime has been committed, Patrol Officers then continue the initial case preparation by:

1. Assessing the need for medical intervention and ensuring that the child is taken to a hospital if necessary. If the child is admitted to a hospital, and in any case requiring medical attention, the "Specialized Officer" should be notified immediately. It is recommended that Patrol Officers consult



with the "Specialized Officer" on all child abuse cases to assess the need for a forensic medical exam.

2. Assessing the need for scene preservation and/or evidence collection. Consult with the "Specialized Officer" regarding search warrants and/or consent searches. If the child or suspect gives information regarding a weapon, instrument, or mechanism of the injury, a search warrant or consent form should be obtained.
3. Documenting any physical injury to the child with digital or 35 mm photographs. Photographs should depict the child's entire body and face, not just the external manifestations of abuse. Photographs should include ruler and color bar where possible. In cases of severe physical abuse and/or severe neglect, a consent form or search warrant should be used to obtain photographs or video of the entire household.
4. Immediately contact Child Protective Services to file a report, even if the suspect is booked into jail. This shall be documented in the police report. If the status of the child is unresolved at the time the report is written, this should be noted in the report. The Patrol Officer shall assess the need to shelter the child and shall make recommendations to Child Protective Services, who will make the decision where to place the child.
5. Even when no crime is found, a referral to CPS will still be made.

## II. Investigation

### A. Non-hospitalized Children (Note: This list is not in any priority order.)

1. A "Specialized Officer" reviews the initial report and continues the investigation by interviewing the family, siblings, other witnesses, etc. as dictated by the facts of the case. If the child victim is interviewed, it should be conducted per the Interview Protocol for Children, Appendix A.
2. If not already done and if appropriate, digital or 35 mm photographs are taken to document the abuse. The "Specialized Officer" should ensure that additional follow-up photographs are taken as needed.
3. CPS shall be contacted to obtain prior reports and to determine what action CPS is taking on the referral. If CPS is involved, law enforcement shall share information with them.
4. The suspect's prior police history should be determined, paying particular attention to assault and domestic violence contacts.
5. The "Specialized Officer" should obtain relevant medical records on the child and interview appropriate medical personnel.
6. The "Specialized Officer" should interview the suspect if not already interviewed. If the suspect has not invoked his/her rights, re-interview to complete his/her account of the events. If the suspect has not already been booked, the "Specialized Officer" shall assess the risk of flight to avoid prosecution and determine if the suspect should be arrested in light of all the information obtained.
7. The need for a medical exam should be assessed.

B. Hospitalized Children (Note: This list is not in any priority order.)

1. The Deputy Apache County Attorney for child abuse cases shall be notified as soon as possible on all cases where a child is admitted to a hospital or dies as a result of suspected child abuse
2. The "Specialized Officer" shall assume responsibility for the investigation of all hospitalized child abuse cases as soon as s/he is notified by the Patrol Officer.
3. The "Specialized Officer" should ensure that the scene(s) is (are) identified and secured pending issuance of a search warrant or signed consent.
4. The "Specialized Officer" shall obtain an initial statement from the most qualified physician (not the intern, resident, or physician assistant on duty) as to time frames, mechanisms of injury and symptoms the child would be expected to show, given the injury sustained.
5. Interviews should be conducted with all caretakers, suspects and witnesses, including all medical care providers (e.g., EMTs, nurses, doctors, radiologists, etc.). Interviews of the caretakers shall focus not only on the current injury, but also on a thorough background of the child's health and upbringing.
6. All medical records including recent and previous hospitalizations, doctor or Emergency Room visits by the child should be requested for the investigation.
7. Search warrants are to be utilized, where appropriate, to ensure a

thorough scene investigation. The "Specialized Officer" may contact the Apache County Attorney's Office regarding sealing the affidavit of search warrant.

8.

CPS shall be contacted to obtain prior reports and to determine what action CPS is taking on the referral. If CPS is involved, law enforcement shall share information with them.

### III. Case Presentation.

- A. The case file should include a complete copy of the police report; a copy of audiotapes; videotapes; photographs; tapes of 911 calls; all medical records of the child; Child Protective Services files on the child and family; prior relevant police reports; and any other information obtained during the investigation. It is expected that the Deputy County Attorney will have maintained involvement in the case prior to formal submittal.
- B. If the case is filed and the case goes to Preliminary Hearing, the "Specialized Officer" may be subpoenaed.
- C. If the case is turned down, notification of the turn down shall be the responsibility of the County Attorney's Office. The victim's representatives as well as CPS should be notified of the turndown.
- D. If a post-filing further information is requested and the suspect is in custody, a "Specialized Officer" shall be assigned. All requested information should be presented to the deputy county attorney 24 hours prior to the Preliminary Hearing

E. If the Deputy County Attorney refers the case back to the law enforcement agency for further investigation:

1. The case should be returned to the "Specialized Officer" if possible; and
2. The requested information should be obtained as soon as possible.
3. The Apache County Attorney's Office must be advised if the investigating agency decides to close the case.

## **CHILD PROTECTIVE SERVICES PROTOCOL**

Child Protective Services ("CPS") is based in philosophy and law on the premise that children have a right to be protected from physical abuse, sexual abuse, neglect, abandonment and exploitation. CPS is primarily responsible for investigating in-home allegations of abuse/neglect.

CPS believes that children should be maintained in their own homes, if at all possible. The Adoptions and Safe Families Act of 1997 (P.L. 105-89) requires the child's health and safety be the paramount concern when assessing risk of harm and making placement and permanency planning decisions and in providing services to families.

The Arizona Department of Economic Security ("ADES") is required, by law, to receive reports of child neglect and/or abuse twenty-four (24) hours a day, seven (7) days a week and to initiate prompt investigation. ( A.R.S. 8-802 and A.R.S. 13-3620.) CPS Specialists, working at the CPS Hotline, receive telephone calls at 1-888-767-2445 or TDD 1-800-530-1831 and written reports at: Post Office Box 44240, Phoenix, AZ. 85064-4240. These specialists screen incoming communications by using "cue questions" (see CPS Hotline Cue Questions).

Reporting sources do not need to have answers to all cue questions. If the incoming communication meets the definition of a report, then the report is given a priority. The field Supervisor then assigns the report to a CPS Specialist to complete the investigation.

CPS actions rarely result in removal of children from the home of the parents. Less than 10% of CPS investigations result in temporary removal of the children from their homes. More often CPS workers offer an array of supportive services found in the community, and information on particular programs to strengthen the family unit.

When there are concerns about a child's safety in their home, CPS attempts to engage the child's family to the greatest extent possible in planning for voluntary interventions that minimize intrusion to the family, while ensuring the safety of the child. These alternatives include: providing additional resources or safeguards to the family so a child can remain in the home, assisting the parent, guardian or custodian in identifying a relative or friend who can care for the child temporarily, or entering into a Voluntary Foster Care Agreement with the parent/guardian.

When children are found to be in imminent harm, or there is no parent/guardian able or willing to provide care for the child, CPS and law enforcement have the authority to remove them from their home for up to seventy two (72) hours excluding weekends or holidays. (CPS may also remove a child for up to twelve hours to obtain a medical/psychological evaluation in order to make a determination if maltreatment has occurred).

If ADES cannot ensure the safety of the child(ren) in the home within that seventy-two (72) hours (not counting holidays or weekends), then the dependency petition is filed with the Apache County Juvenile Court. The Juvenile Court Judge has the final decision on making the child(ren) wards of the court through this process. Once the petition is filed, then a case plan is developed with the participants to rectify why the child(ren) came into protective custody. The parents and children are referred to

appropriate services to meet their identified needs.

CPS Specialists are assigned by their Unit Supervisor to investigate reports of child maltreatment. CPS Specialists adhere to the following procedures:

I. Pre-interview Protocol

- A. The CPS Specialist shall coordinate the investigations with law enforcement. Coordination will be stressed when the report alleges or the investigation indicates the child is a victim of sexual abuse and/or a criminal investigation of the alleged child maltreatment is in progress or anticipated. These reports shall be reported immediately by telephone and facsimile to the responsible law enforcement agency. Other CPS reports may be handled with joint Law Enforcement/CPS Investigations requested by either agency.
- B. High Priority - High Risk reports, and when there is reason to believe a crime has been committed, shall immediately be reported by telephone to the responsible law enforcement agency.
- C. All other CPS reports will be reported to law enforcement by faxing the police version of the CPS Report Summary.
- D. The CPS Specialist will gather information from law enforcement reports, sources of the current report, prior CPS records and others as availability and time allow.

II. CPS Interview Protocol

- A. The following is the sequence for interviewing:

1. Alleged victim if the child's age and intellectual/emotional functioning permit;
2. Siblings/other children in the home;
3. School/day care provider;
4. Non-abusing spouse/caretaker;
5. Alleged abusive caretaker; and
6. Neighbors, relatives, and others with knowledge of the abuse.

#### B. Child Interviews

1. The CPS Specialist will work in conjunction with Law Enforcement whenever applicable.
2. The alleged abusive parent, guardian or custodian shall not be present during the investigative interviews with the alleged child victim(s).
3. Initial interviews are generally unannounced to maximize the gathering of relevant facts.
4. To eliminate the need for multiple interviews of the child victim, the CPS Specialist will arrange for:
  - a. a joint interview of the child victim coordinated between CPS and law



enforcement; or

- b. a joint interview of the child victim by a qualified professional coordinated with law enforcement. If CPS is conducting the interview, law enforcement must witness the entire interview in the observation room to assure all pertinent questions are asked; or
  - c. if a joint interview is not feasible, information from the victim interview should be shared with law enforcement.
- 5. Interviews of alleged child sexual abuse victims will be videotaped and audio-taped.
- 6. Interviews of alleged child physical abuse victims may be audio-taped.
- 7. CPS may take legal custody of the alleged victim for the purpose of conducting an interview and/or a medical examination.
- 8. The CPS Specialist shall:
  - a. Introduce and identify him/herself as a CPS Specialist, while effecting an interview in a private, safe and neutral location.
  - b. Develop and maintain rapport and a helping relationship with the child by demonstrating respect for the language, dialect, communication style, and culture of the child. Language skilled staff or translators will be assigned as needed.
  - c. Inform the child of the agency's mandate to investigate, the agency's

goal to provide needed services, and answer any of the child's questions.

