

Developed by the  
**Multidisciplinary Team**

**Cochise County**  
**Multidisciplinary Protocol for the Joint**  
**Investigation of Child Abuse**

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## **STATEMENT OF PURPOSE**

These protocols are offered to assist all children, both victims and witnesses and serve as a model for handling child abuse cases within Cochise County. The goal is to treat each child with dignity, fairness and respect and to minimize secondary trauma often associated with child abuse investigations.

Protocols initially developed in 1995 were revised in 2009, 2012 and 2015 to further specify practices being followed after receiving reports alleging crimes against children. This Protocol is intended as a guideline and a reference source for interagency cooperation in the investigation, prosecution and management of child neglect, physical and/or sexual abuse cases. Any variance from the Protocol must be documented for reporting purposes pursuant to A.R.S. §8-817.

While it is recognized that each agency has its own mandate to fulfill, the multidisciplinary team [MDT] recognizes no one single agency or discipline can fully address the problem of child abuse. Therefore, each agency must be both cognizant of the needs and rights of the victim under Arizona law, as well as sensitive to the needs of other professionals involved. We have chosen to make the best interest and safety of children our overriding concern where any interagency conflict may exist.

Joined in the effort to mobilize our different strengths, we have 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 cases involving children.

As County Attorney, I wish to thank the member agencies and commend them for their commitment and dedication to working cooperatively in the handling of cases involving abused children. Every child deserves to be treated with dignity, compassion and respect. This Protocol provides a model for treatment consistent with these principles.

Cochise County Attorney

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*MUTLI-DISCIPLINARY TEAM*

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1. The Cochise County Multi-Disciplinary Team (previously defined as “MDT”) shall consist of professional representation from the following disciplines:
  - a. Law Enforcement
  - b. Department of Child Safety
  - c. Office of Child Welfare Investigations
  - d. Cochise County Attorney’s Office – Attorneys, Court Advocates
  - e. Medical professionals
  - f. Mental health professionals
  - g. Victim Advocate
2. Professionals from other disciplines such as Arizona Adult Protective Services, Cochise County Adult Probation, Cochise County Juvenile Probation, Arizona Department of Corrections Parole Office, respective school district personnel and other victim advocacy services may be asked to participate on a case-by-case basis if determined beneficial to the welfare of the victim.
3. Members of the MDT shall have written memorandums of understanding and/or interagency contractual agreements in place and have a clear understanding of the purpose of and a commitment to the MDT intervention response.
4. The MDT shall meet at a minimum once per month to review current cases, to provide updates and follow-up on prior cases. The case review process shall be followed as outlined in these Protocols under the Case Review section.
5. Purpose of the MDT is to coordinate intervention services to:
  - a. Assist the victims and family of child or vulnerable adult abuse or neglect, domestic violence and sexual assault by reducing additional trauma.
  - b. Ensure thorough investigation and enhanced prosecution through information gathering and sharing through collaborative joint investigations.
  - c. Reduce the potential of duplicative services that may re-victimize children and families.

- d. Improve timely services for victims tailored to their needs by improving communication among agencies.
  - e. Foster support, education and treatment for children and families that may enhance their willingness to participate and their ability to be effective witnesses.
  - f. Support non-offending parents to empower them to protect and support their children, throughout the investigation, prosecution, and beyond.
6. All members of the MDT, as defined by the needs of the case, shall be routinely involved in the investigation and prosecution of child abuse crimes. Team members will be included in decision making from the initial outcry through the investigative, prosecution and treatment phases, including, but not limited to, the forensic interview, pre and post interview debriefings, advocacy, intervention services (i.e. referrals to mental health) case reviews, case updates and consultations.
7. Members of the MDT shall share relevant case information with other members of the MDT to ensure a timely exchange of information that is beneficial to the victim and the victim's family. Pertinent information may occur in the form of in-person meetings, teleconference or phone conversations and/or email correspondences. Information sharing between individual agencies must adhere to legal, ethical and professional standards of practice.
8. MDT members are required to review and sign a confidentiality agreement attached as the *Confidentiality Pledge* assuring the following:
- a. Rights of victim privacy and confidentiality will be respected and preserved at all times.
  - b. MDT members agree that all information relating to a case can be shared only with professionals directly involved in the investigation and treatment of such case. This includes all identifying case information, as well as written recommendations, which may be sent to them following a case consultation.
  - c. MDT members will not remove any written information from a case consultation and all such written information will be returned to the FAC staff or the appropriate agency after a case consultation.

9. MDT members shall be asked for their input and expertise regarding cases. If there are no cases up for review, these meetings shall be utilized for educational updates, planning, general information sharing, and to provide feedback and suggestions regarding the Cochise County Protocols as well as the operations of the MDT.
  - a. The Online Measurement Survey link will be sent out quarterly to facilitate feedback on the MDT process to all MDT members.
10. The MDT shall participate in ongoing training and educational opportunities such as peer review, skill-based learning, cross discipline training as part of the MDT meetings, and/or through individual agency trainings per their individual licensing requirements and NCA requirements. At monthly case reviews, MDT members will be asked for input regarding training and educational needs. Whenever possible, an educational component will be included as part of the monthly case review. Additionally, the case Review Coordinator at the FAC (“FAC Coordinator”) or designated FAC staff member, with input from MDT members and other professionals in the field, will identify relevant, educational opportunities locally and nationally that are cross- discipline in nature (i.e. webinars, conferences).

COCHISE COUNTY MULTIDISCIPLINARY PROTOCOLS FOR THE JOINT  
INVESTIGATION OF CHILD ABUSE  
(Confidentiality Pledge)

The Cochise County Child Abuse Multi-Disciplinary Team exists to mobilize and coordinate interdisciplinary resources to ensure that abused and/or neglected children and their families receive high quality child-friendly services. MDT members participating in the staffing process will respect confidentiality. Information will be shared to the extent allowed by law. Participants will sign the Case Review Confidentiality Form. Each individual MDT member and agency is responsible for maintaining confidentiality to the extent required by law and accepted professional practice, and to show information outside of the case staffing process only to the extent allowed by law and required by professional responsibilities. As a Cochise County Child Abuse Multi-Disciplinary Team member, I agree that I will not disclose or disseminate confidential information to which I gained access as part of the Cochise County Child Abuse Multi-Disciplinary Team staffing process. I understand that I may be subject to civil or criminal penalties if I improperly release confidential information.

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*Cochise County Attorney*

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*Cochise County Sheriff*

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*Police Chief Sierra Vista*

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*Police Chief Huachuca City*

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*Police Chief Wilcox*

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*Police Chief Douglas*

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*Police Chief Bisbee*

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*Tombstone Marshal*

COCHISE COUNTY MULTIDISCIPLINARY PROTOCOLS FOR THE JOINT  
INVESTIGATION OF CHILD ABUSE  
(Confidentiality Pledge - cont)

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*Police Chief Benson*

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*Mental Health*

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*Department of Child Safety/OCWI*

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*Medical*

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*Cochise Family Advocacy Center*



## Definitions Pertaining to Crimes Against Children

This material is intended to provide guidelines and is not to be considered legal advice. Emphasis has been added in some sections.

For purposes of coordinated (joint) investigation pursuant to statutory mandates a “criminal conduct allegation” pursuant to A.R.S. §8-801 (2) means an allegation of conduct by a parent, guardian, custodian or adult member of the victim’s household of a child that, if true, would constitute any of the following:

- Sexual Conduct with a Minor
- Sexual Abuse or Sexual Assault of a Minor
- Molestation of a Child
- Incest Involving a Child
- Child Prostitution
- Commercial Sexual Exploitation of a Minor
- Sexual Exploitation of a Minor
- Child Abuse (Physical Abuse and Severe Neglect)
- Death of a Child
- Certain Domestic Violence Offenses that rise to the level of a felony (Pursuant to A.R.S. §13-3601), excluding property crimes

### **ABUSE**

“Abuse” per A.R.S. §8-201 means the infliction of or allowing of physical injury, impairment of bodily function, or disfigurement or the infliction of or allowing another person to cause serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior and which emotional damage is diagnosed by a medical doctor or psychologist pursuant to A.R.S. §8-821 and is caused by the acts or omissions of an individual having care, custody and control of a child. Abuse shall include inflicting or allowing sexual abuse pursuant to A.R.S. §13-1404, sexual conduct with a minor pursuant to A.R.S. §13-1405, sexual assault pursuant to A.R.S. §13-1406, molestation of a child pursuant to A.R.S. §13-1410, commercial sexual exploitation of a minor pursuant to A.R.S. §13-3552, sexual exploitation of a minor pursuant to A.R.S. §13-3553, incest pursuant to A.R.S. §13-3608 or child prostitution pursuant to A.R.S. §13-3212.

“Drug Endangered Children” per A.R.S. §13-3623. The terms “endangered” and “abuse” include, but are not limited to circumstances in which a child or vulnerable adult is permitted to enter or remain in a structure or vehicle in which volatile, toxic, or flammable chemicals are found or equipment is possessed by any person to the purpose of

manufacturing a dangerous drug in violation of A.R.S. §13-3407, subsection a, paragraph 4.

“Physical Injury” per A.R.S. §13-3623 means the impairment of physical condition and includes any:

- skin bruising;
- pressure sores;
- bleeding;
- failure to thrive;
- malnutrition;
- dehydration;
- health or welfare;
- burns;
- fracture of any bone;
- subdural hematoma;
- soft tissue swelling;
- injury to any internal organ; or
- physical condition which imperils.

“Serious Physical Injury” means physical injury which creates:

- a reasonable risk of death; or
- that causes serious or permanent disfigurement; or
- serious impairment of health; or
- loss or protracted impairment of the function of any bodily organ or limb.

“Emotional Abuse” A.R.S. §8-821 permits a DCS Specialist or law enforcement officer to take temporary custody of a child who is suffering serious emotional damage which can only be diagnosed by a medical doctor or psychologist. The child shall be immediately examined and after the examination the child shall be released to the custody of the parent, guardian, or custodian unless the examination reveals abuse.

## **NEGLECT**

“Neglect or Neglected” means the inability or unwillingness of a parent, guardian or custodian of a child to provide that child with supervision, food, clothing, shelter or medical care IF that inability or unwillingness causes substantial risk of harm to the child’s health or welfare, except if the inability of a parent or guardian to provide services to meet the needs of a child with a disability or chronic illness is solely the result of the unavailability of reasonable services.

Determination of Neglect - In determining if a child is neglected, consideration shall be given to:

- The drug or alcohol abuse of the child's parent, guardian or custodian.
- The use by the mother of a dangerous drug, a narcotic drug or alcohol during pregnancy if the child, at birth or within a year after birth, is demonstrably adversely affected by this use.

“Substantial Risk of Harm” means actual, tangible and measurable harm or risk of harm to the child which may include physical, emotional, medical, sexual or other types of harm to the child.

### **SEXUAL CRIMES**

“Child Prostitution” (A.R.S. §13-3212) A person commits child prostitution by knowingly:

- Causing any minor to engage in prostitution;
- Using a minor for purposes of prostitution;
- Permitting a minor under such person's custody or control to engage in prostitution;
- Receiving any benefit for or on account of procuring or placing a minor in any place or in the charge or custody of any person for the purposes of prostitution;
- Receiving any benefit pursuant to an agreement to participate in the proceeds of prostitution of a minor;
- Financing, managing, supervising, controlling or owning, either alone or in association with others, prostitution activity involving a minor;
- Transporting or financing the transportation of any minor through or across this state with the intent that such minor engage in prostitution.

“Commercial Sexual Exploitation of a Minor” (A.R.S. §13-3552)A person commits commercial sexual exploitation of a minor by knowingly:

- Using, employing, persuading, enticing, inducing, or coercing a minor to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any depiction or live act depicting such conduct;
- Using, employing, persuading, enticing or coercing a minor to expose the genitals or anus or areola or nipple of the female breast for financial or commercial gain;
- Permitting a minor under such person's custody or control to engage in or assist others to engage in exploitive exhibition or other sexual conduct for the purpose of producing any visual depiction or live act depicting such conduct;
- Transporting or financing the transportation of any minor through or across this state with the intent that such minor engage in prostitution, exploitive exhibition or other sexual conduct for the purpose of producing a visual depiction or live act depicting such conduct.

“Incest” (A.R.S. §13-3608) Persons who are eighteen or more years of age and are within the degree of consanguinity within which marriages are declared by law to be incestuous and void, who knowingly intermarry with each other, or who knowingly commit fornication or adultery with each other.

“Molestation of a Child” (A.R.S. §13-1410) A person commits molestation of a child by intentionally or knowingly engaging in or causing a person to engage in sexual contact, except sexual contact with the female breast, with a child under fifteen years of age.

“Sexual Abuse” (A.R.S. §13-1404) A person commits sexual abuse by intentionally or knowingly engaging in sexual contact with any person fifteen or more years of age without the consent of that person, or with any person who is under fifteen years of age if the sexual contact involves only the female breast.

“Sexual Assault” (A.R.S. §13-1405) A person commits sexual assault by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person without consent of such person.

“Sexual Conduct with a Minor” (A.R.S. §13-1405) A person commits sexual conduct with a minor by intentionally or knowingly engaging in sexual intercourse or oral sexual contact with any person who is under eighteen years of age. (This statute has been interpreted by the courts to include attempts to engage in this behavior, even if the attempt is only verbal.)

“Sexual Exploitation of a Minor” (A.R.S. §13-3553) A person commits sexual exploitation of a minor by knowingly:

- Recording, filming, photographing, developing or duplicating any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct;
- Distribution, transporting, exhibiting, receiving, selling, purchasing, electronically transmitting, possessing or exchanging any visual depiction in which a minor is engaged in exploitive exhibition or other sexual conduct.

### **ADDITIONAL DEFINITIONS**

“Oral sexual contact” means oral contact with the penis, vulva or anus.

