

**YAVAPAI COUNTY
CHILD ABUSE
INVESTIGATION PROTOCOL**

Developed by the

YAVAPAI COUNTY
CHILDREN'S JUSTICE COUNCIL

INTERAGENCY TASK FORCE

YAVAPAI FAMILY ADVOCACY CENTER
TASK FORCE

PRESCOTT, ARIZONA
1996

REVISED 2004

YAVAPAI COUNTY ATTORNEY
— SHEILA POLK —

STATEMENT OF PURPOSE

This Protocol is offered to assist all children, both victims and witnesses, and to serve as a model for handling child abuse cases within Yavapai County. The goal is to treat children with dignity and respect and to minimize secondary trauma that is often associated with child abuse investigations.

This protocol was initially developed in 1996 and revised in 2004, in response to House Bill 2024, to further specify the practices being followed upon receiving reports of extremely serious conduct. This protocol is intended to provide guidelines and a reference source for interagency cooperation in the investigation, prosecution and management of child neglect, physical and sexual abuse cases.

The authors of this protocol and its revisions understand that while the protocol specifies best practices, each case must be approached on an individual level, taking into account each case's unique factors and the differing resources of the many agencies operating under this protocol. While it is recognized each agency has its own mandate to fulfill, the authors also acknowledge that no one single agency or discipline can fully address the problem of child abuse. Therefore, each agency must be cognizant of the needs of the victim as well as sensitive to the needs of other professionals involved. We have chosen to make the best interest of children our overriding concern where any interagency conflict may exist.

Joined in the effort to mobilize our different strengths, 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, coordinated and efficient approach to the investigation, prosecution and management of child abuse cases in Yavapai County.

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As Yavapai County Attorney, I want to thank the Yavapai Family Advocacy Center and its staff for their dedication and hard work to ensure an improved quality of life for abused children in Yavapai County and Arizona. I also express gratitude to the Maricopa County Interagency Council for providing to Yavapai County their protocol, much of which is incorporated herein.

Sheila Polk
Yavapai County Attorney
November 2004

**YAVAPAI COUNTY
MULTIDISCIPLINARY PROTOCOLS FOR THE INVESTIGATION OF
CHILD ABUSE**

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**CHILD PROTECTIVE SERVICES HOTLINE FOR LAW ENFORCEMENT
1-877-238-4501**

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I

LAW ENFORCEMENT PROTOCOL

The purpose of law enforcement's response to incidents of physical and sexual abuse involving children is to determine if a crime has been committed and to bring to light those facts and circumstances necessary to bring the perpetrators into the criminal justice system. While pursuing the criminal investigation, law enforcement must be concerned with more than just statutory requirements and case law. Law enforcement personnel must be cognizant of the needs of the victim, as well as the responsibilities of other organizations involved in the treatment, support and recovery of the victim.

To this end, police are encouraged to coordinate their efforts with those of Child Protective Services "CPS", as well as the prosecuting agency. During an investigation, CPS and law enforcement should share relevant information, as soon as possible, maintain on-going contact and monitor and/or participate in forensic interviews conducted by their counterparts.

When CPS receives information regarding an in-progress extremely serious conduct allegation that indicates a child is in danger, they shall notify the appropriate law enforcement agency using 9-1-1. When the information received by CPS indicates the child is not in immediate danger but further investigation is warranted, CPS shall contact the appropriate law enforcement agency dispatch/communications center and request notification be made to a law enforcement officer. Upon receiving this information, the responsible law enforcement officer will contact the CPS worker as soon as possible and they will coordinate an appropriate response based on the circumstances of the call, individual agency guidelines, availability of resources and the need for a coordinated multi-agency on-scene response. The law enforcement officer is responsible for determining whether or not a criminal investigative response will be initiated.

Effective investigation by law enforcement agencies is enhanced with the establishment of a specialized unit to investigate allegations of extremely serious conduct against children. Smaller agencies are encouraged to designate a "specialist" if the number of investigations does not warrant a unit. This specialized unit, whether it consists of a part-time or several full-time officers should:

1. Be a voluntary assignment;
2. Receive training in the investigation of the neglect, physical and sexual abuse of children;

3. Establish and maintain a close working relationship with CPS and the Yavapai County Attorney's Office; and,
4. Encourage trained and skilled officers to be retained as long as possible.