- d. Allow and encourage the child to express emotional reactions to the investigation and help resolve his/her feelings.
- e. Inform the child that CPS has the responsibility to complete the investigation, including interviewing other members of his/her family.
- f. Assess the need for immediate medical examination or treatment and arrange for this, seeking caretaker cooperation as appropriate. (See Medical Protocol for sexual or physical abuse.)
- g. Assess the need for immediate shelter/foster care of the child. The CPS Specialist will consult with his/her supervisor prior to taking the child into protective custody.

#### C. Parent/Caretaker Interviews

- 1. The CPS Specialist will work in conjunction with Law Enforcement whenever applicable.
- 2. Initial interviews are generally unannounced to maximize the gathering of relevant facts. Arrangements should be made so that the interview is conducted privately.
- 3. Provide parents/caretakers the same information and afford the same considerations as listed in the children's interviews protocol.

4. Initiate contact the same day with the parent/caretaker in situations when a child has already been interviewed. If parental contact cannot be made the same day, the reasons for lack of contact must be documented.
5. Initiate immediate contact with the parent/caretaker in all situations when the child is taken into temporary protective custody. This includes advisement of legal rights in writing, the agency's authority to take such action necessary to protect the child, and the parent's right to recommend a relative to temporarily care for the child(ren).
6. Offer services and information on resources to family members, whether children are removed from the home or not when the family could benefit from these services.

### III. Case Management Protocol

The CPS Specialist will:

- A. Obtain a medical examination of the child victim following guidelines of the medical evaluation protocol. (See Medical Protocol)
- B. Gather and record information from the CPS Specialist's own observations and through interaction with collateral sources and professionals involved with the investigations.
- C. Consult with the CPS Unit Supervisor and/or other agency personnel to determine the need to remove the child from the family based upon the information gathered and the risk of harm to the child. In an emergency, the CPS Specialist will consult with a supervisor immediately after taking

temporary custody of the child, and obtain supervisory approval.

- D. The CPS Specialist will make a determination as to the findings. If the report of abuse/neglect/dependency is proposed to be substantiated or unsubstantiated by CPS standards, CPS will notify the parent/caretaker in writing. All proposed substantiated findings will be sent to the Protective Services Review Team, who will notify the alleged perpetrator of their rights.

## **MEDICAL PROTOCOL**

Medical personnel have a complex role in child abuse cases. Evidence of child abuse may be detected during an examination or disclosures of abuse may be made to medical personnel. Since medical personnel are mandated reporters of child abuse per Arizona Revised Statute section 13-3620, this Protocol will outline child abuse reporting guidelines. Patients may also be presented for child abuse evaluation. Guidelines for medical evaluation have been addressed for these situations.

Child abuse examinations must be performed by physicians who are competent in the forensic exam of children. It is understood that physicians have an obligation to inform the immediate family regarding the health and welfare of the child. However, it is imperative the physician remain objective in the evaluation and not confront the family or speculate on the nature of the injury. The physicians should be able to document their education, training and experience in the area of child abuse and neglect.

### **Presentation of Suspected Child Abuse Cases:**

Suspected child abuse can be made known to medical personnel by three different

means:

A. A parent or caretaker requests a child abuse evaluation:

1. Triage the urgency of medical need, *i.e.*, severe trauma or excessive bleeding vs. minor contusions. A child's physical/medical safety is always the paramount concern.
2. Determine if the Police and/or CPS have been notified.
  - a. If notification has been made, re-contact that agency(s) to determine if an Officer and/or CPS Specialist will be responding **and** if the agency is requesting that a medical evaluation be performed.
  - b. If notification has not been made, make every attempt to obtain background information on the child and alleged abuse from the parent/caretaker while out of earshot of the child. If further information regarding the abuse is necessary, obtain basic information from the child as outline below. If there is reasonable belief to suspect child abuse, a report must be made. See reporting procedure outlined below.

B. Evidence of child abuse is observed during routine or unrelated exam:

1. Utilize the "Obtaining basic information from the child" procedure listed below.
2. If there is reasonable belief to suspect child abuse, utilize the reporting procedure outlined below.

3. Do not notify Parent and/or Caretaker prior to Police and CPS notification.

C. A child self discloses abuse to medical personnel:

1. Follow the procedure for obtaining basic information from the child as outlined below.
2. If someone reasonably believes child abuse has occurred, a child abuse report must be made. See reporting procedure outlined below.

**Obtaining basic information from the child:**

- A. If possible, find a quiet private spot to talk with the child away from the parent and/or caretaker.
- B. Do not make promises to the child, such as "I won't tell anyone" or "No one will have to go to jail." Simply reassure the child that you will do whatever is necessary to keep them safe.
- C. If the following information has not already been volunteered, ask the child only these four questions:
  1. What happened?
  2. Who did it?
  3. When did it happen?
  4. Where did it happen?

D. Document exact quotes provided by the child.

**Procedure for Reporting Child Abuse:**

When a person reasonably believes that child abuse has occurred, a report must be made. This Protocol recommends that the report be made by calling both the CPS Hotline (1-888-SOS-CHILD or 1-888-767-2445) and the law enforcement agency where the abuse occurred. If unsure where the abuse occurred, the report should be made to the agency where the child lives.

A. When reporting to CPS:

- 1) Document the name of the Hotline worker;
- 2) Document the CPS office to which the case is being assigned, including the Supervisor name and phone number;
- 3) Ask what priority the case has been assigned in order to determine time frame of CPS arrival;
- 4) Document the name (or copy the identification) of the CPS worker upon arrival.

B. When reporting to Law Enforcement:

- 1) Ask if and when the Officer/Detective is expected to respond;
- 2) Document the name and badge number of Officer/Detective upon

arrival;

- 3) Document the DR # assigned to the case.

A written report is also mandatory per Arizona Revised Statute section 13-3620. The written report must be sent to CPS within 72 hours. A copy of the report should be mailed to:

CPS, P.O. Box 44240, Phoenix, AZ, 85064-4240

This may also be accomplished by handing a copy of the written report to the responding CPS worker. Law Enforcement Officers responding would also find a copy of the written report beneficial if it is available upon their arrival. It should be documented who has received a copy of the report. The original report should be kept on file at the hospital/medical office.

### **The Medical Evaluation:**

The medical evaluation, which primarily addresses the well being and safety of the child, may also yield legal evidence. Therefore, it is an important part of the evaluation of the child abuse victim. It is possible however, that the physical exam will not prove or disprove that abuse has occurred, especially when the concern is sexual abuse. The majority of "after 72 hour" sex abuse exams are normal, but this does not preclude the possibility the abuse occurred. The most important part of the evaluation is the history given by the child. It is understood that physicians have an obligation to inform the immediate family regarding the health and welfare of the child. However, it is imperative the physician remain objective in the evaluation and not confront the family or speculate on the nature of the injury.



The comprehensive physical exam must be performed by physicians who are competent in the forensic exam of children. These physicians must be able to document their education, training and experience in the area of child abuse and neglect.

## I. Sexual Abuse

### A. The Forensic Interview and Videotaping

The forensic interview should be done prior to physical examination. The physician should view the interview if possible. The child should not be re-interviewed by the physician.

### B. The Medical Evaluation

#### 1. Indications for Forensic Medical Examinations

##### a. Children Who Give a History of Sexual Abuse

Best practice suggests that children who give a history of sexual abuse occurring any time in the past where there is the possibility that evidence may be found, should be seen for a forensic medical exam, dependant upon the circumstances. Occasionally some professionals will question the need for a medical evaluation if the child is giving a history of minimal sexual contact. It is known that children may under-report the extent of abusive activities at the initial disclosure. Therefore, to decide that a child does not need an exam because there is only a history of exposure or fondling over clothing, for example, may result in missing physical findings or

non-detection of treatable diseases.

b. Sexual Abuse within 72 Hours

Children and adolescents, regardless of gender, who have alleged sexual abuse within the previous 72 hours may need a forensic medical exam to collect specimens and document injuries. This decision should be made with consultation of a physician. The victim should be advised not to bathe, change clothing, etc., prior to the exam.

c. Genital/Rectal Pain or Bleeding

Children experiencing these symptoms need to be seen as soon as possible so that the site of the bleeding or cause of the pain can be identified. This will help to differentiate accidental from non-accidental injuries and sexually transmitted infections from non-sexually transmitted ones.

d. Sexually Transmitted Diseases (when there is no disclosure of abuse)

1) Gonorrhea, Syphilis, Chlamydia, Trichomonas, Genital Herpes and Venereal Warts. Children diagnosed with these infections definitely need to be seen for a forensic exam, even if the diagnosis/treatment have occurred elsewhere. Any lab reports that exist must accompany the child when he/she is seen.

2) HIV Positive. Children who have tested positive for HIV should

be seen for an exam if the source of the virus is not known. With respect to perinatal transmission, if the HIV positive child is older than 12 months when the positive status is discovered, it should not be assumed that he/she acquired the virus from the HIV positive mother.

- 3) Gardnerella or Monilia. If there is no history or other indication of sexual abuse, children with these infections do not need to be seen for a forensic exam.
  - 4) Other Genital Infections. For children who have less common infections, the need for an exam can be determined by a discussion with one of the forensic physicians. Girls who have a vaginal discharge need to be medically evaluated as soon as possible to determine the cause of the discharge. This may be done by the child's primary care physician or by the forensic physician.
- e. Exhibition of Some Sexualized Behavior without reasonable grounds to believe abuse has occurred

It is appropriate to refer these children for counseling as a first intervention rather than making a report. The exam can then be done if the child gives a history of molest or if the therapist, after working with the child for awhile, feels that sexual abuse most likely has occurred even though the child has still given no history.

- f. Children who are Pre-verbal, Non-verbal, or Developmentally Delayed

The forensic exam is an essential ingredient of the investigation after a report has been made.

g. Adolescents

- 1) Sexual abuse occurring 3-14 days prior to the report. These children may have evidence of healing trauma and thus a forensic exam would be worthwhile as soon as possible. If more than 14 days has passed since the alleged molest, these adolescents could be seen on a scheduled basis for a forensic exam.
- 2) Adolescents disclosing "Consensual sex"
  - a) If there is a question as to whether the sexual contact was "consensual" or "non-consensual", a forensic medical exam should be done.
  - b) If the victim is under 15 years old, a forensic exam should be done.
  - c) If the youth/victim is age 15, 16, or 17, and the partner/alleged perpetrator is less than 19 years of age or attending High School and is no more than 24 months older than the youth/ victim, the Apache County Attorney's Office should be contacted for advice.

h. Pregnant Teens

Physicians must consider the possibility of sexual abuse in these cases. If the pregnant teen is under 15 years of age, then the physician must make a child abuse report immediately. An abortion should not be done prior to the law enforcement investigation. If an abortion is done, fetal tissue can be used to identify the father of the baby. A forensic exam is not required.

i. Custody Disputes

One exam is appropriate subsequent to a report being made. However, professionals who deal with abuse evaluations should not be influenced by those parents who want frequent medical exams after visitations, unless, of course, there is an additional history of reasonable concern about sexual abuse.

j. Molest Allegations/Concerns during Regular Medical Exams by Community/Emergency Department Physicians

After consideration of history, behavioral changes and examination findings, the physician must make a child abuse report, if there is reasonable suspicion that sexual abuse has occurred. CPS/law enforcement can then request a forensic exam.