“Exploitive exhibition” means the actual or simulated exhibition of the genitals or pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer.

“Producing” means financing, directing, manufacturing, issuing, publishing or advertising for pecuniary gain.

“Prostitution” means engaging in or agreeing or offering to engage in sexual conduct with any person under a fee arrangement with that person or any other person.

“Sexual contact” means any direct or indirect touching, fondling or manipulating of any part of the genitals, anus or female breast by any part of the body or by any object or causing a person to engage in such conduct.

“Sexual conduct” means sexual intercourse or oral sexual contact.

“Sexual intercourse” means penetration into the penis, vulva or anus by any part of the body or by any object or masturbatory contact with the penis or vulva.

“Simulated” means any depicting of the genitals or rectal areas that give the appearance of sexual contact or incipient sexual conduct.

“Spouse” means any person who is legally married and cohabitating.

“Sadomasochistic abuse” means flagellation or torture by or upon a person who is nude or clad in undergarments on in revealing or bizarre costume or the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.

“Visual depiction” includes each visual image that is contained in an undeveloped film, videotape or photograph or data stored in any form and that is capable of conversion into a visual image.

“Without consent” includes any of the following:

- The victim is coerced by the immediate use or threatened use of force against a person or property;
- The victim is incapable of consent by reason of mental disorder, mental defect, drugs, alcohol, sleep, or any other similar impairment of cognition and such condition is known or should have reasonably been known to the defendant;
- The victim is intentionally deceived as to the nature of the act;
- The victim is intentionally deceived to erroneously believe that the person is the victim’s spouse.

## Duty to Report Suspected Abuse

§ 13-3620. Duty to report abuse, physical injury, neglect and denial or deprivation of medical or surgical care or nourishment of minors; medical records; exception; violation; classification; definitions

1. Any person who reasonably believes that a minor is or has been the victim of physical injury, abuse, child abuse, a reportable offense or neglect that appears to have been inflicted on the minor by other than accidental means or that is not explained by the available medical history as being accidental in nature or who reasonably believes there has been a denial or deprivation of necessary medical treatment or surgical care or nourishment with the intent to cause or allow death of an infant who is protected under § 36-2281 shall **immediately** report or cause reports to be made of this information to a law enforcement office or to the Department of Child Safety, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a law enforcement officer only. A member of the clergy, Christian Science practitioner or priest who has received a confidential communication or a confession in that person's role as a member of the clergy, Christian Science practitioner or a priest in the course of the discipline enjoined by the church to which the member of the clergy, Christian Science practitioner or priest belongs, may withhold reporting of the communication or confession if the member of the clergy, Christian Science practitioner or priest determines that is reasonable and necessary within the concepts of the religion. This exemption applies only to the communication or confession and not to personal observations the member of the clergy, Christian Science practitioner or priest may otherwise make of the minor.

For the purposes of this subsection, "person" means:

- Any physician, physician's assistant, optometrist, dentist, osteopath, chiropractor, podiatrist, behavioral health professional, nurse, psychologist, counselor or social worker who develops the reasonable belief in the course of treating a patient.
- Any law enforcement officer, member of the clergy, priest or Christian Science practitioner.
- The parent, stepparent or guardian of the minor.
- School personnel or domestic violence victim advocate who develops a reasonable belief in the course of their employment.
- Any other person who has the responsibility for the care or treatment of the minor.

2. A report is not required under this section for conduct prescribed by §§ 13-1404 and 13-1405 if the conduct involves only minors who are fourteen, fifteen, sixteen or seventeen years of age, and there is nothing to indicate that the conduct is other than consensual.

3. If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the State Department of Corrections or the Department of Juvenile Corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

4. Reports shall be made immediately by telephone, email or in person. The reports shall contain:

- The names and addresses of the minor and the minor's parents or the person or persons having custody of the minor if known.
- The minor's age and the nature and extent of the minor's abuse, child abuse, physical injury or neglect, including any evidence of previous abuse, child abuse, physical injury or neglect.
- Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

5. A health care professional who is regulated pursuant to Title 32 and who, after a routine newborn physical assessment of a newborn infant's health status or following notification of positive toxicology screens of a newborn infant, reasonably believes that the newborn infant may be affected by the presence of alcohol or a drug listed in § 13-3401 shall immediately report this information, or cause a report to be made, to the Department of Child Safety. For the purposes of this Subsection, "newborn infant" means an infant who is under thirty days of age.

6. Any person other than one required to report or cause reports to be made under Subsection A of this Section who reasonably believes that a minor is or has been a victim of abuse, child abuse, physical injury, a reportable offense or neglect may report the information to a law enforcement officer or to the Department of Child Safety, except if the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a law enforcement officer only.

7. A person who has custody or control of medical records of a minor for whom a report is required or authorized under this section shall make the records, or a copy of the records, available to a law enforcement officer or the Department of Child Safety worker investigating the minor's neglect, child abuse, physical injury or abuse upon written request for the records signed by the law enforcement officer or the child safety worker. Records disclosed pursuant to this Subsection are confidential and may be used only in a judicial or administrative proceeding or investigation resulting from a report required or authorized under this Section.

8. When telephone or in-person reports are received by a law enforcement officer, the officer shall immediately notify the Department of Child Safety and make the information available to them. Notwithstanding any other statute, when the Department of Child Safety receives these reports by telephone or in person, it shall immediately notify a law enforcement officer in the appropriate jurisdiction.

9. Any person who is required to receive reports pursuant to Subsection A of this Section may take or cause to be taken photographs of the minor and the vicinity involved. Medical examinations of the minor may be performed.

10. A person who furnishes a report, information or records required or authorized under this Section, or a person who participates in a judicial or administrative proceeding or investigation resulting from a report, information or records required or authorized under this Section, is immune from any civil or criminal liability by reason of that action unless the person acted with malice or unless the person has been charged with or is suspected of abusing or neglecting the child or children in question.

11. Except for the attorney client privilege or the privilege under Subsection L of this Section, no privilege applies to any:

- Civil or criminal litigation or administrative proceeding in which a minor's neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.
- Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this Section.
- Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a law enforcement officer or the Department of Child Safety.

12. In any civil or criminal litigation in which a child's neglect, dependency, physical injury, abuse, child abuse or abandonment is an issue, a member of the clergy, a Christian Science practitioner or a priest shall not, without his consent, be examined as a witness concerning any confession made to him in his role as a member of the clergy, a Christian Science practitioner or a priest in the course of the discipline enjoined by the church to which he belongs. Nothing in this Subsection discharges a member of the clergy, a Christian Science practitioner or a priest from the duty to report pursuant to Subsection A of this Section.

13. If psychiatric records are requested pursuant to Subsection G of this Section, the custodian of the records shall notify the attending psychiatrist, who may excise from the records, before they are made available:



- Personal information about individuals other than the patient.
- Information regarding specific diagnosis or treatment of a psychiatric condition, if the attending psychiatrist certifies in writing that release of the information would be detrimental to the patient's health or treatment.

14. If any portion of a psychiatric record is excised pursuant to Subsection M of this Section, a court, upon application of a law enforcement officer or a DCS worker, may order that the entire record or any portion of the record that contains information relevant to the reported abuse, child abuse, physical injury or neglect be made available to the law enforcement officer or the Department of Child Safety worker investigating the abuse, child abuse, physical injury or neglect.

15. A person who violates this Section is guilty of a Class 1 misdemeanor, except if the failure to report involves a reportable offense, the person is guilty of a Class 6 felony.

16. For the purposes of this Section:

- a. "Abuse" has the same meaning prescribed in § 8-201.
- b. "Child Abuse" means child abuse pursuant to § 13-3623.
- c. "Neglect" has the same meaning prescribed in § 8-201.
- d. "Reportable offense" means any of the following:
  - Any offense listed in Chapters 14 and 35.1 of this Title or § 13-3506.01.
  - Surreptitious photographing, videotaping, filming or digitally recording of a minor pursuant to § 13-3019.
  - Child prostitution pursuant to § 13-3212.
  - Incest pursuant to § 13-3608.

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## *Law Enforcement Protocol*

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The purpose of law enforcement's response to incidents of criminal acts involving children is to determine if a crime has been committed, and if so, to discover the facts and evidence necessary to bring the individual(s) responsible 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 and rights of the victim as well as the responsibilities of other organizations involved in the investigation, treatment and recovery of the victim.

Coordination is mandated by law in cases of allegations involving criminal conduct. To this end, law enforcement personnel are required to coordinate their efforts with those of the Department of Child Safety [DCS] as well as the prosecuting attorney. During such investigations, law enforcement, DCS and advocacy center staff will, as soon as immediately practicable, share relevant information (i.e. police reports and DCS written reports), maintain on-going contact and monitor and/or participate in forensic interviews conducted by their counterparts. These efforts will clearly be documented in reports prepared by each agency.

When law enforcement responds to a call involving any offense of physical or sexual abuse or neglect, including children exposed to dangerous or narcotic drugs being used, grown, manufactured or sold by a person responsible for the child's care or a call involving a child who is otherwise determined to be in danger in their home environment, the responding officer shall **immediately** notify the

**DCS Hotline**  
1-877 238-4501

The law enforcement investigator or supervisor is responsible for determining whether or not a criminal investigative response will be initiated.

It is the position of the Cochise County Attorney's Office that all minor victims and/or witnesses seven (7) years of age or under (mentally or physically) should be interviewed by a dedicated forensic interviewer through Cochise Family Advocacy Center or another

CAC/FAC. The Cochise County Interviewing Team of law enforcement personnel may conduct a forensic interview with children 8 years of age or older when:

- the child is not mentally delayed;
- the case does not involve chronic abuse;
- the team member feels comfortable in conducting the interview; and
- the victim/family is not requesting the interview be conducted by someone other than law enforcement personnel.

The decision on who will conduct the interview is made by the law enforcement agency with jurisdiction in the matter. (See Appendix for Guidelines for Forensic Interviews)

If a forensic medical exam is needed, the investigator is responsible for scheduling the exam with a qualified service provider. **In cases where both a forensic medical exam and interview are needed the investigator may:**

- Schedule both at a full service advocacy center to reduce travel time and minimize impact on the victim and family.
- Request a forensic interviewer from Cochise County to travel in order to conduct the interview outside the county and maintain continuity of services for children in Cochise County.
- Recommend the forensic interview be scheduled in Cochise County on a separate day. In making this decision, the investigator should take into consideration the time of the forensic medical exam, age of the child and preference of the victim and family.

## **Child Sexual Abuse**

### **I. Initial Response**

- A. Initial responders or patrol officers may establish jurisdiction and the elements of the crime. (Use of the term patrol officer in this Protocol does not override departmental policies that require specified acts or decisions to be made by a supervisor or investigator). Patrol officers may interview the reporting source, away from the victim, witnesses or other reporting sources, in order to:

1. Obtain the facts of the reported crime;
2. Determine if the child is in imminent danger;
3. Determine if the victim may require medical attention; and
4. Determine jurisdiction:
  - If within departmental jurisdiction, continue per this Protocol.
  - If not within departmental jurisdiction, patrol officers will coordinate with the appropriate jurisdiction and document actions as necessary.

B. The Cochise County Attorney's Office strongly recommends ALL law enforcement personnel or DCS specialists successfully complete the following core training requirements prior to conducting interviews with child victims or witnesses who are under the age of 12.

Core training includes:

- 32 hour combined Basic/Advanced Forensic Interview Training offered through the State of Arizona.
- 8 hour Basic Investigations of Child Physical Abuse Crimes & Child Homicide
- 8 hour Basic Investigations of Child Sexual Abuse Crimes
- 4 hour Child Abuse Confrontation Calls (or One Party Consent Calls)

Personnel who have not completed core trainings may interview victims over 12 years of age. Interviews with children ages 8-12 years may be conducted by LE who have not met all of the core training requirements when directed to do so by agency directors after consulting with department supervisors.

Requests for equivalent training waivers must be approved by the CCAO.

1. Victim interviews should be conducted using a facility equipped with video/recording equipment to document the interview. [A soft room, the mobile unit or another facility outside Cochise County may be used as appropriate]
2. Patrol officers should interview the suspect only if the suspect is present and

aware of the investigation. If a suspect is not aware of the investigation, the suspect should not be contacted without prior consultation with Detectives.

3. Patrol officers may interview witnesses. Dates of birth, social security numbers and other biographical information will be obtained.
4. Child witnesses and any siblings or children within the home will be interviewed only after consultation with Detectives.

C. 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, contact a detective. **Note** in cases of sexual abuse in which the incident reportedly occurred within the past **120** hours, it is imperative to contact a detective promptly in order for the victim to receive a forensic medical exam.
2. Assess the need for scene preservation and/or photographs.
3. Assess the need for a search warrant. If a search warrant is needed, immediately contact a detective. Investigators may contact the CCAO in regard to sealing the affidavit of the search warrant.
4. Assess the need for immediate arrest if the suspect is present. The officer should give consideration to:
  - a. The suspect's risk of flight to avoid prosecution.
  - b. The suspect's danger to the community.

D. Patrol officers should consult with detectives or department supervisors, if necessary to:

1. Assess the need for a detective to respond to the crime scene, hospital, school, or other location.
2. As soon as law enforcement determines DCS may have jurisdiction on the matter under investigation, law enforcement will notify the DCS Hotline at 1-877-238-4501 and provide sufficient information for DCS to coordinate their response with law enforcement.