In Yavapai County, the Family Advocacy Center "YFAC" has been established. (*Appendix A3*) This specially designed center, which is available for use by all law enforcement agencies, benefits both the investigation and the victim by creating a one stop facility for the investigative process and for crisis intervention. Peace officers may use the child friendly rooms for videotaping victim interviews. Another benefit of these centers is that forensic medical exams are offered on site. Sexual Assault Nurse Examiners "S.A.N.E. nurses" specializing in the examination and treatment of child abuse conduct these exams. The Yavapai County Attorney's Office and CPS help staff cases at the YFAC and are available for questions or referrals. Victims are less traumatized by the amiable environment, which provides crisis intervention and referral services to both the victim and his/her family.

If victim hospitalization is not required, it is recommended that law enforcement utilize the YFAC for the investigation of cases of sexual abuse and cases of physical abuse that require a medical evaluation.

A. CHILD SEXUAL ABUSE CASES

1. Initial Report: The responding officer should establish the elements of the crime and jurisdiction.
 - a. The responding officer may interview the reporting source, away from the victim, witnesses or other reporting sources, in order to:
 - i. Obtain the facts of the reported crime
 - ii. Determine if the child is in imminent danger
 - iii. Determine if the victim may require medical attention
 - iv. Determine jurisdiction
 - (a) If within departmental jurisdiction, continue per this Protocol.
 - (b) If not within departmental jurisdiction, the officer will document his/her actions and coordinate with the appropriate jurisdiction.
 - b. It is recommended that a peace officer, CPS specialist, or YFAC interviewer trained in forensic child interviews conduct

interviews of the victim utilizing the Interview Protocol. (*Appendix F2*) The decision regarding who (responding officer, investigator, YFAC interviewer or CPS specialist) will interview the victim, child witnesses, sibling or other children in the home will be made by the law enforcement agency with jurisdiction in the matter. It is recognized that the responding peace officer may not have received the recommended training; nothing in these Protocols shall be interpreted to mean that peace officers cannot conduct investigative interviews without the recommended training.

- c. The responding officer should only interview the suspect if the suspect is present and aware of the investigation. If suspect is not aware of the investigation, the suspect should not be contacted without prior consultation with an investigating officer or supervisor.
- d. The responding officer may interview other witnesses. Dates of birth, social security numbers, and other biographical information will be obtained.
- e. Once it is determined that a crime has been committed, the responding officer may then continue the initial case preparation.
 - i. Assess the need for immediate medical evaluation. If a medical evaluation is needed, promptly contact the on-call Deputy County Attorney (after hours pager number is 928 776-3503) for authorization for the medical evaluation. Note that in cases of sexual abuse in which the incident occurred within the past 120 hours, the victim should receive a forensic medical exam.
 - ii. Assess the need for a search warrant. Officers may contact the County Attorney's Office for assistance and in regard to sealing the affidavit of the search warrant.
 - iii. Assess the need for immediate arrest if the suspect is present. The officer should examine:
 - (a) The suspect's risk of flight to avoid prosecution.
 - (b) The suspect's danger to the community.
 - (c) Patrol officers may consult with investigators or the Deputy County Attorney, if necessary.
 - iv. Assess the need for scene preservation and/or photographs.

- v. Assess the need for an investigating officer to respond to the crime scene, hospital, school or other location.
- f. As soon as law enforcement determines that CPS may have jurisdiction on the matter under investigation, law enforcement will notify the CPS Law Enforcement Designated Hotline (877 238-4501) either directly or through the dispatch center and provide sufficient information for CPS to coordinate their response with law enforcement.