2. Procedure for Forensic Medical Examination

a. These aspects of the exam are pertinent to all cases, regardless of the time interval from the incident.

- 1) A complete medical history (including immunizations) should be obtained from the caretaker and the child. If the caretaker is not present, then an effort to contact them by phone should be made only with Law Enforcement and/or CPS approval. This is to insure that the investigation is not compromised. Medical personnel should, however, convey to Law Enforcement/CPS any urgent need for the medical history.
- 2) The child should be given a choice of whether he/she would like a supportive person (of their own choosing) in the exam room. If this person is disruptive during the exam, the physician may ask him/her to leave.
- 3) After the regular physical examination, carefully examine the genital and anal areas to detect any injury. This must be done with good illumination, and can involve the use of magnification. The colposcope can provide both illumination and magnification in addition to photographic capability. Photographic and/or video documentation of the genital/anal areas is recommended, but is not required. The physician's primary obligation (keeping in mind the best interest of the child) is to do a thorough and accurate exam of the genital/anal areas; photographs are a secondary consideration.
- 4) Carefully examine the entire body to detect any signs of trauma, neglect, or abnormal medical conditions. Photographic and/or video documentation of any positive findings is recommended. If the law enforcement

photographer is not available to do this, then a medical unit should have an appropriate camera.

- 5) Consider testing for pregnancy and sexually (and non-sexually) transmitted diseases, such as gonorrhea, syphilis, chlamydia, herpes, trichomonas, staph, strep, candida and HIV. These lab tests may be available on site. However, patients thirteen (13) years and older should be offered referral to the Health Department for HIV testing, and thus will have the choice of confidential versus anonymous testing.
  - 6) Prepare a forensic medical report. A suggested form is provided by the Arizona Department of Economic Security, Administration for Children Youth and Families. This report should be completed in a timely manner unless a particular lab test result or treatment result (e.g., the opening of a labial adhesion) must first be available.
- b. When the exam is done within 72 hours of the alleged sexual abuse, in addition to the above medical exam procedure, consideration must be given to whether or not a rape kit needs to be done. The rape kit procedure includes (but is not limited to):
- 1) Paper bagging individual items of clothing separately;
  - 2) Collecting specimens by means of swabs to detect perpetrator body fluids (saliva, semen, etc.);
  - 3) Collecting other debris (trace evidence) which may be present;

- 4) Collecting reference specimens from the victim (saliva, blood, etc.);
- 5) Proper air drying (at room air temperature) and handling of specimens to prevent deterioration; and
- 6) Maintaining the chain of custody.

## II. Physical Abuse and Neglect

### A. Indications for Forensic Medical Examinations

Children suspected by CPS, law enforcement or medical personnel of having been physically abused or neglected should have an exam as soon as possible. Children with fairly minor visible injuries may have serious internal injuries.

### B. Procedure for Forensic Examinations

This exam should include:

1. A complete past medical history and the history of the suspected abuse, which should be obtained from the professional who interviewed the child.
2. Inspection of the genital/anal areas with good lighting because children who experience one type of abuse are at risk for all forms of abuse. If



the history or exam reveals that sexual abuse is a concern, then the sexual abuse procedure should also be followed.

3. Appropriate lab studies to document the medical conditions caused by injury and to exclude such medical conditions as bleeding disorders.
4. Imaging studies to discover and document injuries that are not externally apparent by physical exam. These studies may include radiographs, ultrasound scans, computerized tomography scanning, nuclear scanning, and magnetic resonance imaging. The studies needed in any given case are variable and must be determined on a case-by-case basis. However, x-rays of the entire skeleton are indicated in most children under 2 years of age and in selected children over 2 years old if physical abuse is suspected. These studies must be done at hospitals that have a pediatric radiologist.
5. Color photographs should be done to document visible injuries as well as locations where injuries are not present. A measuring device, color scale and identification label should appear in the photograph. If the law enforcement photographer is not available to do this, the medical unit should have an appropriate camera.
6. A forensic medical record must be prepared using the form provided by the Arizona Department of Economic Security, Administration for Children, Youth and Families. This report should be completed on the day of the exam unless an opinion cannot be given until a particular lab or radiology result is available.
7. On occasion, a review of medial records of prior medical care may play

an important role

## **COUNTY ATTORNEY PROTOCOL**

The Apache County Attorney's Office emphasizes a sensitive and coordinated approach to the prosecution of child physical and sexual abuse cases. The Apache County Attorney's Office has designated one (1) attorney, a Child Abuse attorney, to handle prosecution of all child physical and sexual abuse cases.

### **I. Duties of the Child Abuse Attorney**

#### **A. On-Call**

1. The Child Abuse Attorney is available at all times to assist in the investigation of child abuse cases. His residential and cell phone numbers can be found by contacting the Apache County Sheriff's dispatcher. If the Child Abuse Attorney can not be reached, the Apache County Attorney or another Deputy County Attorney will assist in the investigation.

2. The on-call attorney may:

- a. Visit the scene;
- b. Assist in the preparation of a search warrant;
- c. Answer legal inquiries;
- d. Attend the initial appearance; and

- e. Attend the autopsy.

## B. Review of Submittals

1. After the investigation is completed by law enforcement, the law enforcement agency submits the departmental report to the Apache County Attorney's Office for review.

2. Submittals are designated either as "out of custody" or "in-jail."

- a. "Out of Custody" submittals are those sent for review while the suspect is out of custody.

(1) Aside from the statute of limitations, there is legally no time limit imposed for filing charges on a "out of custody" submittal.

(2) The Apache County Attorney's policy is that "out of custody" submittals should have a reviewing decision made within 30 days from the date the submittal was received by the Apache County Attorney's Office.

- b. "In-jail" submittals, as the name suggests, are those in which a suspect has been arrested and booked into jail.

(1) Charges, via a complaint, must be filed within forty-eight (48) hours of an Initial Appearance (an Initial Appearance occurs within twenty-four (24) hours of being booked into jail) in order to maintain the bond or release conditions which were set at the

Initial Appearance. The forty-eight (48) hours does not include weekends and holidays.

(2) If charges are not filed within the forty-eight (48) hour time frame, the defendant will be released from custody. Any bond or other release conditions that have been imposed at the Initial Appearance will be exonerated or otherwise lifted.

(3) If, at the Initial Appearance, the defendant was released on his own recognizance or on bond, and charges were not filed, all release conditions will no longer apply and any bond posted will be exonerated.

c. As a practical matter, not all defendants who are arrested will have charges filed.

(1) There will be instances where further investigation may be necessary before the case is ready to be filed; or

(2) The case may not meet the Apache County Attorneys Office's standards for prosecution.

## II. Processing Submittals

A. Once the investigation has been submitted, the report will be assigned to the Child Abuse Attorney who will read the report(s) and decide if the submittal is to be furthered for additional investigation, declined for prosecution, or filed.

## 1. Submittals furthered for more investigation

- a. The Child Abuse attorney will list with specificity the information necessary for prosecution.
- b. The submittal is then returned to the investigating agency to complete the investigation.
- c. At this juncture, the law enforcement agency has two investigation options:
  - (1) To complete the investigation; or
  - (2) To close the investigation.
- d. When the requested further investigation is completed, the law enforcement agency will re-submit the report for the Child Abuse attorney's review.
- e. If the agency does not pursue the investigation, the County Attorney's Office must be notified in writing.

## 2. Submittals declined for prosecution

- a. The primary reason submittals are declined for prosecution is that they do not meet the office-charging standard: *i.e.* that the submittal, when viewed as a trial case, has no reasonable likelihood of conviction.

- b. The County Attorney's Office will not reject a case solely on the basis that the victim or victim's family refuses to cooperate with prosecution.
  - c. When the Child Abuse attorney determines that the submittal is inappropriate for prosecution, a second attorney shall review the submittal to make an independent judgement whether prosecution should be declined.
  - d. In order for any investigation to be turned down for prosecution, two reviewing attorneys must concur with the decision to decline prosecution.
  - e. If there is a difference of opinion between the two reviewing attorneys as to whether the case should be declined or filed, the submittal will be reviewed by the Apache County Attorney or his Chief Deputy.
3. If the consensus is to decline prosecution:
- a. A letter indicating that decision will be mailed to the victim and/or the victim's lawful representative (*i.e.*, parent or guardian) by the County Attorney's Office.
  - b. The victim or the victim's lawful representative has the right to confer with the Child Abuse attorney regarding the decision not to prosecute.
  - c. All cases that are turned down may be re-evaluated if new evidence

is presented.

- d. With the exception of homicide cases, which have no Statute of Limitations, the Statute of Limitations for any felony allows for a prosecution up to seven (7) years from disclosure of the crime.

4. If a submittal is appropriate for prosecution:

- a. The Child Abuse attorney shall issue appropriate charges.
- b. A probable cause determination must be made through a Preliminary Hearing.

III. Case Dispositions - Change of Plea or Trial

- A. Once the case is assigned to a Child Abuse attorney, the attorney and/or the Victim Advocate will contact the victim as soon as practicable to discuss the process and obtain input as to a possible disposition.

- 1. While not all cases are appropriate for plea offers, the majority of cases will involve an offer to plead guilty to a lesser charge. Plea dispositions are advantageous because they ensure finality for the victim, a judgment of guilt by the court, and an order of restitution for damages incurred by the victim.
- 2. In all child sexual abuse cases that involve more than one count, it is anticipated that any plea offer will include lifetime probation. Lifetime probation may be imposed even in cases that include a term of imprisonment.