## **II. Investigation**

A. The investigation should be conducted by a Detective or designated department personnel. The investigators responsibilities include:

1. Interviewing the reporting source to determine the circumstances of disclosure.

2. Interviewing the victim:
  - a. Schedule an interview for the victim to be conducted by Cochise County FAC (if the victim is 7 years of age or under) or with another qualified forensic interviewer.
  - b. Coordinate the interview with the DCS investigator assigned to the case. If DCS is unable to attend the interview, a copy of the interview is provided to the DCS investigator to eliminate the need for multiple interviews of the child victim.
  - c. Schedule a forensic medical exam at an advocacy center equipped to provide this service.
  - d. If a parent or guardian interferes with an interview of the child victim or for other appropriate reasons; the officer/investigator may have the authority to interview the children using the temporary custody notice (TCN) under ARS § 8-821.
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 interviewing medical personnel. Sending a copy of the medical report to DCS.
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(s), victim(s) or witness(es);
  - d. Current and prior DCS reports.
7. Interviewing the suspect:
  - a. **The suspect should be interviewed *only* with law enforcement present;**
  - b. DCS shall, when possible, be notified of the suspect interview; should be aware of the content of the suspect interview; and
  - c. The interview should be audio taped or, if possible, video-taped.
8. Determining the need to arrest the suspect based on:
  - a. The risk of flight to avoid prosecution;
  - b. The danger to the community; and
  - c. Conducting any other necessary investigations.

### **III. Case Presentation**

- A. The case file should include a complete copy of the police report, a copy of audiotapes, video tapes, any photographs and tapes of 911 calls. All items required for CCAO Felony Submission Packet.
  - 1. All medical records of the child, all reports received from the Department of Child Safety on the child and/or family, prior relevant police reports and any other information obtained during the investigation shall be submitted in a timely manner.
  - 2. Attorney General Office documents should include, specifically dependency hearing transcripts, or depositions, information from other cases etc., within 10 days following the hearing.
  
- B. **If the case is filed** and the case goes to Grand Jury or a Preliminary Hearing, the assigned detective should present the case.
  
- C. **If the case is not filed**, notification of the decision not to file shall be conducted according to Arizona State Law. The victim's representatives as well as DCS should be notified of the decision.
  
- D. **If after filing, further investigation** is requested and the suspect is in custody, a Detective should be assigned.
  
- 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 case detective, if possible;
  - 2. The requested information should be obtained as soon as possible; and
  - 3. The GCAO must be advised if the investigating agency decides to inactivate or close the case within 30 days.

### **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,

witness(es) 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:

If within departmental jurisdiction, continue per this Protocol.

If not within departmental jurisdiction, patrol officers will document their actions and coordinate with the appropriate jurisdiction.

2. Patrol officers may interview witness(es). Date of birth, social security numbers, and other biographical information including where child witness(es) attend school will be obtained. It is recommended that child witness(es) and any siblings or children within the home be interviewed after consultation with a detective.
  3. If the suspect is at the scene and:
    - a. If the child is not taken to the hospital in serious condition, the patrol officer may conduct an initial interview of the suspect or ensure that a detective 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. If 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 a detective. 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 detectives; and
  4. Document and preserve the scene through photographs if possible.
- 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 medical intervention and ensure the child is taken to a hospital if necessary.
  2. If the child is admitted to a hospital, and in any case requiring medical attention, the Investigations Unit should be notified immediately.
  3. Depending on the severity of the injury, the unit could be Homicide or the detail handling physical abuse cases in the agency. It is recommended that Patrol



Officers consult with Detectives on all child abuse cases to assess the need for a forensic medical exam.

4. Assess the need for scene preservation and/or evidence collection. Scenes involving death shall immediately be secured. Consult with Investigations 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.
5. Document any physical injury to the child with digital or 35 mm photographs. Photographs should depict the child's entire body and face, and not just the external manifestations of abuse. Photographs should include a 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 as well as other evidence that could be used to substantiate any future charging.
6. As soon as law enforcement determines that the matter is under investigation, law enforcement shall notify the DCS Hotline at 1-877-238-4501 and provide sufficient information for DCS to coordinate their response with law enforcement.

## **II. Investigation**

### **A. Non-hospitalized Children**

1. A detective 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 minor is under eight (8) years of age (mentally or physically), the FAC is contacted to conduct forensic interviews after authorization from the County Attorney's Office.
2. If not already done and if appropriate digital or 35 mm photographs are taken to document the abuse, the detective should ensure additional follow up photographs are taken as needed.
3. DCS shall be contacted to obtain prior reports and to determine what action is being taken on the referral. If DCS is involved, law enforcement shall share information with them (i.e. written police reports).
4. The suspect's prior police history should be determined, paying particular attention to assault and domestic violence contacts.
5. The Investigations Unit should obtain relevant medical records on the child

and interview appropriate medical personnel.

6. A detective 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 detective 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 forensic medical exam should be assessed.

#### B. Hospitalized Children

1. The Deputy County Attorney on call for physical 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 Investigations Unit shall assume responsibility for the investigation of all hospitalized child abuse cases as soon as they are notified by the patrol officer.
3. The Investigations Unit should ensure that the scene(s) is (are) identified and secured pending issuance of a search warrant.
4. A detective shall obtain an initial statement from the most qualified physician (not the intern or resident 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 specialized physicians (e.g. neurosurgeons, pediatric 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. Investigators may contact the County Attorney's Office regarding sealing the affidavit of search warrant.
8. DCS shall be contacted to obtain prior reports and to determine what action is being taken on the report. If DCS is involved, law enforcement shall share information with them (i.e. written police reports).

#### IV. Dispute Resolution (See appendix).

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## *Department of Child Safety Protocol*

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The primary role of the Department of Child Safety [DCS] is to protect children by investigating allegations of abuse and neglect, promoting the wellbeing of the child in a permanent home, coordinating services to strengthen the family and prevent, intervene and treat abuse and neglect [ARS § 8-800]. DCS is responsible for investigating and assessing child safety pertaining to in-home allegations of any act, failure to act or a pattern of behavior on the part of a parent, guardian, custodian or adult member of the victim's household that may result in compromising the safety and wellbeing of the child; considered to be any person under the age of 18. Ultimately our job is to protect the child by engaging the family so that if possible the child can remain in the home, and if that is not possible and the child has to be removed, the family will make the required changes so that the child can return home rapidly.

The DCS Specialist or Supervisor must notify the appropriate municipal or county law enforcement agency when a report alleges a criminal conduct allegation prior to initiating the DCS investigation.

The DCS Specialist must coordinate the investigation with the identified law enforcement agency. Coordination requires a shared, cooperative approach and ongoing consultation, collaboration and communication. A joint investigation shall include:

1. Developing a plan to initiate and complete the investigation;
2. Responding with law enforcement;
3. Frequent and open communication to discuss the status of the case; and
4. Obtaining and sharing information in a timely manner, particularly at the following critical communication points:
  - Completion of interviews,
  - Return of the child victim to the home (Safety Plan)
  - Filing of a dependency petition (Team Decision Making Meeting)
  - Disclosure of information about the criminal conduct

Prior to case closure; DCS Specialist shall identify additional steps needed to ensure the safety of the children and pursue prosecution as appropriate. The assigned DCS Specialist

must initiate the investigation within the assigned response time (see Appendix on DCS Response System & Mitigating Factors).

If law enforcement is not able to respond jointly within the response time requirements established for the department, explain to the law enforcement agency the department must proceed with its investigation to ensure the child's safety.

When a child is identified as a victim in a report alleging criminal conduct, the DCS Specialist must protect the child victim against harassment, intimidation and abuse. This includes not allowing the alleged abusive person or any other person to threaten, coerce, or pressure the child victim, or to be present during interviews, family meetings, or other departmental actions with the child victim.

### **The Office of Child Welfare Investigations Protocol**

The Office of Child Welfare Investigations (OCWI) was legislated into existence pursuant to House Bill 2721 and receives its statutory authority within Arizona Revised Statute 41-1969.01. The OCWI is the latest augmentation to Arizona's Child Welfare System and was born out of Governor Jan Brewer's Child Safety Task Force. The task force was chaired by Maricopa County Attorney Bill Montgomery and co-chaired by Director Clarence Carter of Arizona's Department of Economic Security.

The statutory obligation of the Office of Child Welfare Investigations (OCWI) is to protect children by investigating criminal conduct allegations of child abuse within the State of Arizona. These investigations are to be conducted with law enforcement to maximize the joint investigative process in coordination with multi-disciplinary team partners. The mission of the Office of Child Welfare Investigation is to provide thorough, uniform investigations of child abuse to better protect children and increase the likelihood of criminal prosecution of offenders.

### **OCWI Criteria**

As of this Cochise County Multi-Disciplinary Protocol Update, the following is the OCWI callout criteria:

If the DCS report contains a criminal conduct allegation, the Child Abuse Hotline will determine if the criminal conduct allegation meets the OCWI criteria for an investigation as outlined:

- OCWI is contacted by DCS Hotline on all DCS reports regarding a child fatality of any age and will assess each report to determine if a response is needed. OCWI

will assist in investigations at the request of DCS or any law enforcement agency in the state asking for their assistance.

- Currently OCWI primarily responds to child victims under the age of six (0 through 5 years of age) and within Maricopa or Pima counties; however, OCWI will continue to assist outside of the Maricopa and Pima counties at the request of DCS and/or law enforcement.
- OCWI maintains an ORI for the purpose of employing criminal research analysts who assist in the investigations, particularly in locating missing families of endangered, abducted and/or vulnerable children.

**DCS/OCWI Initial Response:**

I. Upon assignment of a report, the DCS Specialist/OCWI Investigator will conduct an initial review of historical information.

- A. The DCS Specialist/OCWI Investigator will conduct an initial DPS criminal history check on the alleged perpetrators and adults in the home. The criminal history information should be used in developing a strategy to initiate and assist in decision making concerning the safety of the children and DCS/OCWI staff.
- B. The DCS Specialist/OCWI Investigator will review the DCS prior history on the family and alleged perpetrators identified in the report.

If available, the DCS Specialist/OCWI Investigator will contact and interview the source of the report.

- C. The DCS Specialist/OCWI Investigator will contact law enforcement to develop an investigative plan pursuant to the joint investigative protocol.
- D. The investigative plan will be staffed with the DCS/OCWI Manager or designee.
- E. The DCS Specialist/OCWI will still respond in the event of no response or inability/refusal by law enforcement.
- F. The DCS Specialist/OCWI Investigator will participate in a briefing with Law Enforcement to coordinate investigative assignments. This should include the following:

- Coordination regarding which entity will complete interviews of report participants and agreement as to the order of interviews.
- Coordination and assignment of other investigative tasks.
- All reasonable support and assistance shall be provided to staff members who experience violence or the threat of violence while conducting criminal conduct investigations. If information indicates that a situation may be dangerous, the DCS Specialist/OCWI Investigator should request an escort from law enforcement. If involved in a dangerous situation while escorted by law enforcement, wait in a safe area and be available to engage in the criminal conduct investigation when the situation is secured by law enforcement. If unescorted and involved in a dangerous situation, leave immediately, call 9-1-1, and notify an DCS/OCWI Manager when safe.

**Conducting Interviews:**

A. In consultation with DCS/OCWI and law enforcement, determine who will be interviewed and what location is most suitable.

1. In addition to the members of the household, identify other persons known to have information that will help determine whether the child is safe at the present time, whether abuse occurred, and to what extent there is risk of future harm. Individuals who know the family may be able to support the family during the process and if needed, assist the family in creating a safe environment for the child.
2. Consider the advantages and disadvantages of interviewing at school, at home, in the office or in another safe and neutral location.
3. When interviewing the child, consider how to conduct the interviews in a way that maximizes the ability to elicit spontaneous responses and to decrease the possibility of coached or rehearsed answers. Ask open ended questions. [All OCWI Investigators will be trained in basic and advanced interviewing techniques].

B. Determine if interviews should be by appointment or unannounced.

1. Given the particular allegations, how important is it to observe the home

- environment untouched?
2. Given the particular allegation, how important is it to interview or observe the child(ren) alone prior to the parent's knowledge?
  3. From the information available, does it seem likely that the family will cooperate with or be resistant to the investigation?
  4. Does the information indicate the family is relatively stable with strong ties to the community or are they likely to avoid investigation by leaving before you arrive?
- C. Determine if the interview should be conducted alone or in the company of another staff member, or in case of safety concerns, a law enforcement officer.
1. From the information available, what is the likelihood of encountering violent behavior, illegal activities or weapons in the home or the community?
  2. How isolated is the family's home?
  3. How many people are likely to be present?
  4. How many will need to be interviewed?
  5. Is there any indication that an interpreter will be necessary?
  6. Does the situation demand the specialized expertise of another staff member?

### **Specific Material Harm**

The department's case records are confidential and shall not be released, except as specified by law. Information received from the OCWI, including the OCWI documentation within the CHILDS case record, is DCS information and subject to the same confidentiality protection afforded all DCS information. [CHILDS refers to the data collection system used by DCS and the OCWI]

When a case involves a cooperative investigation with the OCWI and a records request is received or a dependency is initiated, the Child Safety Specialist will contact the OCWI Investigator prior to releasing any information.

In an open dependency case, the Child Safety Specialist has an ongoing duty to disclose information (i.e. written DCS reports), including information that was received from the OCWI and law enforcement, to the other dependency parties unless disclosure could:

- Endanger a person;
- Identify the reporting source of a DCS report;

- Cause specific, material harm to an investigation; or
- Violate a federal or state law

Within 24 hours prior to the preliminary protective hearing, the Child Safety Specialist must disclose all DCS information to the other parties in the dependency. The Child Safety Specialist must continue disclosing all DCS information to dependency parties throughout the life of the dependency within five days of creating or receiving the information. In addition, the department is required to promptly provide DCS information regarding a case of child abuse, abandonment or neglect that has resulted in a fatality or near fatality.

The department is not required to release information when such release would cause a specific, material harm to a Department of Child Safety or criminal investigation or when such release would likely endanger the life or safety of any person. If the department releases information, it must take reasonable precautions to protect the identity and safety of the reporting source.

If it is believed that the release of records may harm a criminal investigation, the OCWI Investigator (or the Child Safety Specialist in a case not involving the OCWI) will contact the County Attorney's Office. If the County Attorney agrees that the disclosure of information would cause a specific, material harm to the criminal investigation, the County Attorney must provide DCS with written documentation supporting his/her assertion.