2. The Investigation

It is recognized that it is not always feasible for the investigation of an allegation of extremely serious conduct against a child victim to be conducted by an investigator. Whether the investigation is conducted by the initial responding officer, a patrol officer or investigator, the peace officer shall:

- a. Interview the reporting source to determine the circumstances of disclosure.
- b. Interview the victim
 - i. Arrange an interview of the victim. The child's interview should be conducted per the Interview Guidelines. (*Appendix F2*)
 - ii. Coordinate the interview with CPS if they are involved in the case. If a joint interview with CPS is not feasible and the circumstances dictate CPS involvement, the victim interview should be shared with CPS in order to minimize unnecessary or multiple interviews of the child victim.
 - iii. Arrange for a medical examination at an Advocacy Center, if feasible. Officers shall consult with Yavapai County Attorney's Office for appropriate medical response.
 - iv. If a parent/guardian interferes with an interview of the child victim, the officer/investigator has the authority to interview the child utilizing the Temporary Custody Notice. (*Appendix C1*)
- c. Conduct crime scene(s) investigation and evidence processing.
- d. Interview the family and other witnesses. Obtain dates of birth, social security numbers, and other biographical information including where child witnesses attend school.

- e. Obtain a copy of the medical examination report and interview medical personnel. Send a copy of the medical examination report to CPS.
 - f. Conduct investigative research on:
 - i. Prior convictions of the suspect
 - ii. Prior police reports involving the suspect, victim(s) or witness(es)
 - iii. Prior unreported allegations involving the suspect, victim(s) or witness(es)
 - iv. Current and prior CPS reports.
 - g. Interview the suspect
 - i. The suspect should be interviewed only with law enforcement personnel present.
 - ii. CPS shall, when possible, be notified of the suspect interview and should be aware of the content of the suspect interview.
 - iii. The interview should be videotaped or, if not possible, audio-taped.
 - h. Determine the need to arrest the suspect based on:
 - i. The risk of flight to avoid prosecution; and
 - ii. The danger to the community.
 - i. Conduct any other necessary investigations.
3. Case Presentation to the County Attorney
- a. The case file should include a complete copy of the police report; a copy of audiotapes, videotapes, photographs and 911 calls.
 - i. All medical records of the child, Child Protective Services files on the child and family, prior relevant police reports and any other information obtained during the investigation shall be submitted in a timely manner.
 - ii. The case file should include a copy of all non-privileged information from the CPS investigation including the CPS case file, and any relevant, non-privileged, non-duplicative information concerning the victim or witnesses from the Attorney General Office's file pertaining to the dependency, severance or related investigation or action.

- iii. The CPS worker is responsible for facilitating the delivery of the CPS information to the officer in a timely fashion. The appropriate law enforcement office should notify the CPS worker assigned to the case prior to submittal for prosecution to ensure the information above has been provided to law enforcement. The CPS worker should confirm whether or not the Attorney General's Office has items such as dependency hearing transcripts or depositions. Any questions as to what documents should be included should be resolved by mutual agreement by the Attorney General's Office and the Yavapai County Attorney's Office.
- b. Grand Jury
 - i. If the case is filed and presented to the Grand Jury, the officer should present the case at Grand Jury. If he or she does not feel comfortable with presenting the medical evidence, he/she shall notify the Deputy County Attorney, who can subpoena medical personnel to the Grand Jury for testimony regarding medical findings.
 - c. If the case is not filed, notification of the decision not to file shall be the responsibility of the County Attorney's Office. The victim's representative, the law enforcement officer and CPS should be notified of the decision within 30 days. If further investigation is requested and the suspect is in custody, all requested information should be presented to the Deputy County Attorney 24 hours prior to Grand Jury or Preliminary Hearing.
 - d. If the Deputy County Attorney refers the case back to the law enforcement for further investigation:
 - i. The case should be returned to the original case agent, if possible.
 - ii. The requested information should be obtained as soon as possible.
 - iii. The Yavapai County Attorney's Office must be advised if the investigating agency decides to inactivate/close the case within 30 days.
 - e. If the suspect is indicted by the Grand Jury, the law enforcement officer shall notify CPS.