3. Any plea offer to be extended to the defendant will be communicated to the victim via the Victim Advocate or the attorney. It is the duty of the Apache County Attorney's Office to see that justice is served in the handling of criminal cases. In that endeavor, it is recognized that the opinion of the victim as to what is just in their case may differ from the views of this office.
  - a. If the victim's view of a disposition diverges from the Child Abuse attorney, he or she shall be given the opportunity to discuss their disagreement with the Child Abuse attorney.
  - b. If the difference of opinion is still not resolved, the victim has the right and opportunity to notify the pre-sentence probation officer and the court of their opinion.
  - c. Final disposition of a disputed negotiated plea rests with the discretion of the court to either accept or reject the plea offer.
- B. If a case cannot be resolved by way of Change of Plea, the case is set for trial. The Apache County Attorney's Office recognizes that many victims and/or their lawful representatives are apprehensive about testifying. Trial apprehension is caused by:
  1. Unfamiliarity with the trial process;
  2. Uncertainty regarding whether or not the case is proceeding to trial;
  3. Unnecessary delays;



- a. The Child Abuse attorney will not create any unnecessary delays;
  - b. The Child Abuse attorney will oppose any unnecessary delays;
4. Fear of testifying.

#### IV. Trial Disposition - Trial and Victim Preparation

##### A. Trial preparation is the responsibility of the Child Abuse attorney.

- 1. The Child Abuse attorney should meet with the victim in order to acquaint the victim with the trial process.
- 2. The Child Abuse attorney should strive to develop rapport with the victim.
- 3. The Child Abuse attorney along with the Victim Advocate may initially meet with the victim in his or her own home or another place where the victim feels comfortable.

##### B. Victim preparation is the responsibility of the Child Abuse attorney with the assistance of the Victim Advocate.

- 1. In all but very rare cases, the victims are required to testify in court.
- 2. Prior to the trial, the victim will be taken into a courtroom and the Deputy County Attorney and/or the Victim Advocate will explain courtroom protocol and procedures to the victim.

3. The Child Abuse attorney is aware that the courtroom may be intimidating to the child/victim.

a. In appropriate cases, the Child Abuse attorney will request adaptation of the courtroom in order to fit the victim's needs or pursue videotaped or closed circuit testimony.

b. When handled properly, trial testimony can be a powerful aid to the victim recovery process.

c. The Child Abuse attorney takes an active role in the victim's recovery process by the manner in which he/she handles a case destined for trial.

(1) If requested to do so, the Child Abuse attorney will assist the victim in selecting a support person to be present during the victim's testimony, in addition to the Victim Advocate.

(2) The support person cannot otherwise be a witness in the case.

(3) The Child Abuse attorney will seek appointment of an interpreter or guardian ad litem for a victim in appropriate cases.

4. Prior to trial, the Child Abuse attorney or the Victim Advocate will discuss the possible outcomes of the trial with the victim and the victim's representative.

5. At the option of the victim, he or she may submit to an interview by the

defense attorney.

a. The Child Abuse attorney will be present at the victim's request and will actively participate in the interview.

b. The Child Abuse attorney will make necessary arrangements for any reasonable conditions requested by the victim, including:

(1) The presence of the Victim Advocate who acts as a support person for the victim, or

(2) The presence of another support person

c. The Child Abuse attorney or his/her representative will arrange defense interviews of witnesses at the defense's request.

(1) The Child Abuse attorney or his/her representative will be present and will tape record the interview.

(2) The Victim Advocate will arrange interviews with victims, their family members, and any special needs witnesses.

C. The Apache County Attorney's Office recognizes that child sexual and physical abuse cases often require retention of expert witnesses.

1. In those cases, the Apache County Attorney's Office will pay reasonable fees for that expertise.

2. Professionals are required to testify because they are material

witnesses (*i.e.*, they have seen and evaluated the child or are involved in the case within their professional capacity) rather than expert witnesses. In such situations, the professional is not entitled to expert witness compensation.

3. Expert and professional witnesses often have scheduling difficulties. The Child Abuse attorney shall strive to give adequate notice of a pending trial date to these witnesses.

4. Special consideration will be given to the experts and professional witnesses to accommodate their schedules in coordinating a time for their testimony. Obvious constraints are imposed on the prosecutor, but efforts will be made to minimize the inconvenience to the expert or professional witness.

## V. Jury Verdicts

A. Once the case has been presented and the jury returns with a verdict, the Child Abuse attorney and/or the Victim Advocate will inform the interested parties of the case outcome.

1. A jury has three (3) options in reaching a verdict on any of the charges;

a. Not guilty, in which case the defendant is acquitted, charges are dismissed and defendant is free from future prosecution on that matter;

b. Guilty, in which case the defendant is bound over for sentencing; or

- c. "Hung Jury," in which case the jury was unable to reach a unanimous verdict as to the defendant's guilt or innocence.

(1) Officially, this results in a mistrial, and the case is reset for trial. The case may be re-tried, resolved by plea, or dismissed.

(2) It is the Child Abuse attorney's responsibility to consult with and keep the victim informed of the decision regarding the final disposition of the case.

## VI. Sentencing

A. If the defendant pleads guilty or no contest, or if the jury finds the defendant guilty, the Child Abuse attorney and/or the Victim Advocate will inform the victim of the sentencing procedure.

B. The sentencing date is 30 to 60 days after conviction.

C. The duties of the Child Abuse attorney include:

1. Submitting to the Adult Probation Officer an Adult Probation packet, which includes:

- a. The departmental reports;
- b. The indictment, information, or complaint;
- c. Copy of plea agreement (when applicable);

- d. Other relevant information; and
  - e. The Deputy County Attorney's sentencing recommendation.
2. Informing victim of his/her right to restitution.
3. Informing the victim of sentencing procedure options, such as:
- a. The defendant may seek a continuance of the original sentencing date in order to present mitigating evidence;
  - b. The State may seek a continuance in order to present aggravating evidence; or
  - c. Either side may request a mental health examination under Rule 26.5, Arizona Rules of Criminal Procedure.
4. Informing the victim of his/her sentencing options at the sentencing proceeding:
- a. The victim or the victim's lawful representative has the right to be present at the sentencing.
  - b. The victim or the victim's lawful representative has the right to address the court.
5. Assisting the victim in addressing the court.
- a. The Child Abuse attorney may request of the court that the matter

proceed in chambers.

- b. The Child Abuse attorney may assist the victim in preparing a written statement to present to the court.

## VII. Post Conviction Relief and Appeals

A. The Child Abuse attorney and/or the Victim Advocate will explain to the victim and his/her representative the possibility of a review via petition for Post-Conviction Relief (PCR) or an Appeal.

- 1. PCR is a legal review of the Change of Plea proceeding. PCR's are handled by the Child Abuse attorney.
- 2. An Appeal is legal review of the trial proceedings. Appeals are handled by the Attorney General's Office.

## **VICTIM SERVICES DIVISION PROTOCOL**

The Apache County Attorney's Office Victim Services Division is a prosecutor based victim assistance program. After a defendant has been charged or arraigned on a felony offense, the Victim Advocate is assigned to the case. The Advocate provides criminal or juvenile justice system information and support, advocacy, and social service referrals to assist the victim's emotional recovery from the crime.

The primary role of the Advocate is to provide information and assistance to the victim and the victim's family. If the Advocate were to question the victim about the facts of a case, the Advocate would put him/herself in the position of being a potential witness, which would preclude the Advocate from being with the victim in the courtroom. Therefore, the Victim Advocate does not discuss the facts of the

case with the victim. If a child victim starts to disclose any information regarding the facts to the Advocate, the Advocate will explain to the victim the need to provide the information to the assigned law enforcement officer. The Advocate provides the following services to victims of offenses prosecuted by the Apache County Attorney's Office:

A. Criminal or Juvenile Justice System Information: The Advocate provides the victim or the victim's lawful representative the following:

1. Information about the charge(s) filed against the defendant and his/her custody status;
2. Information about the various steps a case will take as it progresses through the justice system, up to and including sentencing;
3. An explanation of the victim's rights, and if the victim and/or their lawful representative wishes to exercise their rights, the Advocate will assist them in doing so;
4. Notification of court dates if the victim and/or the victim's lawful representative elects to exercise their rights. In cases where the victim is in the care/custody of CPS and/or has a guardian ad litem, the Advocate will keep the CPS worker and/or the guardian ad litem informed of the ongoing status of the case if they have requested to be notified;
5. A more detailed explanation of the various court proceedings, what those proceedings mean, what could possibly happen during the proceedings, as well as advising the victim and/or the victim's lawful representative of their options as criminal justice events occur;



6. Transportation arrangements for in-state or out-of-state travel for the victim and/or the victim's lawful representative if they are needed for interviews, court appearances, etc.;
7. Information about the pre-sentence report and facilitation of the victim's and/or the victim's lawful representative's input into the report; this includes scheduling an interview for the victim with the Adult Probation Pre-sentence Investigator prior to sentencing; and
8. Information regarding the victim's and/or the victim's lawful representatives' post conviction notification rights; this includes advising the victim and/or the victim's lawful representative on how to obtain information about the defendant's custody status.

B. Supportive Services: The Victim Advocate provides the following supportive services when appropriate, during the course of prosecution:

1. Meeting with the victim shortly after being assigned to the case, at the victim's home, at the Apache County Attorney's Office, or other comfortable surrounding, to establish rapport with the victim and his/her family, to assess family dynamics, and to assess the need for counseling referrals;
2. Assisting the victim and/or the victim's lawful representative in understanding how the crime has affected him/her emotionally, helping to relieve any anxiety associated with his/her participation in prosecution, and helping the victim or the victim's lawful representative understand what will happen with the case and how events may impact them;

3. Scheduling an interview with the defense attorney, if the victim or the victim's lawful representative have agreed to or must submit to an interview, at the victim's or the victim's lawful representative's convenience, and accompanying him/her to the interview to provide emotional support. This includes providing them information on interview protocol;
4. Acting as an emotional support for the victim and/or the victim's lawful representative by attending court proceedings with him/her and explaining those proceedings;
5. Providing continuous, on-going short term counseling and crisis intervention for the victim throughout the prosecution of the case, and assisting him/her in all that happens during his/her involvement with the criminal or juvenile justice process;
6. Providing emergency assistance for victims, if requested and if they qualify, for assistance with lunch money for children who must appear in court, clothing, and shelter;
7. Addressing any concerns that the victims may have regarding their safety and that of their family throughout the criminal justice process, and taking appropriate action to ensure their safety;
8. Providing the victim and/or the victim's lawful representative with a courtroom preview prior to trial. This may be done with or without the Deputy County Attorney, depending on the circumstances.