**DISPUTE RESOLUTION** (See Appendix)



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## *Child Advocacy Center*

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The Cochise Family Advocacy Center's mission is to compassionately support and promote the wellbeing of child and adult victims through comprehensive services in a neutral friendly environment.

The Cochise Family Advocacy Center (CFAC) is an additional resource for use by law enforcement, OCWI, DCS as well as other agencies to assist in a thorough investigation and enhanced prosecution of child sexual abuse and child physical abuse/neglect cases. CFAC also provides support and resources designed to minimize trauma of child victims, critical child witnesses and their non-offending family members from initial outcry through various phases of the multidisciplinary response to child abuse and neglect.

### 1. Services Provided

- a. Case consultation with other MDT professionals,
- b. Forensic interviews conducted by trained professionals in child friendly rooms with recording equipment,
- c. Sexual assault examinations by trained professional nurses,
- d. Medical Director provides case review for quality assurance, and
- e. Victim advocacy services including but not limited to: crisis assessment and intervention, risk assessment, and safety planning and support for children and family members at all stages of involvement with CFAC; assessment of individual needs and cultural considerations for the child and family to ensure those needs are addressed; presence at CFAC during the forensic interview in order to participate in information sharing, inform and support family about the coordinated, multidisciplinary processes, and assess the needs of child and non-offending caregiver; provision of education and access to victims' rights and crime victims' compensation; assistance in procuring concrete services (housing, protective orders, domestic violence intervention, food, transportation, public assistance, etc); provision of referrals for specialized, trauma focused, evidenced-supported mental health and medical treatment, if not provided by CFAC; access to transportation to interviews, court, treatment and other case related meetings; engagement in child and family response regarding participation in the investigation and/or case prosecution; participation in case review in order to discuss the unique needs of the child and family and plan associated support services, ensure the seamless coordination of services, and ensure the child and family's concerns are heard and addressed; provision of

updates to the family on case status, continuances, dispositions, sentencing, and inmate status notification (including offender release from custody); provision of court education and courthouse/courtroom tours, support and accompaniment; and coordinated case management meetings with all individuals providing victim advocacy services.

## 2. Cases Eligible for Referral

Any cases designated as Criminal Conduct involving a child victim/critical witness under the age of 18 years is appropriate for referral to an FAC. Other cases can be referred on a case by case basis.

These include:

- a. High Risk Physical Abuse - High risk cases involving severe life-threatening injuries requiring emergency medical treatment and/or parent presents a serious threat to the child.
- b. Moderate Risk Physical Abuse – Moderate risk cases involving serious/multiple injuries which may require medical treatment and/or a child at risk for serious physical abuse if no intervention is received.
- c. High Risk Neglect – High risk cases involving serious life-threatening situations requiring emergency intervention due to the absence of a parent, or a parent who is either unable to care for the child due to physical or mental limitations or is unwilling to provide minimally adequate care.
- d. High Risk Sexual Abuse – High risk cases involving physical evidence of sexual abuse reported by a medical doctor or a child reporting sexual abuse within the last seven days.
- e. Moderate Risk Sexual Abuse – Moderate risk cases involving sexual behavior or attempted sexual behavior occurring eight days or up to one year prior and/or child is exhibiting indicators consistent with sexual abuse.
- f. Other cases meeting CFAC criteria may be referred on a case-by-case basis (i.e. child labor and/or sex trafficking; critical child witnesses to violence).

## 3. How to refer a case

The Cochise Family Advocacy Center requires a Detective or DCS/OCWI specialist make all referrals of a minor prior to services. If a family or community member calls requesting services, they will be directed to the

appropriate investigative agency or a support service that can help them contact an investigative agency (i.e. victim services specialist who may assist a community member fearful to report). Contact Cochise Family Advocacy Center by phone during normal business hours (M-F 8:00 AM – 5:00PM) at 520-515-4444. For cases requiring immediate emergency response on holidays and during off-hours, on-call staff is available to coordinate required services at the same number listed above.

a. Provide as much information as possible about the case and services required. To the extent possible, the caller must identify the language that the child speaks and if possible, the language of the parent/guardian. Advice of any medical or mental health issues, including those that affect the child's ability to communicate or be receptive to language (i.e. hearing impaired) are necessary to ensure that services are provided in a manner that responds to the needs of the child. Any other cultural or diversity issues known to the caller are to be identified to the FAC staff.

b. Indicate if the case is an emergency requiring an immediate response.

#### 4. When to refer a case

A case may be referred to Cochise Family Advocacy Center at any time during an investigation. However, it is suggested that cases be referred to the Cochise County Advocacy Center immediately to ensure maximum assistance by all the MDT Members.

#### 5. What to expect after a referral

a. Following a referral to the Cochise Family Advocacy Center, a date and time will be established to conduct the initial services requested by law enforcement and/or DCS/OCWI in consultation with other team members as needed.

b. The initial services requested generally include a forensic interview and medical evaluation, as needed. However, other initial services can be identified (i.e. victim advocacy for out of state child witnesses, etc.). Once the initial services are identified and scheduled, the following will take place:

- Briefing of other MDT members
- Identification and prioritization of needs,
- Formulation of plan of action and coordinated investigation
- Initial Assignments

As the needs of the child victim and non-offending family members change through various phases of the MDT response, additional services and resources to support the child victim and family members will be identified and implemented. It should be noted that an on-site victim advocate meets with each family at the time initial services are provided.

Case reviews utilizing the expertise of the various disciplines are held monthly at various locations, however, at any time during the MDT response to child abuse, any MDT member can request a case review through the FAC Coordinator or designated FAC staff member. This collaborative effort is intended to address the wide range of issues that can affect the child victim and family as they progress through multiple, complex systems involved during the MDT response to child abuse and neglect.

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## *Forensic Interviews*

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### **A. Overview of Forensic Interviewing**

The purpose and methodology of forensic interviews differ significantly from therapeutic interviews and treatment. The forensic interview is a fact-finding interview, designed to maximize the amount and quality of the information obtained from the child, while minimizing contamination of that information. Forensic interview methods and procedures are designed to minimize trauma the child may experience during the interview while maintaining the integrity of the investigative process for the joint agencies involved.

Forensic interviews are ideally conducted in safe, child-sensitive environments and electronically preserved in order to preserve evidence and decrease the number of times a child is interviewed. Forensic interviews of children may be conducted at the FAC in the child-friendly interview rooms. In emergency circumstances (i.e. critical child witness to homicide), the forensic interview may be conducted in the field at a safe location. Late night interviews in the field should be considered carefully. If a child is tired, distressed or experiencing shock, the interview may be compromised and scheduling an interview the following day may decrease stress and allow for better responsiveness by the child. In exceptions as outlined previously, 75% of all forensic interviews conducted in Cochise County will be done in a CAC/FAC.

It is recommended that the forensic interview of a child victim or critical child witness be conducted as soon as possible following the outcry or initial report to law enforcement and/or DCS or OCWI if the child's mental and emotional status will permit. To the extent possible, a timeframe of 5 days or less after the outcry (depending on urgency) is suggested. The sooner the forensic interview is conducted, the more likely it is that the child victim or witness will have access to needed resources (i.e. medical exams, counseling, etc.).

Note: Forensic interviews conducted as agency assists for other jurisdictions will be provided within seven days of the agency request. However, if the matter is identified as urgent, every effort will be made to accommodate the requesting agency.

### **B. Forensic Interviewers**

Forensic interviews conducted at Cochise Family Advocacy Center are done so by trained forensic interviewers. These interviewers are separate and apart from mental health providers who provide services using treatment methodologies that differ from

investigative interviews. Cochise Family Advocacy Center carefully vets forensic interviewers and to the extent possible, select those with education in child development as well as education or experience in criminal justice and/or civil proceedings. Prior to conducting forensic interviews, CFAC interviewers must satisfactorily complete forty hours of the National Children’s Alliance (“NCA”) approved Arizona State recognized forensic interview training that includes components regarding child development and forensic interview methodology. Further, CFAC forensic interviewers must:

- a) attend a minimum of continuing education 8 hours every two years regarding forensic interview updates in accordance with NCA standards, and
- b) participate in forensic interview peer reviews quarterly or more often as needed

The FAC is available to other forensic interviewers (i.e. law enforcement officers) to conduct forensic interviews, however, CFAC will require that the interviewer have NCA approved forensic interview training, annual updates and peer reviews per NCA standards. Law enforcement, child welfare personnel, prosecutors and all other MDT members are strongly encouraged to attend the forensic interview competency-based training so that all team members are aware of the forensic interview rationale and methodology.

### **C. Interview Methods and Procedures**

Cochise Family Advocacy Center follows the semi-structured protocol adopted from the National Institute of Child Health and Human Development (“NICHD”) Protocol Interview Guide. The NICHD forensic interview protocol ensures a research-based interview methodology which increases the likelihood that the interview will be conducted in a neutral, non-leading manner. The NICHD method affords opportunities to obtain the child’s version of the events under investigation by emphasizing the use of narrative, cue questions, and open-ended questions. The nature of follow up questions is designed to clarify important information provided in the child’s narrative, along with other important investigative issues (i.e. critical elements of the crime; source monitoring issues, etc.). Thorough forensic interviews can also provide additional investigative leads (i.e. physical evidence that needs to be collected, additional witnesses, etc.). The protocol’s emphasis on interview questions that elicit free recall from children minimizes interviewer influence and suggestion, enhancing the likelihood that the interview will be legally sound. Further, a comprehensive forensic interview allows for prompt identification of additional services the child may require (i.e. medical exam). Phases of the NICHD protocol include:

- Introductory phase – explaining the purpose and ground rules; eliciting promise to tell the truth,
- Rapport building phase,

- Episodic memory/narrative practice regarding a neutral event,
- Transition to investigative issues using open-ended non-suggestive verbal prompts,
- Free recall phase - investigating the incident using a variety of open-ended prompts with direction to specific episodes if more than one incident is described,
- Clarification of investigation information provided in free recall with non-leading questions,
- Closure.

A sound forensic interview reduces the need for multiple interviews and allows for the gathering of information needed by all the MDT members.

Note: While one forensic interview would be ideal, it is recognized that there are circumstances when a follow-up interview may be required. If a follow-up forensic interview is required, the purpose, along with specific issues to be addressed will be clearly delineated by the assigned prosecutor along with team members (i.e. law enforcement, forensic interviewer). The follow-up interview will be conducted in a non-leading manner, however some questions may reference information that was presented by the child in the initial interview. The follow-up interview will be electronically preserved, ideally on video/DVD.

While the NICHD protocol emphasizes questions designed to elicit free recall from children, Cochise County Attorney's Office and Cochise Family Advocacy Center recognizes that each child has special circumstances and needs (i.e. reluctant witnesses, mentally challenged). The FAC forensic interview protocol does allow for the use of interview aids (i.e. paper and pencil for writing/drawing) for clarification of information already provided by the child. Interview aids are not to be used in a leading or suggestive manner. Further, competing attention tasks during the interview (i.e. child playing versus focusing on investigative questions) are not recommended. The use of anatomical dolls is not recommended in this protocol.

#### **D. The Forensic Interview Process**

The law enforcement case agent and/or DCS/OCWI caseworker, in consultation with the child's guardian (non-suspect) call Cochise Family Advocacy Center at 520-515-4444 between 0800 and 1700 hours Monday through Friday or the on call staff outside of normal office hours to schedule forensic services. A comprehensive team response requires having all of the MDT investigative agency personnel and MDT members (i.e. law enforcement; DCS/OCWI; medical providers; and victim advocate) present during the interview process. If law enforcement schedules the interview, they will notify DCS/OCWI and vice versa. Other MDT members, as needed, will be

contacted via telephone or email when scheduling the interview. If local law enforcement determines that tribal, state or federal law enforcement is involved, local law enforcement will notify those agencies of the interview.

(Note: If the child has a Guardian ad Litem, the Gal will be notified of the forensic interview by the FAC scheduler before initiating the interview process).

In order to provide culturally competent services, inquiries are made during the initial telephone contact to determine primary language of the child along with any disability concerns. If a translator is needed, the FAC will contact a translator (i.e. language translator; translator for hearing impaired, etc.). For translator services involving the hearing impaired notify Community Liaison for Victim Services at 520-866-6813 or Hearing Impaired Translator Services at 602-513-3533.

Additionally, if a child is known to have sexually reactive behaviors, and is being interviewed as a possible victim, that child's forensic interview appointment will be scheduled when no other children are in the waiting area at the time.

If it is known by law enforcement or DCS/OCWI that the child will require a forensic medical exam, CFAC staff will schedule the medical evaluation to be conducted immediately following the forensic interview. It is not unusual for children and families to be in crisis when an investigation of child abuse is initiated. A Victim Advocate will remain with the family during the time investigative services are provided at CFAC and will provide critically important support and information during the ongoing investigation and throughout various points of service as needed (i.e. pre, during and post prosecution).

In the unusual circumstance where the Victim Advocate is absent, the FAC Coordinator or other appropriate FAC staff will advise the family of the FAC process and provide any necessary immediate support. The FAC Coordinator, will notify the Victim Advocate via telephonic contact or e-mail that the child and family requires follow-up. The Victim Advocate will contact the family either via telephone or in person within 48 hours of the notification (See Victim Services section). In coordinating the joint investigation with all team members present, the FAC administrative staff scheduler will notify, at a minimum, the following team members of scheduled forensic interviews: law enforcement; DCS; OCWI as needed; Forensic Interviewer; Medical Provider; and Victim Advocate.

When the child/family arrives, FAC staff will welcome the family, provide a comfortable place to relax and screen for suspect presence. Juvenile suspects of any age and adult suspects are not allowed on CFAC premises. An assigned FAC staff member remains with the family in the waiting/play area. To further ensure safety of children and families at FAC, the play/waiting area of the FAC is monitored with cameras that are readily visible on secure computers in the FAC.