B. CHILD PHYSICAL ABUSE/NEGLECT CASES

1. Initial Report: The responding officer may establish the elements of the crime of physical abuse or neglect, and jurisdiction.
 - a. The responding officer may interview the reporting source, away from the victim, witnesses, or other reporting sources, in order to:
 - i. Obtain the facts of the reported crime
 - ii. Determine if the child is in imminent danger
 - iii. Determine if the victim may require medical attention
 - iv. Determine jurisdiction
 - (a) If within departmental jurisdiction, continue per this Protocol.
 - (b) If not within departmental jurisdiction, the officer will document his/her actions and coordinate with the appropriate jurisdiction.
 - b. The responding officer may interview the child victim. Only these specific questions should be asked:
 - i. What happened?
 - ii. Who did this?
 - iii. Where were you when this happened?
 - iv. When did this happen?
 - v. Where do you go to school?
 - c. The officer should document the child's demeanor and any spontaneous statements.
 - d. The officer may interview witnesses. Dates of birth, social security numbers, and other biographical information including where child witnesses attend school will be obtained. It is recommended (but not mandated) that child witnesses and any siblings or children within the home be interviewed by interview qualified investigators, CPS specialists, or YFAC interviewers.
 - e. If the suspect is at the scene:
 - i. The officer may conduct an initial interview of the suspect or ensure that an investigator does so immediately. Obtain the suspect's version of what happened (e.g., determine if it was a discipline measure; if a weapon or instrument was used; or if it was an alleged accident).

- ii. The officer should not disclose any medical information to the caretaker(s) regarding the condition of the child or possible mechanisms of injury. The officer should also encourage the medical personnel not to disclose this information until they consult with investigators.
- f. Document and preserve the scene through photographs, if possible.
- 2. Once it is determined that a crime has been committed, the officer may continue the initial case preparation.
 - a. Assess the need for medical intervention and ensure that the child is taken to a hospital if necessary. It is recommended that patrol officers consult with investigators on all child abuse cases to assess the need for a forensic medical exam.
 - b. Assess the need for scene preservation and/or evidence collection. Consult with an investigator 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.
 - c. Document any physical injury to the child with digital or 35 mm photographs. Photographs should depict the child's entire body and face, not just the external manifestations of abuse. Photographs should include ruler and color bar where possible. In cases of severe physical abuse and/or severe neglect, a consent form or search warrant should be used to obtain photographs or video of the entire household. Additional photographs of injuries should be taken 24-36 hours after the injuries.
 - d. As soon as law enforcement determines that CPS may have jurisdiction on the matter under investigation, law enforcement will notify the CPS law enforcement hotline (1-877-238-4501) and provide sufficient information for CPS to coordinate their response with law enforcement.

3. The Investigation

It is recognized that law enforcement agencies in Yavapai County may not have adequate resources to use an investigator to investigate cases of this nature. If an investigator is not available, the assigned officer should adhere to these standards.

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

- i. An investigator reviews the initial report and continues the investigation by interviewing the family, siblings, other witnesses, etc. as dictated by the facts of the case. If the child victim is interviewed, the interview should be conducted per the Interview Guidelines. (*Appendix F2*)
 - ii. If not already done and if appropriate, 35 mm or digital photographs are taken to document the abuse. An investigator should ensure that additional follow-up photographs are taken as needed.
 - iii. CPS shall be contacted to obtain prior reports and to determine what action CPS is taking on the referral. If CPS is involved, law enforcement shall share information with them.
 - iv. The suspect's prior police history should be determined, paying particular attention to assault and domestic violence contacts.
 - v. Obtain relevant medical records on the child and interview appropriate medical personnel.
 - vi. 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 investigator shall assess the risk of flight to avoid prosecution and determine if the suspect should be arrested in light of all the information obtained.
 - vii. The need for a medical exam should be assessed.
- b. Hospitalized Children (Note: This list is not in any priority order.)
- i. The on-call Deputy County Attorney 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.
 - ii. Ensure that the scene(s) is (are) identified and secured pending issuance of a search warrant or signed consent.
 - iii. Obtain an initial statement from the most qualified physician as to time frames, mechanisms of injury and symptoms the child would be expected to show, given the injury sustained.
 - iv. 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.

- v. All medical records including recent and previous hospitalizations, doctor or Emergency Room visits by the child should be requested for the investigation.
- vi. Search warrants are to be utilized, where appropriate, to ensure a thorough scene investigation. Investigators may contact the County Attorney's Office regarding assistance with the warrant.
- vii. CPS shall be contacted to obtain prior reports and to determine what action CPS is taking on the referral. If CPS is involved, law enforcement shall share information with them.