- C. Advocacy: The Victim Advocate advocates on the victim's behalf by:
1. Acting as a liaison between the Child Abuse attorney prosecuting the case, and the victim and/or the victim's lawful representative by facilitating communication between the two;
  2. Keeping the Child Abuse attorney apprized of the victim's well being, the victim's and/or the victim's lawful representative's opinion regarding prosecution, and the victim's expectations concerning the final disposition of the case;
  3. Helping the victim and/or the victim's lawful representative exercise their rights, including facilitating the victims wish to make an oral statement to the court regarding pleas, continuances, or sentencing; and
  4. Acting as a liaison between the victim and/or the victim's lawful representative and his/her school, employer, landlords, or others to minimize hardships arising from the crime or the victim's participation in prosecution.
- D. Social Service Assistance: The Victim Advocate provides social service assistance by:
1. Providing referrals for counseling, housing, financial assistance, food assistance, or other social service needs; and
  2. Providing referrals to the Apache County Attorney's Victim Compensation Board for assistance with compensable expenses.

E. Special Services for Child Victims and Witnesses: In addition to the above, The Victim Advocate provides the following for child victims and witnesses:

1. Insuring that all communication with the child is in age appropriate language;
2. Assessing and advising the Child Abuse attorney of the child's development and communication skills in order to facilitate the Child Abuse attorney's ability to effectively communicate with the child;
3. Providing information to the victim's non-offending parent(s) to facilitate their ability to help the child.

## **JUDICIAL PROTOCOL**

Testifying in court is an emotional experience for most adult witnesses. For a child it may be a frightening experience. In some cases there is a need to adjust the courtroom for the needs of children. The Rules of Evidence give the court broad discretion to meet those needs and to promote the search for truth. It is important for judges to take a proactive role when it comes to children in the courtroom as justice in many cases depends on a common sense sensitivity to the need(s) of child witnesses.

The following outline provides some guidelines for judges to follow in accommodating children as witnesses in a criminal justice system that is set up for adults. Many of these suggestions will depend on the individual circumstances of the particular child witness. The court and the prosecution should always be aware of the dangers in creating error when special procedures are used which may affect the defendant's rights.

## I. Judicial Training

Judges should receive specialized training on developmental issues relating to child witnesses, child hearsay exceptions, closed circuit television and videotape testimony, propensity testimony, DNA and other medical or scientific evidence, the use of experts as witnesses, and other acts committed by the defendant.

## II. Language Abilities

Judges should insure that the child understands the questions being asked in court by requiring attorneys on both sides to use age appropriate language and to avoid complex/compound sentences.

- A. When administering the oath to a young child, all that should be required is a promise to tell the truth or "what really happened."
- B. Since in any criminal trial every person is competent to be a witness, there should be no need for a separate competency hearing. If a judge decides to conduct one anyway, unless the court is particularly adept at using age appropriate language, the prosecutor should be allowed to conduct the questioning.
- C. Arizona law prohibits psychological exams to determine credibility.

## III. Attorney Conduct

- A. The court should set ground rules for attorney conduct with child witnesses. Attorneys should be instructed to:

1. Use normal, conversational tones;
2. Avoid lengthy objections (objections should be handled away from child);
3. Possibly remain in a neutral location while questioning the child. (This is especially important if a defendant represents himself).
4. Consider privacy regarding addresses and phone numbers.

#### IV. Reducing Courtroom Trauma

##### A. A Child-Friendly Courtroom environment should:

1. Allow a support person to be nearby/next to the child;
2. Allow child to hold a blanket, a stuffed animal, a doll, or other small comforting object;
3. In some cases, provide a small table and chairs for testimony rather than the witness stand;
4. Provide a pillow or booster chair for the witness chair;
5. Consider removal of robes and coming off the bench;
6. Work with the bailiff to provide water, Kleenex, and to adjust the microphone;

7. Be aware of younger children's reduced attention spans and the need for breaks. Provide opportunities for the child to use the restroom.
8. Consider whether the child's testimony should be in the early morning or after school, take the child's schedule or daily routine into consideration when scheduling the child's testimony;
9. Consider the necessity of clearing the courtroom of spectators other than the press (proper findings are a must);
10. Use child friendly props; use of anatomically detailed dolls should only occur in rare instances;
11. Be aware of signs of distress in the child;
12. Let the child know it's okay to tell the judge if he/she doesn't understand a question.
13. Provide for the separation of child victim/witnesses and his/her family from the defendant and non-supportive family, etc.

#### V. Priority Case Scheduling

It is important that the prosecutor establish good communication with the child. Therefore, do not assume that prosecutors can be interchanged. Judges should provide for flexibility to take the child's testimony out of order if this best suits the child.

## VI. Victim's Rights

Upon request, the victims or victim representatives are to be heard at release hearings, changes of plea, and sentencings.

A. When a release determination is made, a "No Contact Order" should be issued to limit contact with victim(s) and others deemed necessary;

1. Conditions of release terms should be explicit as to phone, personal, or written contact and even as to not being in the victim's neighborhood;

2. When funds are available for a true pre-trial supervision, release conditions should be monitored by the pretrial supervision agency.

VII Unless the Deputy County Attorney or victim specifically requests otherwise, changes of pleas and sentencings should not be done in chambers, but rather in the courtroom so the victim(s) need not be in close proximity to the defendant.

The goal of every court should be for all children to be treated with dignity and respect when they testify. Following these guidelines should go a long way toward meeting that goal.

## **MENTAL HEALTH INTERVENTION PROTOCOL**

Mental Health professionals should be advocates for victims and children. As such, they may provide primary therapeutic intervention, support to families, information,



and be a source of referral for child abuse allegations because of their contact with children and their families. A primary concern of the mental health professional is to prevent re-victimization of the child. It may be the therapist who hears the initial disclosure, either directly from the victim or indirectly from a third person. Since reporting of child abuse is mandatory for mental health professionals, it is incumbent upon the professional to be familiar with current theory and research on child physical and sexual abuse.

The Arizona mandatory reporting law, A.R.S. 13-3620 (See Appendix C), requires that mental health and social service professionals, and other persons having responsibility for the care or treatment of children who reasonably believes that a child has been abused or neglected, are mandated to report the matter immediately. "Reasonably Believes" for reporting means if there are any facts from which one could reasonably conclude that a child has been abused, the person knowing those facts is required to immediately report those facts to the appropriate authorities. When in doubt, make the report.

The statute also states that anyone who reports a case of suspected child abuse is immune from liability in any civil or criminal proceeding resulting from the report unless the reporter has been charged with or is suspected of committing the abuse, or is acting with malice. Mental health professionals are responsible for maintaining current awareness of any statutory changes that may occur in the reporting law.

Every mental health agency needs to establish a procedure for following the mandatory reporting law. Every mental health practitioner should be familiar with the specific reporting requirements as defined by the professional standards of his/her governing board (i.e. psychiatrist, psychologist, counselor, social worker, etc.). This Protocol provides guidelines as to how mental health professionals can best fulfill their legal and professional mandates, while working in conjunction with the agencies responsible for the investigation of child abuse cases.

## I. Agency Responsibilities

- A. Mental health agencies should each designate a Child Abuse Coordinator. The Child Abuse Coordinator, henceforth in this document to be referred to as Coordinator, should potentially be the CEO or Supervisor. The Coordinator should have additional training and experience in child abuse recognition and reporting. The Coordinator will provide support and assistance to the therapist/employee who received the initial disclosure through the child abuse reporting process. An alternate Coordinator should also be designated in order to assist in the absence of the primary Coordinator.

**Please note that in the case of a private practitioner, the therapist will be solely responsible for all steps of reporting described herein.**

- B. Mental health agencies should authorize yearly training on child abuse for the entire staff.
- C. Mental health agencies should adopt a standardized, child abuse reporting form to be utilized for the mandatory written report. A sample is included in the Appendix of this Protocol. Agencies may adopt the sample provided or may create a form that provides the necessary information.

## II. Receiving the Initial Disclosure

When it appears that a child is disclosing information about possible abuse, the professional receiving such information should listen and ask no leading questions. If the child does not spontaneously provide the information, the following questions should be asked:

What happened?

Who did it?

Where were you when it happened?

When did it happen?

No further questioning by the mental health professional should be done at this time. If the child has spontaneously answered any of these four questions, do not ask that question. Record verbatim statements in written form and do not make any video/audio recording. If you make an electronic record, you and your record are likely to be subpoenaed.

Once the initial disclosure has been made, further questioning or interviewing of the child should be done only by the investigating professionals. Further questioning may contaminate the forensic interview and/or create additional trauma for the child. There are Child Advocacy Centers available where victim interviews that meet the requirements of both criminal and CPS investigations are conducted by specially trained interviewers. (See Appendixes A and L) These interviews are video and/or audio taped and become forensic evidence. This reduces the need for repeated interviews of the child victim.

Disastrous response to disclosure is one of the greatest trauma potentiators. Do not make promises to the child that cannot be guaranteed. For example, do not tell the child: "this does not have to be reported to the authorities"; "you won't have to testify"; "no one will go to jail"; etc.

### III. Reporting Child Abuse

When a mental health professional reasonably believes that a minor has been the victim of abuse, he/she should:

- A. Notify the agency's Child Abuse Coordinator or, if unavailable, a Supervisor of the disclosure. If there are questions as to whether information received constitutes abuse and should be reported, contact the CPS Hotline at 1- 888 – SOS – CHILD (or 1 – 888- 767 – 2445) and they will advise.
- B. With assistance for the Coordinator, report the suspected abuse immediately to the law enforcement agency in the jurisdiction where the offense took place and to the CPS Hotline.
- C. Document the report information on a state and/or agency approved reporting form. Per ARS 13-3620 (See Appendix C), a copy of the reporting form should be mailed to CPS within 72 hours of making the initial report. The forms should be mailed to CPS at:  
P.O. Box 44240  
Phoenix, AZ 85064-4240  
The agency should maintain the original copy of the written report, which should be kept in the client's file.
- D. If the non-offending parent or caretaker is aware of the disclosure, determine if he/she is appropriately supportive. If so, consideration should be given to encouraging the non-offending parent or caretaker to immediately make the report to law enforcement and CPS while in

the presence of the therapist.

1. The therapist should insure that he/she is included in any report made.
2. If a therapist believes the victim or other children in the home continue to be at risk, he/she should make a second report to CPS.
3. If the non-offending parent is unwilling or unable, the therapist again has the sole responsibility of making the reports to the appropriate law enforcement agency and to CPS.