**MDT Pre-Interview Meeting** will be conducted with law enforcement, DCS caseworker, medical provider, forensic interviewer, victim advocate and other MDT members as needed (i.e. translator), to discuss allegations and share case information before the interview.

**Parent Pre-Interview Meeting:** Law enforcement, DCS/OCWI and the forensic interviewer will meet with the non-offending parent or guardian for information about the allegations prior to interviewing the child victim or witnesses. FAC staff remain with the child in the waiting area. Security cameras of the waiting area are in place with viewing capacity on all computers in the FAC.

**Forensic Interview:** The forensic interview of the child is conducted by the forensic interviewer following the Forensic Interview Guidelines in the private, child-friendly FAC interview room. Law enforcement, DCS/OCWI, and other MDT members as needed (i.e. Nurse Practitioner) observe the interview on monitors in the observation room. The FAC interviewer turns on and off the recording equipment. The child is asked to leave electronic devices out of the interview room.

(Note: Parents are not participants in the interview room with their child, nor are they participants in the monitor room. Every effort is made to ensure the integrity of the investigation by minimizing potential witness influence. Further, if the parent becomes a witness, this could prevent him/her from being in the court room should the child have to testify in court. There may also be circumstances where the child reports abuse or neglect occurring in the home during an interview regarding an unrelated matter.)

During the child's interview, the on-site victim advocate meets confidentially with non-offending parents. Non-offending siblings are cared for in the waiting/play area by FAC staff.

**Post-interview Meetings:** Law enforcement, DCS/OCWI, the forensic interviewer and other MDT members as needed, discuss the interview findings. Law enforcement and DCS/OCWI, along with other MDT members as needed (i.e. translator) then conduct a post interview meeting with the non-offending parents to briefly inform them of the interview results, as well as to ensure a safety plan, and to inform the parents of the next steps of the investigative process. The FAC Victim Advocate will provide (verbally and in writing) resources for crisis intervention services, mental health services and victim support so that prompt intervention can be possible for the child and non-offending family/guardian. The Victim Advocate also assists non-offending parents with completion of the victim compensation applications. (See Victim Advocacy Section). Crisis intervention provided by Crisis Advocate at CFAC or by Grossman & Grossman for further trauma focused therapy services (See Mental Health section).

The forensic interviewer, law enforcement, DCS/OCWI, medical provider, and other MDT members as needed, will meet to discuss findings, next steps and recommendations.

The forensic interviewer provides a copy of the recorded interview to law enforcement with DVD labeled per evidentiary requirements and DVD will be retained as evidence at each respective police department per their evidentiary policies. FACs retain a copy of the DVD in a locked case file to allow for court preparation or peer reviews as needed. Any requests for copies of the forensic interview DVD's will be forwarded to the appropriate law enforcement agency or Cochise County Attorney's Office.

Note: If the Victim Advocate is absent, appropriate FAC staff will provide the resource/referral information to the parent and child (if age appropriate). In the unusual circumstance where either law enforcement or the DCS worker are unable to attend the forensic interview, the forensic interviewer will notify the respective professional within 48 hours or sooner as needed, of the interview outcome and "next steps" recommendations of the other team members.

If the child was scheduled for a medical exam, the FAC will direct the parent and child to meet with the medical provider (See Medical Evaluation section).

### **E. Documentation**

At the completion of the interview, the DVD will be labeled at a minimum with the evidentiary data: date of the interview, and police report number. The pertinent statistical information will be maintained by CFAC's Executive Director.

CFAC Coordinator or designated staff will document the services provided in the Grant Management System to track services.

### **F. Peer Reviews and Ongoing Education**

The forensic interviewers (and/or detectives who conduct forensic interviews of children) will participate, at a minimum, in quarterly peer reviews coordinated by the lead forensic interviewer of Cochise Family Advocacy Center. It is strongly recommended that individuals who are trained forensic interviewers, conducting forensic interviews in Cochise County participate in at least four forensic interview peer reviews per year. The peer review process is designed as a learning experience and an opportunity for further education. No written record will be kept of the peer reviews. Educational updates regarding research and issues related to forensic interviews of children will be provided during forensic interview peer reviews, case reviews, and at a minimum,

quarterly by the designated CFAC facilitator to MDT members (i.e. through the identification of webinars, conferences, disseminated literature, etc.) to reflect current day practices.

### **G. Release of Information**

Cochise Family Advocacy Center will not be authorized to release any information regarding video recordings or interviews to unauthorized agencies. Any requests, including court orders, to view video recordings should be referred to local law enforcement agencies or the Cochise County Attorney's Office.

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### *Case Review*

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The case review process enhances the effectiveness and efficiency of the investigation and prosecution of a case, provides a cooperative environment for professionals to share information, solve problems and minimizes further trauma to the victim.

Case review represents the true multidisciplinary spirit of the FAC model and provides a means for team members to benefit from the expertise of all disciplines participating in the case review process. All MDT members are bound by confidentiality and are precluded from sharing privileged information with anyone outside of the MDT other than pursuant to court order sent to their respective agencies. All case review MDT members will sign a confidentiality agreement and the CFAC facilitator will read the confidentiality agreement prior to the start of the meeting. The signed confidentiality form will also serve as the sign-in log.

Case reviews will be scheduled monthly by the FAC Coordinator or designated FAC staff member at a date and time that is convenient (to the extent possible) for the MDT members. Currently, case reviews are scheduled for the third Wednesday of every month between 0900 hours to noon. The Cochise County MDT will have a core multi-disciplinary team that includes, at a minimum: County Prosecutor, law enforcement, DCS/OCWI, forensic interviewer, FAC Victim Advocate, mental health provider and medical professional. Additional team members, including, but not limited to schools, court appointed providers, and other specialists (e.g. medical examiner; pediatric

ophthalmologist) will be added as needed for individual case consultation. All MDT members will be requested on a rotating basis, to provide a case for MDT case review. At the conclusion of each case review meeting, the FAC Coordinator will inquire if there are any cases MDT members determine are a priority for the following month's case review. The FAC Coordinator or appropriate FAC staff will send to all MDT members via secured e-mail, a notice regarding date, time and cases to be discussed. The notice will be sent a minimum of one week prior to the case review. If any MDT team member is unable to attend, it is requested that the respective agency send an alternate to participate in case review.

**Case reviews generally include the following:**

- a. Summary of the outcry/initial report and the child and family's progress through the system(s) to the current point in time
- b. Physical and supportive needs of the victim and family (i.e. improper influence by family members; need for guardian ad litem, Orders of Protection, housing, etc.)
- c. Matters or concerns from victim/witness advocates and mental health professionals.
- d. Forensic interview evaluations (i.e. adequacy of; new information developed from the interview; discovery of other interviews such as by a court ordered professional in dependency matter; etc.)
- e. Planning and monitoring the progress of the on-going or active investigation. (i.e. discovery of other victims, witnesses)
- f. Review of the medical evaluation if appropriate (i.e. findings; lab results if any necessary medical follow-up such as repeat testing, etc.)
- g. DCS status and process.
- h. Prosecution status, sentencing decisions and/or the civil/criminal case disposition.
- i. Assessing any court advocacy and/or victim compensation needs.
- j. Victim services concerns (compensation and court preparation).
- k. Cultural and/or disability issues relevant to the victim and/or the family members (i.e. hearing impaired; language barrier; cultural issues related to disclosure/treatment, etc.)
- l. Recommended follow-up (multidisciplinary – “nextsteps”)
- m. An educational presentation, as needed
- n. General Discussion

At a minimum, two specific action plans will be addressed:

- 1) Relating to criminal prosecution or civil matters, and
- 2) Recommendations for additional needs of and protections for the victim.

All members of the MDT are requested to participate in providing case specific information, education related to their specific specialties and to share in the decision-making process. The recommendations of the MDT will be communicated by the FAC Coordinator or their designated FAC staff member to the appropriate parties for consideration and implementation. Critical team members that were not able to attend the case review will be provided a telephonic update by the FAC Coordinator within five days of the case review. Case review meetings may also be used to discuss topics for cross training, new educational opportunities, multidisciplinary strategies or topics regarding the methods and procedures of case review and any suggestions for improvement to the manner in which case reviews are conducted.

All MDT members will be encouraged to share educational opportunities, positive outcomes, dilemmas, and recommendations for change. MDT members will be provided a survey (OMS) at a minimum, quarterly, to assess team member interactions, quality of case review, and areas the team could improve upon.

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### *Case Tracking*

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FAC staff maintains a case tracking system to collect and track data on each child/case served by the FAC through final disposition. At the initial intake phase, an intake form is completed by the FAC Victim Advocate. This is the preliminary information designed to identify jurisdiction and core team members that need to be notified of all scheduled services. As the case progresses, additional information, documented by individual team members into a case tracking system identified as “Grant Management System” is entered into the database maintained by FAC Coordinator. This database is primarily utilized to generate reports for program evaluation, grant reporting and statistical reporting. It contains case data including:

- Demographics about the child and family,
- Information about the offender,
- Type of abuse,
- Relationship of perpetrator to child,
- Assigned MDT members,
- Charges filed,
- Criminal case disposition,
- Child Safety & Family Services outcome,
- Status of medical, mental health and other referrals.

The Grant Management System is the designated database that will be utilized by the FAC. Therefore, the FAC Coordinator will be able to track criminal case dispositions and periodically update the FAC case tracking database. Team members can get access regarding case tracking data by contacting the FAC Director.

CFAC uses the NCA Outcome Measurement System (OMS) to evaluate client service delivery. Families may complete surveys electronically or by hand while at CFAC and/or contacted by a victim advocate as part of the follow-up.

## **Reporting Compliance**

An annual report shall be transmitted within 45 days after the end of each fiscal year, independently from DCS and the Cochise County Attorney to the Governor, the Speaker of the House of Representatives and the President of the Senate. This report is a public document and shall include:

- a. The number of criminal conduct allegations investigated and how many of these investigations were conducted jointly pursuant to the Protocols.
- b. Information from the Cochise County Attorney's Office regarding the number of cases presented for review, the number of persons charged in those cases, the reasons why charges were not pursued and the disposition of those cases.
- c. The number of joint investigations conducted by each law enforcement agency in the County; If a joint investigation did not occur then the reasoning for such a decision will be included.

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## *County Attorney Protocol*

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The CCAO has long emphasized a sensitive and coordinated approach to the prosecution of child physical and sexual abuse cases through vertical prosecution and specialized training.

Special consideration is given to the selection of the attorneys who prosecute child involving child physical and/or sexual abuse cases:

1. All sex crimes attorneys are experienced prosecutors and trial advocates.
2. The attorneys are carefully chosen for their expertise, interest and sensitivity to the myriad of issues surrounding child victims/witnesses.
3. The attorneys are expected to remain current on case law and research on victim and offender related dynamics. They are also expected to be familiar with the medical issues and literature on child sexual/physical abuse.

Upon appointment to either child abuse or sex crimes an attorney must complete the following training:

1. 8 Hour basic forensic interview training;
2. 40 hour advanced forensic interview training; (Because this course involves practicum for interviewing and testifying designed primarily for law enforcement and child protective services workers, the attorney may audit the course);
3. 8-Hour basic training on child physical abuse;
4. The attorneys must complete two of the following within two years:
  - a. Investigation and prosecution of child abuse: Equal Justice for Children;
  - b. Investigation and prosecution of child fatalities and physical abuse;
  - c. Child Proof: Advance Trial Advocacy for Child Abuse Prosecutors.
5. Because training opportunities vary, the attorney may substitute another similar training for any of the above requirements with the approval of the County Attorney.

## **I. Duties of the Sex Crimes Attorney**

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

1. On-call attorneys assist law enforcement agencies in child abuse investigations. 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/or
  - e. Attend the autopsy.

### **B. Charging Review**

The on-call attorney will review all investigations submitted by law enforcement agencies involving sexual assaults, child sexual abuse, child exploitation, indecent exposure, child abuse, child homicide, custodial interference or kidnapping for the possible filing of criminal charges.

After the investigation is completed by law enforcement, the police agency submits a departmental report to the attorney for review.

1. Submittals are designated either as Out-of-Custody or In Custody.
  - A. Out-of-Custody Submittals:
    - Aside from the statute of limitations, there is no legal time limit imposed for filing charges;
    - Submittals should have a reviewing decision made within 90 days from the date the submittal was received by the Cochise County Attorney's Office.
  - B. In-Custody Submittals:
    - Charges via a complaint must be filed within 48 hours of an initial appearance (an "Initial Appearance" occurs within 24 hours of being booked into jail) in order to maintain the bond or release conditions, which were set at the initial appearance. The 48 hours does not include weekends and holidays.



- If charges are not filed within the 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.
  - If, at the initial appearance, the defendant was released on his own recognizance, on bond, or to pre-trial services, and charges were not filed, all release conditions will no longer apply and any bond posted will be exonerated.
  - For a complaint to be filed in a timely fashion, the agency must fax or otherwise present a copy of the report to the charging attorney within twenty-four (24) hours of the initial appearance.
- C. As a practical matter, not all defendants who are arrested will have charges filed.
- There will be instances where further investigation will be necessary before the case is ready to be filed; or
  - The case may not meet the County Attorney's Office standards for prosecution.

## **II. Processing Submittals**

Once the investigation has been submitted, a reviewing attorney reads the report(s) and decides if the submittal is to be furthered for additional investigation, declined for prosecution, or filed.

1. Submittals furthered for additional investigation:
  - a. The reviewing attorney will list with specificity the information necessary for prosecution.
  - b. The submittal is then returned to the investigating agency to complete the investigation, with a copy to DCS.
  - c. At this juncture, the law enforcement agency has two options:
    - To complete the investigation; or
    - To inactivate/close the investigation.
 If the decision is to inactivate/close the investigation, then a letter to the County Attorney shall be sent stating the basis for the decision.