4. Case Presentation to the County Attorney

- a. The case file should include a complete copy of the police report; a copy of audiotapes, videotapes, photographs and 911 calls.
 - i. All medical records of the child, Child Protective Services files on the child and family, prior relevant police reports and any other information obtained during the investigation shall be submitted in a timely manner.
 - ii. The case file should include a copy of all non-privileged information from the CPS investigation including the CPS case file, and any relevant, non-privileged, non-duplicative information concerning the victim or witnesses from the Attorney General Office's file pertaining to the dependency, severance or related investigation or action.
 - iii. The CPS worker is responsible for facilitating the delivery of the CPS information to the officer in a timely fashion. The appropriate law enforcement office should notify the CPS worker assigned to the case prior to submittal for prosecution to ensure the information above has been provided to law enforcement. The CPS worker should confirm whether or not the Attorney General's Office has items such as dependency hearing transcripts or depositions. Any questions as to what documents should be included should be resolved by mutual agreement by

the Attorney General's Office and the Yavapai County Attorney's Office.

b. Grand Jury

- i. If the case is filed and presented to the Grand Jury, the officer should present the case at Grand Jury. If he or she does not feel comfortable with presenting the medical evidence, he/she shall notify the Deputy County Attorney, who can subpoena medical personnel to the Grand Jury for testimony regarding medical findings.
 - ii. If the case is not filed, notification to the law enforcement agency of the decision not to file shall be the responsibility of the County Attorney's Office. The victim's representative, the law enforcement agency and CPS should be notified of the turndown.
- c. If further investigation post-filing is requested and the suspect is in custody, all requested information should be presented to the Deputy County Attorney 24 hours prior to Grand Jury or Preliminary Hearing.
- d. If the Deputy County Attorney refers the case back to the law enforcement agency for further investigation:
- i. The case should be returned to the original case agent if possible.
 - ii. The requested information should be obtained as soon as possible.
- e. The Yavapai County Attorney's Office must be advised if the investigating agency decides to inactivate/close the case within 30 days.
- f. If the suspect is indicted by the Grand Jury, the law enforcement officer shall notify CPS.

C. TRAINING

It is recognized that in Yavapai County, law enforcement agencies may have officers who have not had the recommended training prior to responding and investigating calls involving crimes against children. It is further recognized that it is in the best interest of the child that all agencies seek to train their officers in the recommended courses set forth in Appendix E. **Nothing in these Protocols shall be interpreted to mean that law enforcement officers cannot fully investigate allegations of crimes against**

children or allegations of extremely serious conduct involving children without the recommended training.

D. DISPUTE RESOLUTION

Pursuant to House Bill 2024, the protocols shall contain procedures for dispute resolution among law enforcement, child protective services and the county attorney's office. The dispute resolution procedures are set out in Appendix F3 for these procedures.

II

CHILD PROTECTIVE SERVICES PROTOCOL

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

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

The Arizona Department of Economic Security "ADES" is required, by law, to receive reports of child neglect and/or abuse twenty-four (24) hours a day, seven (7) days a week and to initiate prompt investigation. CPS Specialists, working at the CPS Hotline, receive telephone calls at **1-888-767-2445** or **TDD 1-800-530-1831** and written reports at: **P.O. Box 44240, Phoenix, AZ. 85064-4240**. These specialists screen incoming communications by using "cue questions". (*Appendix D2, CPS Cue Questions*) Reporting sources do not need to have answers to all cue questions. If the incoming communication meets the definition of a report, then the report is given a priority. The Field Supervisor then assigns the report to a CPS Specialist to complete the investigation.

CPS actions rarely result in removal of children from the home of the parents. More often CPS workers offer an array of supportive services found in the community and information on particular programs to strengthen the family unit. When there are concerns about a child's safety in their home, CPS attempts to engage the child's family to the greatest extent possible in planning for voluntary interventions that minimize intrusion to the family, while ensuring the safety of the child. These alternatives include: providing additional resources or safeguards to the family so a child can remain in the home, assisting the parent, guardian or custodian in identifying a relative or friend who can care for the child temporarily, or entering into a Voluntary Foster Care Agreement with the parent/guardian.