#### IV. Therapist's Responsibilities

The therapist's primary goal is to facilitate healing in the child who has been victimized. This may include working with family members to negotiate changes in the child's environment, assisting the family in aligning with the victim to provide emotional support and protection, and assisting in minimizing secondary trauma during the legal process.

- A. In this role, the therapist should delay primary trauma intervention until after the forensic interview and investigation has been completed by the appropriate agency. In the interim, supportive therapy should be provided.

Examples of supportive therapy include:

- Encouraging the child's parent or caretaker not to allow contact between the victim and alleged offender.
  - Taking appropriate steps to ensure the safety of other children in the home.
  - Stabilizing the victim's environment by supporting removal of the alleged offender.
- B. Mental health professionals who prefer not to work with child abuse victims, or lack expertise in this area, may also contact the Apache County Attorney's Victim Services Division or the Victim Compensation Bureau, to seek referrals to mental health professionals who specialize in working with child abuse victims.
- C. Therapists should inform the victim and caretakers about the legal process. (Refer to Flow Chart, Appendix B). If a therapist is unfamiliar with the legal process he/she can refer the family to Victim Services.
- D. During treatment, if the child discloses further information regarding the abuse, the therapist should document direct quotes and promptly report this information to law enforcement and/or CPS.
- E. Per A.R.S. 13-3620 (see Appendix C), mandated reporters, including mental health practitioners, may be requested to release records to CPS and/or Law Enforcement. Offender treatment records may also be obtained pursuant to ARS 13-3620 in any civil, criminal, or administrative proceeding or investigation conducted by CPS or Law Enforcement in which a child's neglect, dependency, abuse or

abandonment is an issue. Thus, written records should be complete, concise, clear and factual. A mental health practitioner who has any questions regarding the release, or requested release, of records should contact the assigned or on-call County Attorney. Any records taken or obtained by the County Attorney, CPS, or Law Enforcement are subject to the rules of disclosure.

- F. Therapists should not disclose facts regarding the allegations to the offender, victim, non-offending parent, caretakers or family members prior to the forensic investigation. Explain to the non-offending parent, caretaker and other family members that the facts of the alleged abuse should not be discussed until after the investigative interview is completed by Police/CPS. Therapists should educate the parent/caretaker that the child may need to talk. Parent/caretakers should listen, be supportive of the child, and seek support from the treatment professional during this time. After the investigation is completed, the non-offending parent/caretaker should be fully informed about the details of the allegations.
- G. Professionals involved in the treatment of various parties (i.e. victim, offender, non-offending parents and siblings) should collaborate with each other to support effective treatment.
- H. Therapists should maintain appropriate boundaries in their work with the child and family members.
  - 1. The victim should have a separate therapist from the alleged offender.

2. The "no contact" rules between offender and victim should be followed consistently. Premature confrontation between a victim and the alleged offender should not occur.
  3. The victim's therapist should not have direct contact with the alleged offender. Communication should be between the victim's and the alleged offender's respective therapists.
  4. The victim therapist should familiarize her/himself with the Adult and Juvenile Probation Department's special conditions of probation for sex offenders and the guidelines for family reunification. In cases that are adjudicated, the Probation Department will mandate these conditions. (See Appendixes R, S, T, U, X, Y, and AA)
- I. Therapists should provide support to the child victim through the legal process, as appropriate. In cases where prosecution occurs, a Victim Advocate may be assigned. The role of the Victim Advocate includes providing information about the criminal justice system and victim's rights; notification of court dates; visiting a courtroom with the victim; and being a support person during interviews, depositions, and/or court sessions. The therapist should provide emotional support to the victim during this process, in conjunction with the preparation done by the Victim Advocate.
  - J. The therapist should be prepared to be called as a witness, although this will not always be necessary. This may be done by interview, deposition and/or appearance in court. Therapists should be aware



that there may be legal limitations regarding the content and scope of their testimony. The therapist should contact the assigned or on-call County Attorney concerning any questions regarding requests for interviews, depositions, or court appearances.

## **SCHOOL PROTOCOL**

School personnel are often the source of referral for child abuse allegations because of their extensive contact with children on a daily basis. They are often the first persons to whom children disclose abuse or who suspect abuse because they recognize behavioral changes in the children. School personnel are required by law to report all cases of suspected abuse. Therefore, school personnel should be familiar with the legal requirements for the identification and reporting of child abuse.

The Arizona mandatory reporting law, Arizona Revised Statutes section 13-3620 requires that school personnel, or any person who has responsibility for the care or treatment of a minor, who reasonably believes that a minor has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect shall immediately report or cause a report to be made of this information. This means that if there are any facts from which one could reasonably conclude that a child has been the victim of one of the above listed offenses, the person knowing those facts is required to report those facts to the appropriate authorities. This immediate report is to be made regardless of who the alleged perpetrator is. Your duty is to report, *not* to investigate. If school personnel fail to report known or suspected child abuse or neglect, then they have committed a crime that is punishable under Arizona state law.

In addition to the mandate in Arizona Revised Statutes section 13-3620, Arizona Revised Statutes section 15-514(A) states that any certified person or governing board member who reasonably suspects or receives a reasonable allegation that a

person certified by the State Board of Education has engaged in conduct involving minors that would be subject to the reporting requirement of Arizona Revised Statutes section 13-3620 shall report or cause reports to be made to the Department of Education in writing as soon as is reasonably practicable but no later than three (3) business days after the person first suspects or receives an allegation of the conduct.

Both statutes (A.R.S. §§ 13-3620 and 15-514) grant immunity from civil damages to those making reports, provided the report was made in good faith. Arizona Revised Statutes section 13-3620 also grants immunity from any criminal proceeding to those making reports, unless the reporter has been charged with or is suspected of committing the abuse, or is acting with malice.

It is highly recommended that a uniform, countywide reporting policy be adopted by every school district. Uniform procedures that cross school district lines will serve to:

1. Increase the confidence of school personnel in reporting suspected abuse;
2. Improve interagency communication and cooperation between schools, law enforcement and CPS;
3. Minimize the number of times the child victim is interviewed;
4. Insure that the appropriate and most qualified professionals conduct the investigation;
5. Minimize disclosure trauma to the child victim.

This Protocol contains guidelines to achieve these goals. The role of school

personnel in this process has been clearly delineated.

I. Responsibility of school administration

- A. Designate a Child Abuse Coordinator for each school. The Child Abuse Coordinator, (hereinafter the "Coordinator"), should have additional training in the areas of child abuse recognition and reporting. An alternate Coordinator should also be designated and trained to assist in the absence of the primary Coordinator. The Coordinator and the alternate should have access to an area that will provide privacy and a telephone for reporting. The Coordinator will act as liaison between the school, CPS, and law enforcement.
- B. Authorize yearly training on child abuse for the entire school staff. The Coordinator may set this training.
- C. Adopt a standardized, child abuse reporting form.

II. Responsibilities of school personnel

- A. School personnel generally will receive information about possible abuse in one of three ways: 1) the child will self report; 2) physical injury or unusual behavior will be observed; or 3) a third party will disclose the abuse.

1. Child's self-disclosure

- a. When it appears that a child is disclosing information about possible abuse, efforts should be made to provide a quiet, private place to facilitate the conversation.

- b. The person receiving such information shall listen openly and speak at the child's level in a positive, non-judgmental tone.
  - c. If the child has not spontaneously provided the following information about the abuse, only these exact questions should be asked as needed to complete the information:
    - 1) What happened?
    - 2) Who did it?
    - 3) Where were you when it happened?
    - 4) When did it happen?
  - d. Effort should be made to remember the child's exact words during the disclosure since these quotes should be documented on the reporting form.
  - e. School personnel should **NOT** make any promises to the child that cannot be guaranteed. For example, do not tell the child "this does not have to be reported to the authorities", "you won't have to testify", "no one will go to jail", "I won't tell anyone else", etc.
  - f. Report this information to the school's Coordinator, and ensure that required reports are made.
2. Observations of injury and/or unusual behavior
- a. School personnel should be observant of bruising,

injury, markings, or unusual behavior that may be the result of abuse or neglect.

- b. A person observing injury may ask the four questions listed in the previous section to attempt to ascertain the cause of injury. Report to the school Coordinator if the child's responses lead to suspicion of abuse. If there are inconsistencies between the child's report of cause and the type of injury, report this information to the school Coordinator.
- c. If unusual behavior is observed, consult with the school Coordinator, and ensure that any required reports are made.

3. Third party report of abuse

- a. If a third party informs school personnel that a child may be the victim of abuse or neglect, the third party should be directed to speak with the school Coordinator.

B. All information about child abuse is to be shared with the school's Coordinator who will assist in the reporting process. The Coordinator will also be available as a resource if there are any questions about abuse. See School Coordinator section for reporting guidelines. Remember that it is ultimately the responsibility of the person receiving the initial disclosure or making the initial observations of abuse to ensure that a report is made to the proper authorities.

C. School personnel shall maintain confidentiality of *all* information

regarding the abuse report. Do **NOT** contact or provide information to the parent(s) and/or the alleged perpetrator. Refer all inquiries to law enforcement or CPS. It is the duty of law enforcement and CPS, not school personnel, to notify parents of the investigation. Premature and/or inappropriate notifications can hinder investigations and potentially create precarious situations.

### III. Responsibilities of School Coordinator

- A. The school's Coordinator will work with school personnel in facilitating the reporting of suspected child abuse and/or neglect. The school's Coordinator should:
  - 1. Be available for school personnel to share information about suspected abuse.
    - a. If the information is incomplete, the Coordinator may ask only those approved questions (see school personnel section above) not previously answered. The child should NOT be re-questioned once the information has been disclosed regardless of which staff member received the initial disclosure.
    - b. If unsure if the information constitutes abuse or is reportable, contact the CPS Hotline at 1-888-SOS-CHILD (or 1-888-767-2445). CPS will evaluate the information and determine if a report should be made.
  - 2. Assist in the documenting of information on the designated child abuse reporting form. If the Coordinator is not the

school's nurse, you may consult with the nurse or health office personnel to describe any visible injury.