- d. When the requested further investigation is complete, the law enforcement agency will re-submit the report for the County Attorney's review.
  - e. If the agency does not pursue the investigation, the County Attorney's Office must be notified in writing, **WITHIN THIRTY (30) DAYS**.
2. Submittals declined for prosecution:
- a. The primary reason submittals are declined for prosecution is a failure to meet the office-charging standard, i.e. the submittal, when reviewed 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 reviewing attorney determines a decline is appropriate, the County Attorney may review the submittal at the specific request of the victim, DCS or law enforcement.
  - d. A letter indicating the decline 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.
  - e. The submittal is then returned to law enforcement indicating the decision not to file and a copy sent to DCS.
  - f. The victim or the victim's lawful representative has the right to confer with the initial reviewing prosecutor regarding the decision not to prosecute;
  - g. All cases that are **NOT FILED** may be re-evaluated if new evidence is presented.
  - h. With the exception of homicide and, as of 2001, any Class 2 Sex Crimes (Chapter 14 or 35.1) case which has 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. (See Appendix ARS 13-107)
3. If a submittal is appropriate for prosecution:
- a. The Deputy County Attorney shall issue appropriate charges.
  - b. A probable cause determination must be made through either a Preliminary Hearing or a Grand Jury.
  - c. The majority of child physical or sexual abuse cases will be taken to Grand Jury. Grand Jury proceedings are not open to the public and do not subject the victim to the stress of testifying.

### **III. Vertical Prosecution – A Team Approach**

- A. The County Attorney’s Office utilizes vertical prosecution with a team approach in child sexual abuse, child physical abuse and homicide cases.

Vertical prosecution means the same County Attorney who reviewed the submittal and filed the charges will prosecute the case.

- B. The County Attorney’s policy is to use a team approach in prosecution. The team consists of the Deputy County Attorney, County Attorney Detectives, Court Victim Advocate, Legal Assistants and outside agencies, such as the Department of Child Safety.
  - 1. County Attorney Detectives may be utilized to assist the prosecutor once a case is filed.
  - 2. Court Victim Advocates act as a liaison between the Deputy County Attorney and the victim’s representative. The Deputy County Attorney, in conjunction with the court victim advocate work with the victim, parent, guardian *ad litem* or the victim’s attorney on the case.
  - 3. Legal Assistants help in the research and preparation of motions regarding special issues surrounding child sexual and physical abuse prosecutions.
  - 4. The Department of Child Safety is an independent State agency that deals with civil issues involving the child victim. If a case involves DCS intervention, the Deputy County Attorney will attempt to work with the designated caseworker, recognizing the goals for case resolution will not necessarily be the same for each agency.
  - 5. Prosecution is a team effort among the investigative agency, the prosecutor, the Court Victim Advocate, the victim and the witnesses. All members of the team are under a continuing obligation to exchange information about the case. The assigned Detective is encouraged to assist prosecution during the trial.

### **IV. Case Dispositions – Change of Plea or Trial**

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

1. Sex crimes and serious physical abuse cases are staffed for disposition by the Deputy County Attorney and County Attorney.
2. Plea guidelines as well as prior case dispositions will be used in making plea offers in order to provide consistency of dispositions among similar cases.
3. Serious physical injury cases utilize office plea guidelines, with the child abuse prosecutor managing the case disposition based on the specifics of the case.
4. In all child 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.
5. Plea offers should be extended within 30 days of arraignment, following office policy, and should be entered within 90 days after the arraignment date. Extensions of the plea offer may be granted but only with the approval from the County Attorney.
6. The offer is communicated to the victim via the Court Victim Advocate or the attorney. It is the duty of the County Attorney's Office to see that justice is served in the handling of criminal cases. In that endeavor, it is recognized that the victim's opinion of what is just in their case may differ from the views of this office.
  - If the victim's view of the disposition diverges from the staffing offer, he or she shall be given the opportunity to discuss their disagreement with the Deputy County Attorney and, if necessary, with the County Attorney.
  - If the difference of the 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.
  - 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 a Change of Plea, the case is set for trial. The CCAO recognizes that many victims and/or their lawful representatives are apprehensive about testifying. Trial apprehension may be caused by:

- Unfamiliarity with the trial process;
- Uncertainty regarding whether or not the case is proceeding to trial;

- Unnecessary delays; The Deputy County Attorney will not create any unnecessary delays. The Deputy County Attorney will oppose any unnecessary delays.
- Fear of testifying.

## **V. Trial Disposition – Trial and Victim Preparation**

A. Trial preparation is the responsibility of the Deputy County Attorney.

1. The Deputy County Attorney should meet with the victim in order to acquaint the victim with the trial process.
2. The Deputy County Attorney should strive to develop rapport with the victim.

B. Victim preparation is the responsibility of the Deputy County Attorney with the assistance of the Court Victim Advocate.

1. In all but very rare cases, the victims are required to testify in court.
2. At least three days before the trial, the victim will be taken into a courtroom and the Deputy County Attorney will explain courtroom protocol and procedures to the victim.
3. The Deputy County Attorney is aware that the courtroom may be intimidating to the child/victim.
  - In appropriate cases, the Deputy County Attorney may request adaptation of the courtroom in order to fit the victim's needs.
  - When handled properly, trial testimony can be a powerful aid to the victim recovery process.
  - The Deputy County Attorney takes an active role in the victim's recovery process by the manner in which he/she handles a case destined for trial.
  - If requested to do so, the Deputy County Attorney will assist the victim in selecting a support person to be present during the victim's testimony, in addition to the Court Victim Advocate.
  - The support person cannot otherwise be a witness in the case, unless that individual is the victim representative.

- The Deputy County Attorney will seek appointment of an interpreter or guardian *ad litem* for a victim in appropriate cases.
  - 4. Prior to trial, the Deputy County Attorney and the Court 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 Deputy County Attorney will be present at the victim's request and will actively participate in the interview.
    - b. The Deputy County Attorney will make necessary arrangements for any reasonable conditions requested by the victim, including;
      - The presence of the Court Victim Advocate who acts as a support person for the victim, or
      - The presence of another support person.
    - c. The Deputy County Attorney or his/her representative will arrange defense interviews of witnesses at the defense's request.
      - The Deputy County Attorney or his/her representative will be present and will tape record the interview.
      - The Court Victim Advocate will arrange interviews with the victims, their family members, and any special needs witnesses.
- C. The County Attorney's Office recognizes that child sexual and physical abuse cases often require retention of expert witnesses.
1. In those cases, the County Attorney's Office will pay reasonable fees for that expertise.
  2. Professionals who 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) are not entitled to receive expert witness compensation.
  3. Expert and professional witnesses often have scheduling difficulties. The Deputy County Attorney shall strive to give adequate notice of a pending trial date to these witnesses.
  4. Special considerations 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.

## **VI. Jury Verdicts**

Once the case has been presented and the jury returns with a verdict, the Deputy County Attorney and/or the Court Victim Advocate will inform the interested parties and team members of the case outcome.

1. A jury has three (3) options in reaching a verdict on any of the charges:
  - Not guilty, in which case the defendant is acquitted, charges are dismissed and the defendant is free from future prosecution on that matter;
  - Guilty, in which case the defendant is bound over for sentencing;
  - “Hung Jury”, in which case the jury was unable to reach a unanimous verdict as to the defendant’s guilt or innocence. Officially, this results in a mistrial and the case is reset for trial. The case may be re-tried, resolved by plea, or dismissed.
  - It is the Deputy County Attorney’s responsibility to consult with and keep the victim informed of the decision regarding the final disposition of the case.

## **VII. Sentencing**

- A. If the defendant pleads guilty or no contest, or if the jury finds the defendant guilty, the Deputy County Attorney and/or the Court Victim Advocate will inform the victim of the sentencing procedure.
- B. The sentencing date is 30 to 90 days after conviction.
- C. The duties of the Deputy County Attorney include:
  1. Submitting an Adult Probation packet to the Adult Probation Officer.  
This packet includes:
    - Departmental reports;

- The indictment, information or complaint;
- A copy of the plea agreement (when applicable);
- Victim’s biological information;
- Other relevant information; and
- The Deputy County Attorney’s sentencing recommendation.

D. Upon request of the victim, the Deputy County Attorney:

1. Will inform the victim of his/her rights to restitution.
2. Will inform the victim of sentencing procedure options, such as:
  - The defendant may seek a continuance of the original sentencing date in order to present mitigating evidence;
  - The State may seek a continuance of the original sentencing date in order to present mitigating and/or aggravating evidence;
  - Either side may request a mental examination under Rule 26.5, Arizona Rules of Criminal Procedure.
3. Will inform the victim of his/her sentencing options at the sentencing proceedings:
  - The victim or the victim’s lawful representative has the right to be present at the sentencing;
  - The victim or the victim’s lawful representative has the right to address the court.
4. Will assist the victim in addressing the court.
  - The Deputy County Attorney may request of the court that the matter proceed in chambers.
  - The Deputy County Attorney may assist the victim in preparing a written impact statement to present to the court.

## **VIII. Post Conviction Relief and Appeals**

The Deputy County 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 changes of plea proceeding. PCRs are handled by the Deputy County Attorney.
2. An appeal is legal review of the trial proceedings. Appeals are handled by the Attorney General's Office.

**IX. Dispute Resolution** (See Appendix)

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## *Mental Health*

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The psychological health of children and families in Cochise County is of utmost significance during the multidisciplinary team response to child abuse and neglect. The profound importance of mental health is underscored by the FAC's recognition that psychological trauma and other mental health issues may arise at any point of the MDT response, intervention and follow-up of child victims and their families.

Through their contact with children and families, mental health providers are at times the first providers that initiate a child abuse report. Further, mental health providers may have important information regarding the context of a child's everyday life (i.e. family environment, social support, etc.). Mental health providers are also instrumental partners in providing mental health education in our Cochise County communities.

All caretakers of children who present to the FAC will be provided by the Victim Advocate (or the FAC designee) in written form and verbally, referrals for crisis intervention and mental health services. The written documents will be available in both Spanish and English. If other translators are needed, to the extent possible, these will be selected as outlined in the cultural competency section of this document.

Mental health services will be routinely made available to all children and non-offending family members irrespective of ability to pay. These services will be offered as part of the multidisciplinary team response in Cochise County. Although team members will make an effort to encourage mental health support, it is recognized that the choice to seek out services, along with when and where this will be accomplished is the parent/caretaker(s) choice.

### **FAC Mental Health Providers/Linkage Agreement**

Cochise Family Advocacy Center has a linkage agreement with a private practitioner who offers specialized trauma-focused, evidence-based mental health services to children and non-offending family members. This agreement with Jennifer O'Neill MS, LPC, NCC a mental health practitioner will offer services to victims and

non-offending family members as well as Direct Supervision services to CFAC's in-house therapist. Jennifer O'Neill offers bi-lingual (English and Spanish) counseling services. Referrals for trauma-focused mental health services will be offered to all children and non-offending family members and adult victims as part of the FAC's multi-disciplinary team response.

### **Mental Health Provider Education and Experience**

Therapist Jennifer O'Neill and CFAC's in-house therapist provide trauma-focused mental health services to FAC clients that meet the NCA professional standards for provision of empirically supported trauma-focused mental health services. The mental health providers meet a minimum of one of the following standards:

- Masters prepared in a related mental health field,
- Student intern in an accredited graduate program,
- Licensed/certified or supervised by a licensed mental health professional,
- A training plan for 40 contact hours of specialized trauma-focused mental health training, clinical consultation, clinical supervision, peer supervision and/or mentoring within the first 6 months of association with the FAC (or demonstrated relevant experience prior to linkage agreement). It is incumbent upon the professional to be familiar with current theory and research on child physical, emotional and sexual abuse, as well as neglect.
- The mental health provider will also demonstrate continuous ongoing education per NCA standards with ongoing education in the field of child abuse consisting or a minimum of 8 contact hours per year. This does not take the place of other professional continuing education licensure requirements.
- The mental health provider will also participate at least quarterly in peer review (i.e. clinical case reviews, reviews via traumatic stress networks, etc.) Specialized training in trauma-focused mental health assessment and treatment methods is evidence based and promotes the healing process for children and families. Specialized training also delineates the differences between the forensic process of gathering evidentiary information from that of mental health clinical or treatment services.

### **Distinctions Between Therapy and Forensic Interviews**

CFAC's mental health providers are aware of the clear differences between forensic methods (i.e. forensic interviews) and clinical processes that are designed to

diagnose mental health conditions and mitigate adverse impacts of trauma or other stressors/illnesses. As members of the Cochise County MDT response to child abuse, mental health clinicians do not conduct forensic interviews during their therapy sessions. If a child makes the initial abuse outcry during therapy, the mental health provider is aware of the mandatory reporting statute and the protocol that indicates the child is not to be questioned extensively. Rather, the investigative process will begin (i.e. law enforcement/DCS) and the forensic interviewer will conduct the taped investigative interview of the child. (Note: The mental health provider is aware that if a “trauma narrative” is deemed necessary in treatment, it will not be obtained prior to the forensic interview or while the child is progressing through the criminal justice system; i.e. testifying). Further, the mental health provider is aware that assessment and treatment methodologies of empirically supported trauma-focused therapies for children differ from forensic interviews with regard to purpose, methods and procedures. CFAC mental health providers are made aware of this distinction through their specialized training and via their participation as Cochise Family Advocacy Center team members (i.e. case reviews, education and training updates through FAC MDT).

### **How Children and Families Access Services**

At CFAC, all children are offered mental health services irrespective of ability to pay. When children and their caretakers arrive at the FAC, the Victim Advocate welcomes them. All FAC staff, are observant with regard to whether the child and/or family member(s) present in immediate crisis or develop undue anxiety when provided with information during the services provided at FAC (i.e. results of medical examinations, etc).