When children are found to be in imminent harm, or there is no parent/guardian able or willing to provide care for the child, CPS and law enforcement have the authority to remove them from their home for up to seventy two (72) hours excluding weekends or holidays. CPS may also

remove a child for up to twelve hours to obtain a medical/psychological evaluation in order to make a determination if maltreatment has occurred.

If ADES cannot ensure the safety of the child/children in the home within those seventy-two (72) hours (not counting holidays or weekends), a dependency petition is filed with the Yavapai County Juvenile Court. The Juvenile Court Judge has the final decision on making the child/children wards of the court through this process. Once the petition is filed, a case plan is developed with the participants to rectify why the child/children came into protective custody. The parents and children are referred to appropriate services through West Yavapai Guidance Clinic, Verde Valley Guidance Clinic, Community Providers and/or CPS to meet their identified needs.

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

A. PRE-INTERVIEW PROTOCOL

1. The CPS Specialist shall coordinate the investigation with law enforcement.
2. During the investigation, CPS and law enforcement investigators will, as soon as practicable, share relevant information, maintain on-going contact and monitor and/or participate in forensic interviews conducted by their counterparts.
 - a. These efforts will clearly be documented in reports prepared by each agency.
 - b. Coordination will be stressed when the report alleges or the investigation indicates the child is a victim of sexual abuse and/or a criminal investigation of the alleged child maltreatment is in progress or anticipated.
 - c. High Priority or High Risk reports, as designated in Appendix D1, shall be handled with joint law enforcement/CPS investigations where the safety of the child has not been ensured.
 - d. Other CPS reports may be handled with joint law enforcement/CPS investigation when requested by either agency.
3. Reports of extremely serious conduct allegation

- a. When CPS receives information regarding an in-progress extremely serious conduct allegation that indicates a child is in danger, they shall notify the appropriate law enforcement agency using 9-1-1.
 - b. When the information received by CPS indicates the child is not in immediate danger but further investigation is warranted, CPS shall contact the appropriate law enforcement agency dispatch/communications center and request notification be made to the on-duty officer or supervisor for the geographic area where contact will be made. (See *Appendix A1 for agency telephone numbers*)
4. All other CPS reports will be reported to law enforcement by telephone contact or by forwarding the police version of the CPS Report Summary.
5. The CPS Specialist will gather information from law enforcement reports, sources of the current report, prior CPS records and others as availability and time allow.

B. CPS INTERVIEW PROTOCOL

1. Sequence for interviewing
 - a. Alleged victim if the child's age and intellectual/emotional functioning permit
 - b. Siblings/other children in the home
 - c. School/day care provider
 - d. Non-abusing spouse/caretaker
 - e. Alleged abusive caretaker
 - f. Neighbors, relatives, and others with knowledge of the abuse, including reporting party, if known
2. Child Interviews
 - a. The CPS Specialist will work in conjunction with law enforcement whenever applicable.
 - b. The alleged abusive parent, guardian or custodian shall not be present during the investigative interviews with alleged child victims.
 - c. Initial interviews are generally unannounced to maximize the gathering of relevant facts.

- d. To eliminate the need for multiple interviews of the child victim, the CPS Specialist will coordinate for:
 - i. Joint interview of the child victim coordinated between CPS and law enforcement; or
 - ii. Joint interview of the child victim by a qualified professional coordinated with law enforcement.
 - iii. If a joint interview is not feasible, information from the victim interview should be shared with law enforcement.
- e. Interviews of alleged child sexual abuse victims will be videotaped and/or audio-taped.
- f. Interviews of alleged child physical abuse victims may be audio-taped.
- g. The CPS Specialist shall:
 - i. Introduce and identify him/herself as a CPS Specialist and conduct the child's interview in a private, safe and neutral location.
 - ii. Develop and maintain rapport with the child by demonstrating respect for the language, dialect, communication style and culture of the child. Language skilled staff or translators should be assigned as needed.
 - iii. Inform the child of the agency's mandate to investigate, the agency's goal to provide needed services, and answer any of the child's questions.
 - iv. Allow and encourage the child to express emotional reactions to the investigation and help resolve his/her feelings.
 - v. Inform the child that CPS has the responsibility to complete the investigation, including interviewing other members of his/her family.
 - vi. Assess the need for immediate medical examination or treatment and arrange for this, seeking caretaker cooperation as appropriate. (*Section III, Medical Protocol*)
 - vii. Assess the need for immediate shelter/foster care of the child. The CPS Specialist will consult with his/her supervisor prior to taking the child into protective custody.