3. Aid in phoning report of the information gathered on the reporting form to both the CPS Hotline (at the phone number listed above) **and** the law enforcement agency where the suspected abuse took place. If the location of occurrence is unknown, report to your local law enforcement agency. Notify the agencies that you are reporting to both CPS and law enforcement.
  4. Per Arizona Revised Statutes section 13-3620, mail a copy of the written reporting form to CPS within seventy-two (72) hours of making the initial report. The report should be mailed to: CPS, P.O. Box 44240, Phoenix, AZ, 85064-4240. Copies of the report can, and should, also be made available to the CPS Specialist and/or law enforcement responding to the school.
  5. Per Arizona Revised Statutes section 15-514, mail a written report to the Arizona Department of Education if the alleged perpetrator is a certified teacher or administrator. This report should be sent within three (3) business days to: Arizona Department of Education, Investigative Unit, 1535 W. Jefferson, Phoenix, AZ 85007.
- B. Assist law enforcement and CPS upon their arrival by sharing information and providing a private place on campus for the agencies to meet with the child and/or with the reporting source.
- C. Contact the appropriate school personnel who need to know in order

to protect the child. It is recommended that Principals be advised when child abuse reports are made because investigating agencies often respond first to the main office. The Principal is also frequently the first to receive calls from parents and would need to know how and where to direct their inquiries.

- D. If a parent or guardian calls or comes to the school in an effort to locate a child being interviewed, sheltered or removed from school grounds, the Coordinator (or Principal) should refer the parent or guardian to CPS and the law enforcement agency for information.
- E. The Coordinator should maintain the confidentiality of the case. The school's Coordinator will contact CPS to obtain the legally authorized information about the case and will keep other school personnel (child's teacher, counselor, nurse, etc.) informed on a need to know basis in order to better assist the child.
- F. The Coordinator will keep the original reporting form documenting that the CPS/law enforcement report has been made. These reports should be kept on file until the child reaches age eighteen (18) or two (2) years after the child graduates from High School, whichever is longer. It is recommended copies of these reports be transferred from one school Coordinator to another if the child changes schools. These records should be transferred in a confidential manner between the Coordinators.
- G. If a report of abuse is from a third party, document the information provided and encourage that party to make the report. Do not interview the child, but be observant. For example, if the party states that an injury was inflicted on an extremity of the child, the coordinator



can unobtrusively observe the child to determine if the reported injury is present. As always, if any injury is observed you may ask the four approved questions to determine the cause of injury. You may also ask the child's teacher if s/he has noticed any behavior changes. In cases of third party reports the Coordinator will still make a report to the authorities.

- H. The school Coordinator shall also be responsible for coordinating on-going, on site training of school personnel in the identification and reporting of child abuse and neglect.

#### IV. Responsibilities of CPS and Law Enforcement

CPS and/or Law Enforcement Officers will conduct the investigation. The CPS Specialist and/or Law Enforcement Officer will provide proper identification and should confer with the Coordinator/reporting party.

- A. The CPS Specialist and/or the Law Enforcement Officer may, at their discretion:
  - 1. Enter the school grounds and investigate cases of suspected abuse without unnecessary disruption of normal school activities.
  - 2. Interview the child victim, and all other children residing in the home, on school grounds outside of the presence of school personnel. School personnel may only be present during the interview at the request of the CPS Specialist and/or Law Enforcement Officer.

3. Conduct interviews of the child ***without permission from or notice to the parent(s) and/or guardian(s).***
  4. Remove the child from the school (take temporary custody) if necessary to further the investigation.
  5. Obtain school records by lawful means.
- B. Efforts will be made to minimize any emotional trauma to the child as well as preserve the confidentiality of the investigation. Joint CPS and law enforcement interviews are encouraged.
- C. If the CPS or Law Enforcement Officer believes it is necessary, the child may be sheltered. The Coordinator should be informed of this decision. CPS and/or law enforcement are required to notify the parents in writing within six (6) hours if a child is taken into temporary custody. Again, it is *not* the responsibility of school personnel to make notifications to the family.
- D. In the event of an investigation originating from a source other than the school, the CPS specialist and/or Law Enforcement Officer will, as a courtesy, attempt to notify the Coordinator.

## **JUVENILE COURT PROTOCOL**

Juvenile Court, a separate division of the Arizona Superior Court, is given the sole authority to hear adoption, severance (termination of parental-child relationship), delinquency (juvenile criminal), incorrigibility (runaway or out of control), and dependency (civil child abuse or neglect) cases.

For the purposes of this protocol, only two areas of the Juvenile Court will be discussed - dependency and delinquency - as they affect the child abuse victim. For

definitions of dependency and delinquency see Arizona Revised Statutes section 8-201. The following guidelines are proposed in order to reduce system-induced trauma and minimize the number of times the child victim is interviewed.

## I. Dependency

### A. The Court Process

The Juvenile Court adjudicates matters involving the protection of minors who have been abused or neglected or have no parent or guardian willing or able to care for them. When a child is taken into protective custody a petition must be filed within seventy-two (72) hours, excluding weekends and holidays, or the child must be returned home. Model Court requires that when a child is removed from home the court must hold a conference and a preliminary protective hearing within five (5) to seven (7) days from the date of removal. The intent is to accelerate services to the child and the family. At the hearing, the parents or guardians enter an admission or denial to the allegations in the petition.

If the dependency is not declared at the preliminary protective hearing, a series of hearings may then be held. During each hearing, the parents or guardians are provided an opportunity to admit or deny the allegations made. A finding of dependency may be a result of an agreement of the parties or a contested trial. The court, with input from the parents, the child's attorney, and CPS determines appropriate dependency orders. CPS prepares a report to the court presenting the facts and making recommendations. The court may follow the recommendations or may modify them, or the parties may challenge them at a subsequent hearing.

It is CPS' mission, first, to protect children from abuse and neglect and, second, to help the family safely care for the child. When reunification is not possible, CPS develops a plan of permanence for the child's care through guardianship, severance of parental rights and adoption, or long term foster care.

B. Child Victim's Testimony

Attorneys appear on behalf of parents, children, and CPS. Child victims are rarely called to testify in dependency matters. However, the child victim's testimony may be required in delinquency proceedings.

C. Appointment of Attorneys and Guardians Ad Litem

The court automatically appoints an attorney for all children in dependency cases. The court may also appoint a guardian ad litem (GAL) to represent the best interests of a child. A GAL need not be an attorney as there is no attorney-client privilege within that relationship.

Representation of clients in Dependency and Severance cases involves an expertise not usually acquired in the general practice of law. Attorneys are expected to establish and maintain a level of expertise and training that will enable them to competently represent their child clients. Sensitivity, understanding, patience and knowledge of the criminal justice system are also needed to handle these specialized cases.

D. Responsibilities of the Attorney/Guardian Ad Litem

It is recommended that the court order appointing the attorney/guardian

ad litem completely state the authority and responsibilities to be carried out by those attorneys. Should a guardian ad litem be appointed to a case in which criminal prosecution is also occurring, the Juvenile Court should state the expectations regarding the guardian ad litem's involvement in the criminal matter.

## II. Juvenile Court Delinquency

The delinquency section of the Juvenile Court faces issues of child abuse in two manners: (1) as perpetrators of the abuse, juveniles suspected of sexual offending are referred for investigation and supervision; (2) as victims, juveniles at any point in the system may present as suspected victims of child abuse.

### A. Juveniles referred for sexual offending:

#### 1 The Court Process as to the Accused Juvenile

- a. When law enforcement apprehend a juvenile for a sexual offense, the law enforcement officer completes a "Juvenile Referral/Complaint" (hereinafter the "complaint"), listing the charges and describing the offense. The law enforcement officer makes the initial judgment to either release the juvenile to his parents and mail the Complaint to the Juvenile Court or bring the child and the Complaint to the Juvenile Detention facility. Such judgment is made by the law enforcement Officer based on several criteria, including the perceived level of risk for re-offense.
- b. If the juvenile is not brought to detention, the Complaint will be submitted to the Juvenile Probation Department who shall forward

a copy to the Apache County Attorney's Office. The County Attorney has forty-five (45) days to review the charges and determine what further action is required.

- 1) The County Attorney will decide if the juvenile is to be prosecuted in the Juvenile Court. If the child is fourteen (14) years or older, the charges for certain offenses per Arizona Revised Statutes section 13-501 can be directly filed in Adult Criminal Court. The County Attorney may also request transfer of charges to Adult Criminal Court on non-Arizona Revised Statutes section 13-501 cases.
  - 2) If the decision is to file a petition in the Juvenile Court, a hearing will be set for formal court action.
  - 3) If the decision is made to file in the adult system, a complaint shall be filed in the appropriate Justice Court.
  - 4) The original County Attorney reviewing the Referral may decide there is not enough evidence to grade the charges and will return the Complaint to law enforcement for an additional thirty (30) days of further investigation. If sufficient evidence cannot be gathered, there will be no formal charges. If there is substantial evidence, the County Attorney will decide whether to file in Juvenile or Adult Court.
- c. If the juvenile is brought to detention, the Screening Officer on duty will, based on law and circumstances, either detain or release the juvenile to his parents/legal guardian. If the juvenile is not detained,

the process cited in #2 above will proceed. If the juvenile is detained, the Referral will be delivered to the County Attorney for review within twenty-four (24) hours. If the Complaint is filed in the adult system, the juvenile will be transported from detention to the Apache County Jail.

- d. After the petition has been filed, the first hearing set is the Advisory Hearing (Initial Appearance/ Arraignment). This will take place within twenty-four (24) hours for in-custody juveniles and within thirty (30) days of the filing of petition on out of custody juveniles.
- e. If the juvenile denies the charges at the Advisory Hearing, an Adjudication Hearing (Trial) will be set. This will occur within forty-five (45) days if the juvenile is detained or within sixty (60) days if the juvenile is not detained. If the juvenile admits to the charges, a Disposition Hearing (Sentencing) is set. This will occur within thirty (30) days if the juvenile is detained or within forty-five (45) days if the juvenile is not detained. If at the Adjudication Hearing, the juvenile is adjudicated delinquent (found guilty), the Disposition Hearing will be set thirty (30) to forty-five (45) days after the Adjudication Hearing. At this time, a psychosexual evaluation may be ordered by the Court.
- f. At the Disposition hearing, the juvenile may be placed on probation and allowed to return to living in the community with treatment on an outpatient basis; or he may be placed on probation while receiving treatment in a residential facility. Probation may be standard or intensive and may include up to one year in the Juvenile Detention Facility, per count and/or cause. Another

possibility is that s/he may be sent to the Arizona Department of Juvenile Corrections for incarceration in a correctional facility. A last possibility is an "exceptional disposition", where no incarceration or probation is assigned. However, this is extremely rare in sexual offense cases.