If immediate de-escalation of a situation is required, there are two FAC staff members with mental health and/or crisis intervention experience to manage crises or diffuse escalation as needed. If additional crisis intervention is required onsite, MDT members can call NURSEWISE at 1-866-495- 6735, a 24 hour toll free hotline that can mobilize crisis intervention specialists from their team of interdisciplinary mental health providers. At the FAC, a victim advocate provides to the child’s caregiver/family written resources for 24 hour crisis services, as well as other mental health and support services available in Cochise County. Referrals are also provided for other types of needs (i.e. food; housing). The resource list is available in both English and Spanish. If the Victim Advocate is absent, a designated FAC staff member may be assigned to assist in educating families regarding mental health and support services in the County. For families who need

information provided in languages other than Spanish or English, refer to the translator list for assistance. For assistance with clients who are **hearing impaired**, call the **Community Liaison for Victim Services at 520-866-6813** or **Hearing Impaired Translation Services at 602-513-3533**.

If non-offending family members require assistance navigating the mental health system, one of the FAC treatment team members will serve as a “recovery support” team member. All non-offending caretakers of children who present to the FAC will be offered an assessment appointment with the recovery support team member who will assist the caretaker in navigating the mental health system (i.e. insurance, ACCESS, etc.).

This initial assessment will also serve as another “net of support” to determine the immediacy of mental health needs that may have developed after the family left the physical premises of the FAC. Prior to leaving the FAC, the Victim Advocate or FAC designee will obtain permission from the non-offending parent/legal guardian to provide limited information to the treatment response team. With permission, the only information provided by FAC staff to mental health provider will be the caretaker’s contact information. The team will make contact with the non-offending family member within 48 hours of receiving the referral from FAC. The treatment team will be made aware via telephonic contact by the FAC if the family needs to be contacted sooner. Any further sharing of information between therapists and the FAC will require written consent by the legal guardian/caretaker of the child.

(Note – if the family does not have telephone services, face-to-face contact will be attempted by the most appropriate MDT member, i.e. CPS, FAC Victim Advocate, law enforcement for welfare check, etc.)

The following mental health services for children and their families are routinely made available through linkage agreements with Jennifer O’Neill or CFAC’s in-house therapist for services to be provided offsite from the FAC, in-home, or in the school setting:

- Crisis intervention as needed;
- Initial appointments to assist caretaker(s) in navigating the mental health system (i.e. insurance, state of Arizona ACCESS care, etc.);
- Trauma-specific assessments;
- Use of standardized measures initially and periodically as needed;
- Individualized treatment plans that are periodically re-assessed;
- Individualized, evidence-based treatment appropriate for the child and family (i.e. trauma focused therapy);
- Engagement of the non-offending family members in empirically supported treatment (i.e. consideration of the range of issues that could impact a child’s recovery or safety such as caregiver’s mental health, trauma history, etc.);

- Referral to other community services as needed (i.e. inpatient services; chemical dependency programs, psychiatrist, etc.);
- Clinical supervision of others as needed;
- Participation in case reviews and as MDT members in educational updates;
- Other victim and non-offending family member support and advocacy as needed (i.e. referrals for respite care, etc..)

In circumstances where the child victim does not have insurance that covers mental health services and mental health treatment cannot be reimbursed through victim compensation mechanisms or other sources (i.e. CPS contracted services), with pre-approval, the Cochise Family Advocacy Center will be able to cover the cost of the initial “recovery support session” along with trauma-focused therapy sessions for the child victim and non-offending family members until other arrangements can be made.

Therapists who specialize in child abuse and neglect issues are aware that non-offending family members (i.e. caregivers, siblings) may also present with complex manifestations of psychological distress that can impact the child victim’s recovery and safety.

Through our linkage agreement or CFAC’s therapist, they will provide assessment, support and mental health treatment of non-offending family members as needed, to address trauma and the impact of the abuse allegations. Through the FAC and mental health linkage agreements, mental health services for non-offending family members will be routinely made available in a confidential, therapeutic setting at the FAC, in-home, or in a school setting, as determined by the therapist and non-offending parent/caretaker.

Jennifer O’Neill and CFAC’s therapist will maintain their own therapy records maintaining client confidentiality per statute and HIPPA regulations.

### **Mental Health and Case Reviews**

The specialized knowledge that mental health providers offer is vital to the FAC’s case reviews. The mental health provider will participate in monthly MDT case reviews as notified by the FAC Coordinator.

If a case is reviewed in which Jennifer O’Neill. is the family’s mental health provider, the therapist will seek written permission from the family to provide input at the case review. If consent is not obtained, an alternate member will participate in the case review.

As a member of the MDT, the mental health therapist will sign and agree to the confidentiality pledge that covers the FAC case review. The mental health provider will offer expertise with regard to the mental health needs of the child and non-offending family members as the team makes decisions during and in the aftermath of child abuse

investigations. The mental health provider will provide input regarding circumstances that could affect a child's mental health and safety at various points in the multidisciplinary team response. The mental health provider will also advise the team regarding factors that affect family members' abilities to impact favorable outcomes for the child's recovery. In addition to the child and family's response to traumatic events, the mental health provider will offer expertise on the wide ranging and possible adverse effects on developmental functioning and physical, social, emotional or spiritual well-being of the child and family.

The mental health provider will be requested by the FAC Coordinator to identify educational opportunities for team members as well as provide educational updates to team members during case reviews.

### **Caring For Our FAC Staff and Other MDT Members**

It should be noted that the FAC is aware of secondary trauma issues and the stresses that can arise from working with human suffering. To this end, the FAC will provide each year, an educational opportunity that addresses secondary trauma that may be experienced by MDT members. The FACs have also incorporated flex schedules to assist FAC staff in managing work-related stresses.

### **III. Dispute Resolution (See Appendix)**

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## *Medical Protocol*

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Medical evaluations of children reporting abuse are considered a vital component of the coordinated MDT response to child abuse and neglect in Cochise County. Child abuse and neglect cases involve complex issues that require the expertise of specialized medical professionals. Coordinated, specialized medical evaluations are intended to minimize trauma during investigations, assessments, treatment, and follow-up care of children. The medical evaluation protocol is intended to provide the highest quality of care for children at Cochise Family Advocacy Center.

All children who are suspected victims of child abuse should be assessed to determine the need for a medical evaluation. Screening criteria is in place to assist MDT members in determining the need for medical evaluations of children suspected to be victims of abuse so that competent care can be provided as soon as possible and duplicative and/or intrusive procedures can be minimized. The methods and procedures for specialized medical evaluations of children suspected to be victims of sexual and/or physical abuse are outlined in this protocol. These guidelines are set forth to maximize the opportunity for exams to be conducted in a non-threatening, warm atmosphere while maintaining the integrity of the process for both medical and legal purposes.

### **A. Purpose of the Medical Evaluation**

The purpose of the medical evaluation in suspected child abuse cases is to:

- Ensure the health, safety and well-being of the child,
- Diagnose, document and address medical conditions resulting from abuse,
- Differentiate medical findings that are indicative of abuse from those which may be explained by other medical conditions and thereby also diagnose, document and address medical conditions unrelated to abuse,
- Assess the child for any developmental, emotional or behavioral problems that require further evaluation and treatment,
- Make referrals as necessary for further assessment, treatment and follow-up care, and to



- Reassure and educate the child and family.

## **B. FAC Providers of Medical Evaluations**

Child abuse medical evaluations at Cochise Family Advocacy Center must be performed by medical personnel who have both pediatric and child abuse expertise. Medical personnel will be able to document their education, training and experience in the area of child abuse and neglect.

The medical evaluator must meet at least one of the following standards in order to conduct the forensic medical evaluation:

- a. Child Abuse Pediatrics Sub-Board Eligibility
- b. Child Abuse Fellowship Training or Child Abuse Certificate of Added Qualification
- c. Documentation of satisfactory completion of competency-based training in the performance of child abuse evaluations
- d. Documentation of 16 hours of formal medical training in Child Sexual Abuse Evaluation.

Sexual Assault Nurse Examiners (S.A.N.E.-A and S.A.N.E.-P) and nurse practitioners will practice within the scope of the Arizona State Board of Nursing guidelines and the Nurse Practice Act. Providers of medical evaluations for Cochise Family Advocacy Center must meet both the training standards of the FAC, as well as the ongoing continuing education requirements.

Providers of medical evaluations for CFAC will participate in peer reviews (i.e. case reviews; photo-documentation reviews) a requirement per the NCA standards. CFAC is in collaboration with Southern Arizona Children's Advocacy Center to provide medical evaluations of children suspected to be victims of child abuse and neglect if CFAC is unable to perform a SANE or in a case where a second opinion is needed. Southern Arizona Children's Advocacy Center, a Cochise County approved vendor, has provided such forensic medical evaluation services since 2018. The cost of the medical evaluation is covered by the Cochise County Attorney's Office and a child/family's ability to pay is never a factor in determining whether a medical exam is offered.

## **D. Screening Process**

For purposes of this document, the Medical team identifies the following circumstances regarding children:

### **Emergencies**

**Life Threatening Emergencies:** (i.e. difficulty breathing, bleeding, etc.)

Call 911 for ambulance, first responders and field triage Lead law enforcement officer to notify the on-call deputy county attorney

### **Other Possible Emergencies:**

#### **1. Physical Abuse**

**Acute Injury** (i.e. burns; injuries to the head or neck; abdominal injuries, possible fractures in a child of any age; acute injury with symptoms of pain) for which there is not a clear accidental explanation.

First responders/field triage arrange to transport child immediately to nearest ER, for coordination of care.

#### **2. Sexual Abuse**

With genital or rectal pain or bleeding. Any sexual abuse that occurred within the last 120 hours.

The victim should be advised not to bathe, change clothing, or brush their teeth prior to the exam so the collection, documentation and preservation of possible evidence (i.e. DNA; debris, etc.) can be completed as needed. The timing, location and facility for the medication evaluation will be determined by the law enforcement so that a thorough medical evaluation is conducted and documented in a medically and legally acceptable manner. When indicated, evidence is collected and preserved (i.e. State of Arizona DPS Sexual Assault Kits).

## **Routine Referrals**

FAC staff, together with MDT members (lead law enforcement officer/DCS case manager) will screen all new cases served at the FAC to determine the need for a victim medical exam using the medical screening criteria established above. The lead law enforcement officer and/or DCS will routinely make referrals to FAC for medical exams on the following cases:

### **Sexual Abuse:**

- Any victim disclosure (or reliable allegation i.e. witness to abuse or suspect admission);
- Anal or vaginal penetration;
- Oral to genital contact;
- Genital fondling skin to skin (if fondling is the only allegation an exam may not be necessary unless there is reason to believe that more has happened or if it is unclear whether there was penetration, to be determined in consultation with medical provider).
- 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 has occurred elsewhere. Any lab reports that exist must accompany the child when he/she is seen.
- 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;
- 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;
- Children who are pre-verbal, non-verbal or developmentally delayed and are suspected to be victims of physical or sexual abuse. The forensic exam is essential to the investigation after a report has been made;
- Pregnant teens. Physicians must consider the possibility of sexual abuse in these cases. If the pregnant teen is under 15 years of age, 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 and a forensic exam is not required;

- Molest allegations and concerns during regular medical exams by community/emergency department physicians.

To minimize the likelihood that unnecessary medical evaluations are performed, CFAC staff will consult with the CFAC Medical Director on the following to determine if an exam is appropriate:

- Fondling over the clothes
- Physical abuse allegations where no visible injuries are evident and no symptoms are reported
- Suspect has a sexually transmitted disease or concerning history
- Other victims disclosed they observed skin to skin contact of a non-disclosing child
- Child already has seen a pediatrician or gynecologist and medical records and or photo documentation exists that the CFAC Medical Director may want to review prior to scheduling exam
- 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 victim
- Custody disputes where a medical evaluation has already been conducted or one has been ordered by the court at a different location
- Any other concerns

Cases will be staffed as needed for medical concerns or forensic purposes. The CFAC Medical Director or representative will participate either in person or telephonically in monthly case reviews as scheduled by the FAC.

All CFAC medical providers will receive in-house expert review from CFAC's Medical Director for at least 50% of abnormal child exams; Or CFAC medical providers will receive expert review through a linkage agreement with an advanced medical consultant and provide documentation that at least 50% of abnormal exams have been submitted and reviewed; Or CFAC medical providers will use "MyCaseReview" through the Midwest

Regional CAC and provide documentation that at least 50% of abnormal exams have been submitted and reviewed.

### **E. Medical Evaluations**

All FAC Clients and Children requiring medical examinations will receive those exams regardless of ability to pay. Payment will be made by the Cochise County Attorney's Office to cover the cost of the medical evaluation. In the event that the medical evaluation was completed elsewhere (i.e. prior to any involvement of the MDT), the FAC Victim Advocate will assist the client in applying for reimbursement through Victim Compensation funding as needed.

### **F. Avoidance of Duplicate Interviewing and History Taking At the FAC,**

The medical provider is an important part of the pre-forensic interview meeting (where the allegations are described by law enforcement and DCS) and the post-forensic interview team meeting (where the MDT outlines the "next steps" in the team response). The coordinated MDT response is intended to reduce duplicative interviewing of children and allow for utilization of information from the medical evaluation to provide appropriate follow-up treatment and referrals. When possible, the videotaped forensic interview will be conducted by a FAC forensic interviewer prior to the medical evaluation. Medical personnel conducting the exam should observe the interview (i.e. through observation monitor) or review the interview and/or receive a briefing from the forensic interviewer prior to conducting the exam.

When the medical provider is not on site, the lead law enforcement officer and/or FAC staff will brief the medical provider of the allegations and the results of any statements made by the child during the forensic interview. This does not preclude medical providers from gathering brief information from the child during the history taking portion of the assessment; however, the child should not be "re interviewed." Medical providers will gather information from the parent or other caretakers regarding the child, past medical history, signs or symptoms and any additional information that may be relevant to the medical assessment, treatment and provision of follow-up care.