3. Parent/Caretaker Interviews

- a. The CPS Specialist will work in conjunction with law enforcement whenever applicable.
- b. Initial interviews are generally unannounced to maximize the gathering of relevant facts. Arrangements should be made so that the interview is conducted privately.
- c. Provide parents/caretakers the same information and afford the same considerations as listed in the children's interview protocol.
- d. Initiate contact the same day with the parent/caretaker in situations when a child has already been interviewed. If parental contact cannot be made the same day, the reasons for lack of contact must be documented.
- e. Initiate immediate contact with the parent/caretaker in all situations when the child is taken into temporary protective custody. This includes advisement of legal rights in writing, the agency's authority to take such action necessary to protect the child, and the parent's right to recommend a relative to temporarily care for the child/children. (*See Appendix C1, Temporary Custody Notice*)
- f. Offer services and information on resources to family members when the family could benefit from these services without regard to whether children are removed from the home.

4. Case Management Protocol

The CPS Specialist will:

- a. Obtain a medical examination of the child victim following guidelines of Section III, Medical Protocol.
- b. Gather and record information from the CPS Specialist's own observations and through interaction with collateral sources and professionals involved with the investigations.
- c. Consult with the CPS Unit Supervisor and/or other agency personnel to determine the need to remove the child from the family based upon the information gathered and the risk of harm to the child. In an emergency, the CPS Specialist will consult with a supervisor immediately after taking temporary custody of the child and obtain supervisory approval.

- d. The CPS Specialist will make a determination as to the findings. If the report of abuse, neglect or dependency is proposed to be substantiated or unsubstantiated by CPS standards, CPS will notify the parent/caretaker in writing. All proposed substantiated findings will be sent to the Protective Services Review Team, who will notify the alleged perpetrator of their rights.
- e. The case file should include a copy of all non-privileged information from the CPS investigation, including the CPS case file, and any relevant, non-privileged, non-duplicative information concerning the victim or witnesses from the Attorney General Office's file pertaining to the dependency, severance or related investigation or action.
- f. The CPS worker is responsible for facilitating the delivery of the information to the law enforcement officer in a timely manner. The appropriate law enforcement officer should notify the CPS worker assigned to the case prior to submittal for prosecution to ensure the information above has been provided to law enforcement. The CPS worker should confirm whether or not the Attorney General's Office has items such as dependency hearing transcripts or depositions. Any questions as to what documents should be included will be resolved by mutual agreement by the Attorney General's Office and the Yavapai County Attorney's Office.

C. TRAINING

- 1. In addition to any other training mandated by the agency, CPS personnel who in the course of their current duties are required to be a first responder to a reported incident of child abuse/neglect, should have the First Responders Training to Reports of Child Abuse/Neglect. (*Appendix E*)
- 2. CPS personnel responsible for continuing an investigation of a reported incident of child abuse or neglect should receive additional training as set out in Appendix E.
- 3. It is recommended that any individual tasked with conducting an interview of a child for the purpose of obtaining evidence/statements for use in preliminary protective hearings receive training in advanced forensic interviewing as set out in Appendix E5.

D. DISPUTE RESOLUTION

Pursuant to House Bill 2024, Child Abuse Investigation Protocols shall contain procedures for dispute resolution among law enforcement, child protective services and the County Attorney's Office. These procedures are set forth in Appendix F3.

III

MEDICAL PROTOCOL

Medical personnel have a complex role in child abuse cases. Evidence of child abuse may be detected during an examination or disclosures of abuse may be made to medical personnel. Since medical personnel are mandated reporters of child abuse per A.R.S. §13-3620, this Protocol will outline child abuse reporting guidelines.