- g. If the juvenile is placed on probation, the case will be managed and followed by a Apache County Juvenile Probation Officer.

## 2 The Court Process as to the Child Victim's Testimony

- a. If the accused juvenile denies the charges, the alleged child victim will be required to testify in the presence of the accused at the Adjudication Hearing. A Victim Advocate is assigned to familiarize the child with the court setting as well as the legal and court proceedings. The Victim Advocate will accompany the child to all interviews and court proceedings. (See Victim Services protocol).
- b. The Juvenile Probation Officer assigned to a sexual offense case will be investigating the needs of the accused in order to make a recommendation to the Court at the time of the Disposition Hearing. The Juvenile Probation Officer will also contact the parents of the child victim for input on the recommendations. The Juvenile Probation Officer will also answer questions and/or make recommendations for counseling for the child victim.
- c. The child victim should NOT be interviewed by any court personnel regarding the details of the alleged offense. The family of the child victim will not be made to feel that their input on sanctions for the



accused will be the determining factor in the decision that is made.

### 3. Appointment of Attorneys for Child Victims

- a. In matters where the child victim's interests may not be protected, as in intra-familial child molest, the court may appoint an attorney/guardian ad litem (GAL) to represent the interests of the child victim.
- b. If the Court orders the appointment of an attorney/guardian ad litem, it is recommended that the court order completely state the authority and responsibilities to be carried out by the attorney.
- c. The attorney can advise the court or provide input to the Probation Officer as to the child victim's feelings regarding sanctions, if need be. The Victim Advocate may also fill this role if a trusting relationship between the Advocate and child has been developed.

### 4. Supervision of Juvenile Sex Offenders

- a. The statutes require that the term of probation for a juvenile is twelve (12) months, which can be continued until the age of eighteen (18), if modified by court order. Best practice is held to be protecting the community through treatment of the juvenile offender. Treatment is seldom short-term. Most juvenile sexual offenders will return before the court to have their probation extended for the sole purpose of treatment completion. The court ordered treatment will be terminated when probation ends.

- b. The court may impose specialized terms of probation, which may include peer relationship restrictions, contact with the victim, adult supervision, employment restrictions, etc.
- c. There are statutes allowing that juveniles may be ordered to register as a sex offender until age twenty-five (25). Community Notification is not applicable to those adjudicated in the juvenile system. However, other statutes demand that schools be notified when a student is adjudicated of certain felonies, sexual misconduct being one of them. Also per the statutes, juveniles must submit to a DNA sample and, upon victim request, must submit to an HIV test. In the latter, a specific representative must be named to receive the test results.
- d. Probation supervision is conducted by Probation Officers. The Probation Officer functions as an integral member of the treatment team, keeping the court aware of progress and problems.
- e. In addition to a Probation Officer, juvenile sexual offenders on intensive probation are also monitored by a Surveillance Officer who makes random and variable contacts through the day, night, weekends, at home, school, work, and anywhere the juvenile has been given parental permission to spend time.
- f. Members of the juvenile offender's family are strongly encouraged to participate in treatment.
- g. The goal of the Probation Department is for a juvenile sexual offender to successfully complete treatment and be released from

probation prior to turning eighteen (18). When there is no completion of treatment prior to age eighteen (18), the juvenile court loses jurisdiction and the young person is released from probation with no further supervision or court orders.

B. Juveniles as Suspected Child Abuse Victims:

The Probation Department is committed to supporting and following the Multidisciplinary Protocol for the Investigation of Child Abuse guidelines for reporting suspected child abuse.

1. Most suspected abuse is noticed when a child is brought into the detention facility by the police and undergoes the strip search by one of the child care staff. Any signs of trauma are to be immediately reported to the detention facility nurse. The staff shall:

a. Ask only the four questions sanctioned by the Protocol;

1) What happened?

2) Who did it?

3) When did it happen?

4) Where did it happen?

b. Ask the detention facility nurse to provide a cursory evaluation the child's injury in order to determine if transportation to the Emergency Room and/or if a medical exam is warranted;

- c. Phone in a report of the suspected abuse to law enforcement and to CPS. If the law enforcement officer who brought the child in is still present, notifying that Officer will suffice regarding the report to law enforcement;
  - d. Write an Incident Report, documenting the physical signs and the child's answers to the four questions;
  - e. Fax or mail a copy of the Incident Report to CPS;
  - f. Forward a copy the Incident Report to the assigned Probation Officer;
  - g. File the original incident report in the child's detention file.
2. If abuse is suspected in a juvenile who is not detained, the staff person must follow the same procedure as outlined above regarding reporting of the incident to law enforcement and CPS. The original incident report should be retained in the child's information file.

## **ADULT PROBATION DEPARTMENT PROTOCOL**

The Adult Probation Department primarily interacts with victims in two ways: 1) in the preparation of a pre-sentence investigation report for the Court before sentencing, and 2) in the supervision of sentenced sex offenders in which any contact with children and particularly the victim(s), is either expressly prohibited or carefully supervised. Any family unification/reunification occurs under guidelines that are structured and incremental. The risk to the community of any sex offender placed there by the Court should be carefully evaluated on an ongoing basis. A third

type of interaction with victims occurs when a probation employee, in the course of their regular duties, discovers reasonable grounds that a child has been abused or neglected. This initiates the same protocol as shared by other service professionals who are mandated to report the suspected abuse.

## **I. Pre-Sentence Investigation**

### **A. Preparing the Report**

In the preparation of a pre-sentence report, the Probation Officer's assignment is to summarize the case for the sentencing judge and make a recommendation regarding disposition. The law enforcement reports of the case are summarized, including the victim and offender statements taken, and other information relevant to the case. Much of the report requires information about the defendant, including his social history, prior criminal history, substance abuse, mental health problems, and financial status.

### **B. Taking the Victim's Statement**

An important part of the report involves the victim's statement. Probation Officers should contact the Victim Advocate before contacting the victim. The Advocate has often established a rapport with the victim and therefore the victim might feel more comfortable talking with the Probation Officer if the Advocate is present.

## **II. Field Supervision**

### **A. Specialized sex offender terms and conditions of probation are utilized**

along with either standard or intensive terms and conditions of probation.

1. If placed on standard probation supervision, the offender is considered high risk throughout their term of probation. Random field contacts are made, including evenings and weekends.
  2. If placed on intensive probation supervision, the offender is on house arrest throughout the intensive probation grant and may leave their place of residence only with prior permission of the supervising probation officer. Random field contacts are made, including evenings and weekends.
- B. After sentencing, the Probation Officer is primarily responsible for intervening and protecting the victim against further abuse.
1. Offenders must adhere to strict definition of “no contact” with children, a curfew, and other restrictions.
  2. All offenders are required to attend cognitive behavioral therapy, testing, and reunification procedures, if appropriate. Testing should require the use of a polygraph, plethysmograph, and/or any other test as required.
  3. Probation Officers continually monitor the offender’s employment, access and risk to children, substance abuse, and use of free time, volunteer work, and other areas of his/her environment.

### **III. Mandatory Reporting of Suspected Abuse**

Adult Probation Department employees may be the first persons to whom children disclose abuse or may detect possible abuse or neglect as a function of their job. The Arizona mandatory reporting law, Arizona Revised Statutes section 13-3620, also applies to Probation Department employees. If one reasonably believes that a child has been neglected or abused, the Probation Department employee is required to immediately report the incident to CPS and to local law enforcement. The information about possible abuse may be received through the child's self-report, the observation of neglect or physical injury, or third party disclosure.

A. Child's self disclosure

1. When it appears that a child is disclosing information about possible abuse, efforts should be made to promote a quiet, safe place to facilitate the conversation.
2. The person receiving the information shall listen openly and speak at the child's level in a positive, non-judgmental manner.
3. If the child has not spontaneously provided the following information about the abuse, only these exact questions should be asked as needed to complete the information:
  - a. What happened?
  - b. Who did it?
  - c. Where were you when it happened?
  - d. When did it happen?
4. Efforts should be made to document the child's exact words during the disclosure since these quotes will later be included in the incident

report.

5. Probation employees should not make any promises to the child, which cannot be guaranteed. For example, do not tell the child "this does not have to be reported to the authorities", "you won't have to testify", "no one will go to jail", etc.
6. Follow the reporting procedure as specified in section D below.

B. Observations of injury, neglect and/or unusual behavior

1. Probation employees should be observant of bruising, injury, markings, or unusual behavior, which may be the result of abuse or neglect.
2. The employee observing the above may ask the four questions listed in the previous section to attempt to ascertain the cause.
3. If the responses lead to suspicion of abuse or if the responses are inconsistent with the observations, report as described in section D below.

C. Third party report of abuse

If a third party informs probation employees that a child may be the victim of abuse or neglect, the third party should be directed to report the information to both CPS and to the local law enforcement agency where the abuse/neglect has occurred. Probation Department employees are also required to make the report. See reporting procedures in section D



below.

**D. Reporting procedures**

1. The employee, after observing or hearing about the suspected abuse as outlined in sections A and B above, shall immediately call both CPS and the local law enforcement agency where the suspected abuse occurred. A written report will also be mailed to CPS within seventy-two (72) hours of the initial report.
2. The employee shall not provide information about the suspected abuse to the parents or any alleged perpetrators, but instead refer them to CPS or the law enforcement agency involved.
3. If the information was from a third party (as described in section C above), document the information provided. Do not interview the child, but remain observant. If any injury is observed the four questions listed in section A may be asked. After the third party has been directed to report the suspected abuse, the employee shall make a follow up report to CPS and the appropriate local law enforcement agency.
4. The incident will be documented in an incident report form as per the Adult Probation Department Policy Manual.

**III. Juvenile Offenders on Adult Probation Supervision:**

Juveniles may be placed on adult probation if they are remanded from Juvenile Court or via direct filing of charges into adult court (see Juvenile

Court Protocol - Juvenile Delinquency section). Juveniles on adult probation supervision must adhere to the same legal requirements of registration, notification, and DNA procedures as mandated for adult offenders. However, all statutes governing minors still apply to these juveniles including, but not limited to, the responsibility of guardians for the minor, curfew, school attendance, and alcohol and tobacco laws. The requirements of prohibited/controlled contact with minors and/or potential victims, and the offense specific assessment and treatment, tend to be more complicated to arrange for juveniles. The concerns mentioned are even more pronounced when developing a plan for the healthy sexual/social development of a juvenile offender in the adult system.