## **G. The Medical Evaluation –**

### **Sexual Abuse**

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

a. 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 DCS approval. This is to insure the investigation is not compromised. Medical personnel should however, convey to law enforcement and/or DCS any urgent need for the medical history.

b. 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 medical professional may ask him/her to leave.

c. 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. A colposcope or digital camera can provide magnification in addition to photographic capability.

Photographic and/or video documentation of the genital/anal areas is recognized as the highest standard of care and to the extent possible, will be the means of medical care documentation. Photographic documentation also allows for peer review, obtaining a second opinion decreases a need for repeat examination. The medical professional's primary obligation, keeping in mind the best interest of the child, is to do a thorough and accurate exam of the genital and anal areas. Photographs are a secondary consideration.

d. 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 take the photographs, the medical unit should have an appropriate camera.

e. 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 years and older should be offered a referral to the Pinal County Health Department for HIV testing, and thus will have the choice of confidential versus anonymous testing.

When the exam is done within 120 hours of the alleged sexual abuse, in addition to the above medical exam procedures, the medical professional will determine if a sexual assault kit needs to be used during the medical evaluation. Medical documentation will be completed using the Arizona State DPS Sexual Assault Kit form. Chain of evidence procedures will be followed.

#### **H. The Medical Evaluation –**

**Physical Abuse and Neglect** - Children suspected by DCS, 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. This exam should include:

a. A complete medical history (including past medical records) and the history of the suspected abuse, which should be obtained from the professional who interviewed the child.

b. Because children who experience one type of abuse are at risk for all forms of abuse, a brief examination of the genital/anal areas should be conducted. If the history or exam reveals that sexual abuse is a concern, then the sexual abuse procedure should also be followed (as outlined in the previous sub-section).

c. 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 less than 2 years of age and in selected children over 2 years old if physical abuse is suspected. (Testing of this nature is done at an equipped medical facility).

d. Medical staff will assist law enforcement with obtaining color photographs to document visible injuries as well as other necessary photographs.

e. As noted under the sexual abuse section, the medical record is a legal document. The medical report will include medical history and physical exam findings along with photographic documentation using still and or video documentation of the exam. The mandate for photographs will not take precedence over the well-being of the child.

## **I. Medical Exam Documentation**

Upon completion of the medical exam, the medical provider will share with the applicable MDT members the preliminary exam report. Medical providers will provide a final written report, along with still and/or video documentation of the evidence. For emergent cases, a preliminary verbal report will be provided to law enforcement and DCS as needed. For routine cases, the written report will be provided within seven days. The reports and photos will be kept in accordance with medical and legal requirements with regard to chain of custody. It is understood that medical providers have an obligation to inform the immediate family regarding the health and welfare of the child. However, it is imperative that the provider remain objective in the evaluation and not confront the family or speculate on the nature of an injury.

1. Medical records from this incident must be released to law enforcement and/or DCS:
  - a. Per A.R.S. 13-3620(C), law enforcement and/or DCS must make a written request and sign a medical release form.
  - b. Permission from the parent/guardian for release of records is not required.
  - c. The release of medical records should be expeditious, as DCS and law enforcement will need the records for their investigations.



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## **Multi-Agency Dispute Resolution**

Pursuant to A.R.S. Section § 8-818 (B) (9) the Protocols for Joint Investigation shall include a procedure for dispute resolution between agencies. It is essential that law enforcement, the Department of Child Safety and the Cochise County Attorney's Office communicate effectively. It is understood that conflicts may arise during a joint investigation and after.

Law enforcement and DCS are encouraged to actively participate in regularly scheduled multi-agency team meetings for the purpose of addressing and resolving misunderstandings, improving communication and cooperation or other issues affecting the joint investigation of child abuse. Each agency is committed to working as a team to ensure best practice models are followed in all investigations.

To ensure there is an effective line of communication the following procedures may be used.

- Disputes between DCS and law enforcement agencies should be resolved at the lowest level possible and in as informal a method as possible.
- If disputes cannot be resolved at the DCS Specialist/law enforcement officer level, the concerned agency should contact the immediate supervisor responsible for the agency with whom the concern is based.

If it is an urgent situation and no immediate supervisor available, the agency seeking resolution shall:

- Contact the appropriate DCS Assistant Program Manager or law enforcement supervisor responsible for the investigation of crimes against children or officer in question.
- If it is not an urgent situation or if the supervisors cannot provide a satisfactory resolution to the problem the agency filing the complaint may utilize the "chain of command" for the other agency.
- In the event the issue cannot be resolved between respective chains of command an upper management level meeting may be necessary. This conferring may be completed over the phone as necessary to accommodate a timely response and resolution.

## **Arizona Revised Statute § 8-817**

Initial screening and safety assessment and investigation protocols; investigations

- The department shall develop initial screening and safety assessment protocols in consultation with the attorney general and statewide with county attorneys, chiefs of police, sheriffs, medical experts, victims' rights advocates, domestic violence victim advocates, department of economic security and mandatory reporters. Any initial screening and safety assessment tools shall be based on sound methodology and shall ensure valid and reliable responses. The department shall establish written policies and procedures to implement the use of the initial screening and safety assessment protocols.
  
- In each county, the county attorney, the sheriff, the chief law enforcement officer for each municipality in the county and the department of economic security shall develop and implement protocols for the cooperation in investigating allegations involving extremely serious conduct. The protocol shall include:
  1. The process for notification of receipt of extremely serious conduct allegations.
  2. The standards for interdisciplinary investigations of specific types of abuse and neglect, including timely forensic medical evaluations.
  3. The standards for interdisciplinary investigations involving Native American children in compliance with the Indian Welfare Act.
  4. Procedures for sharing information.
  5. Procedures for coordination of screening, response and investigation with other involved professional disciplines and notification of case status.
  6. The training required for the involved child protective services workers, law enforcement officers and prosecutors to execute the investigation protocols, including forensic interviewing skills.
  7. The process to ensure review of and compliance with the investigation protocols and the reporting of activity under the protocols.
  8. Procedures for an annual report to be transmitted within forty-five days after the end of each fiscal year to the governor, the speaker of the house of representatives, and the president of the senate.
  9. Procedures for the dispute resolution.
  
- The department, the appropriate County Attorney and the appropriate law enforcement agency shall cooperate in the investigation of criminal conduct allegation in accordance with the investigation protocols established pursuant to this section.

## Arizona Revised Statute § 13-107

### §13-107. Time limitations

- A. A prosecution for any homicide, any offense that is listed in chapter 14 or 35.1 of this title and that is a class 2 felony, any violent sexual assault pursuant to Section §13-1423, any violation of Section §13-2308.01, any misuse of public monies or a felony involving falsification of public records or any attempt to commit an offense listed in this subsection may be commenced at any time.
  
- B. Except as otherwise provided in this section, prosecutions for other offenses must be commenced within the following periods after actual discovery by the state or the political subdivision having jurisdiction of the offense or discovery by the state or the political subdivision that should have occurred with the exercise of reasonable diligence, whichever first occurs:
  - 1. For a class 2 through a class 6 felony, seven years.
  - 2. For a misdemeanor, one year.
  - 3. For a petty offense, six months.
  
- C. For the purposes of subsection B of this section, a prosecution is commenced when an indictment, information or complaint is filed.
  
- D. The period of limitation does not run during any time when the accused is absent from the state or has no reasonably ascertainable place of abode within the state.
  
- E. The period of limitation does not run for a serious offense as defined in section 13-706 during any time when the identity of the person who commits the offense or offenses is unknown.
  
- F. The time limitation within which a prosecution of a class 6 felony shall commence shall be determined pursuant to subsection B, paragraph 1 of this section, irrespective of whether a court enters a judgment of conviction for or a prosecuting attorney designates the offense as a misdemeanor.
  
- G. If a complaint, indictment or information, filed before the period of limitation has expired, is dismissed for any reason a new prosecution may be commenced within six months after the dismissal becomes final even if the period of limitation has expired at the time of the dismissal or will expire within six months of the dismissal.

# **DCS RESPONSE SYSTEM & MITIGATING FACTORS**

## **DCS RESPONSE SYSTEM**

### **RESPONSE TIME 1 (Standard Response Time 2 Hours; Mitigated Response Time 24 Hours)**

For the purpose of determining the initial response to a report at the Centralized Intake Hotline, present danger refers to an immediate, significant and clearly observable family condition present now which has resulted in or is likely to result in serious or severe harm requiring an immediate initial response.

The following conditions suggest that a child may be in present danger:

#### **EXTENT OF MALTREATMENT**

1. Death of a child due to physical abuse, neglect or suspicious death
2. Serious injuries including but not limited to:
  - Fractures
  - Immersion burns, second or third degree burns
  - Shaken baby syndrome
  - Multiple plane injuries
3. Serious injuries to face or head including but not limited to:
  - Bruises
  - Cuts
  - Abrasions
  - Swelling
4. Injuries to a non-ambulatory child
5. Injuries to a child up to one (1) year of age
6. Unknown injuries, but child under the age of six (6) observed or reported to be forcefully struck in the face, head, neck, genitalia or abdomen which could likely cause an injury.
7. Child injured during an incident of domestic violence.
8. The restriction of movement or confinement of a child to an enclosed area and/or uses a threat of harm or intimidation to force a child to remain in a location or position which may include:
  - Tying a child's arms or legs together
  - Tying a child to an object
  - Locking a child in a cage
9. Physical injury resulting from permitting a child to enter or remain in a structure or vehicle that is used for the purposes of manufacturing dangerous drugs.
10. Living environment is an immediate threat to child's safety. This would include the

most serious health circumstances, such as buildings capable of falling in, exposure to elements in extreme weather, fire hazards, electrical wiring exposed, weapons accessible and available, access to dangerous objects or harmful substances, manufacturing of drugs (i.e. meth lab), etc.

11. Child presents with clear physical indicators of malnourishment, as dehydrated or failure to thrive (a.k.a. poor weight gain or pediatric undernourishment).
12. Child requires emergency medical care and caregiver is unwilling or unable to seek treatment.
13. A substance exposed newborn who is scheduled for discharge within 24 hours or is at home. Substance exposed newborn is defined as an infant (birth to one (1) year of age) exposed prenatally to alcohol or drugs including an infant who is exhibiting symptoms consistent with fetal alcohol syndrome or fetal alcohol effects.
14. Caregiver provides the child prescribed/non-prescribed or adult medications, or illegal drugs or alcohol and the child requires emergency medical care.
15. Child left alone and is not capable of caring for self or other children.
16. Evidence or disclosure of current sexual abuse (sexual contact only) **and** the perpetrator currently has or will have access within the next 48 hours to the identified victim. This does not include historical allegations of sexual abuse, unless there is a clear threat of reoccurrence.

### **CHILD FUNCTIONING**

17. Child is extremely fearful because of their home situation, present circumstance or because of a threat of additional abuse or neglect. This does not refer to fear of legal disciplinary practices or generalized fear.
18. Child is a danger to self or others now and caregiver cannot or will not control the child's behavior.

### **ADULT FUNCTIONING**

19. Child was in close proximity to an incident of domestic violence and could have been injured. This includes being held by one of the adults during the incident.
20. Caregiver is described as physically or verbally imposing and threatening, brandishing weapons, or currently behaving in attacking or aggressive ways.
21. The caregiver describes or acts toward the child in predominantly negative terms or has a distorted view of the child or has extremely unrealistic expectations given the child's age or level of development.
22. Caregiver is **incapacitated** due to substance use/abuse, behavioral/mental illness including depression and situational stress, physical impairment, and/or cognitive functioning **and** is unable to perform parental responsibilities consistent with basic needs or child safety, leaving the child in a threatened state.

23. Caregiver is actively placing child in dangerous situations or fails to protect the child from imminent threats from other persons.
24. Caregiver permits a child to enter or remain in a structure or vehicle that is used for the purposes of manufacturing dangerous drugs.
25. Evidence of abuse or neglect and the caregiver denies access to or will flee with child to avoid CPS contact.

**RESPONSE TIME 2 (Standard Response Time 48 Hours; Mitigated Response Time 72 Hours)**

Impending danger refers to a family condition (behavior, emotion, motive, perception, or situation) that may not be occurring in the present but is likely to occur in the immediate to near future and will likely result in serious or severe harm to a child.

All information gathered is analyzed to the following five factors – if all safety threshold criteria are met, the report meets Response Time #2 criteria.

**SAFETY THRESHOLD CRITERIA – HOTLINE VERSION**

- Specific & Observable – The family’s condition can be described in specific behavioral terms.
- Out of Control – Beyond the control of any adult in the household to prevent the impending danger or unknown whether any adult is present or able to control the situation
- Vulnerable Child – Reliant or dependent on others for protection
- Severity – Likely to cause serious or severe harm to a child
- Imminence (Specific Time Frame) – Likely to occur within the next 72 hours

**RESPONSE TIME 3 (Standard Response Time 72 Hours; Mitigated Response Time 96 Hours)**

Reports that do not rise to the level of present or impending danger, but there is an incident of abuse or neglect that has happened in the past 30 days. This includes a current minor injury to the child.

**RESPONSE TIME 4 – (Standard Response Time 7 Consecutive Days; Standard Response Time Can Not Be Mitigated)**

Reports that do not rise to the level of present or impending danger, but when:

- There is an incident of abuse or neglect that happened more than 30 days ago, or
- The date of last occurrence is unknown and there is no current physical indicator of maltreatment, or
- There is UNREASONABLE risk of harm to the child's health or welfare.

## **MITIGATING FACTORS**

- Child is hospitalized and will remain hospitalized until the initial response is made during the mitigated response time.
- Child is under continuous supervision of a responsible adult as confirmed by a professional mandated reporting source and will remain there until the initial response is made during the mitigated response time.
- Child death and confirmation that there is no other child in the home or the alleged perpetrator has no access to another child.

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