Child abuse examinations must be performed by medical personnel who are competent in the forensic exam of children and in providing testimony in judicial proceedings. Medical personnel should be able to document their education, training and experience in the area of child abuse and neglect. In Yavapai County, the Family Advocacy Center "YFAC" has been established and is staffed by Sexual Assault Nurse Examiners "S.A.N.E. nurses" specializing in the examination of alleged victims of child. When medically appropriate, it is **strongly** suggested that these exams be conducted at the YFAC. Concerning the issue of the Emergency Medical Treatment and Labor Act (EMTALA), the transfer of a suspected child abuse victim to the Yavapai Family Advocacy Center can be done after the medical screening examination (MSE) has been completed. Unless there is concern about significant bleeding, a genital and anal examination should not be done if the case is to be transferred to the YFAC.

It is understood that physicians have an obligation to inform the immediate family regarding the health and welfare of the child. However, it is imperative that the physician remain objective in the evaluation and not confront the family or speculate on the nature of the injury.

- A. Suspected child abuse can be made known to medical personnel by three different means:
 - 1. A parent or caretaker requests a child abuse evaluation
 - a. Triage the urgency of medical need, i.e., severe trauma or excessive bleeding vs. minor contusions. A child's physical/medical safety is always the paramount concern.
 - b. Determine if the police and/or CPS have been notified.
 - i. If notification has been made, re-contact that agency(s) to determine if an officer and/or CPS Specialist will be

responding **and** if the agency is requesting that a medical evaluation be performed.

- ii. If notification has not been made, make every attempt to obtain background information on the child and alleged abuse from the parent/caretaker while out of earshot of the child.
- iii. If further information regarding the abuse is necessary, obtain basic information from the child as outlined below. If there is a reasonable belief to suspect child abuse, a report must be made. (See Procedure for Reporting Child Abuse outlined in section C below.)

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

- a. Utilize the "obtaining basic information from the child" procedure listed below.
- b. If there is reasonable belief to suspect child abuse, utilize the Reporting Procedure outlined in section C below.
- c. Do not notify parent and/or caretaker prior to police and CPS notification.

3. A child self discloses abuse to medical personnel

- a. Follow the procedure for obtaining basic information from the child as outlined in section below.
- b. If someone reasonably believes child abuse has occurred, a child abuse report must be made. See Reporting Procedure outlined in section C below.

B. Obtaining basic information from the child

- 1. If possible, find a quiet private spot to talk with the child away from the parent and/or caretaker.
- 2. Do not make promises to the child such as "I won't tell anyone" or "No one will have to go to jail." Simply reassure the child that you will do whatever is necessary to keep them safe.

3. If the following information has not already been volunteered, ask the child only these four questions:
 - a. What happened?
 - b. Who did it?
 - c. When did it happen?
 - d. Where did it happen?
4. Document exact quotes provided by the child.

C. Procedure for Reporting Child Abuse

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

A written report is also mandatory per A.R.S. §13-3620. The written report must be sent to CPS within 72 hours. A copy of the report should be mailed to:

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

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

A sample report is provided in Appendix C3.

1. Reports to CPS

- a. Document the name of the Hotline worker
- b. Document the CPS office to which the case is being assigned, including the supervisor name and phone number

- c. Ask what priority the case has been assigned in order to determine timeframe of CPS arrival (*See Appendix D for CPS Priority Guidelines Response times*)
- d. Document the name (or copy the identification) of the CPS worker upon arrival

2. Reports to law enforcement

- a. Ask if and when the officer is expected to respond
- b. Document the name and badge number of officer upon arrival
- c. Document the DR # assigned to the case

3. Medical records from this incident must be released to law enforcement and/or CPS

- a. Per A.R.S. §13-3620(C), law enforcement and/or CPS must make a written request and sign the medical release form.
- b. The parent/guardian does **NOT** have to give permission for this release.
- c. The release of medical records should also be expeditious, as police and CPS will need the records for their investigations.

D. The Forensic Interview and Videotaping

- 1. If conducted at the YFAC, the forensic interview should be done prior to the physical examination.
- 2. Medical personnel conducting the exam should view the interview if possible.
- 3. The child should not be re-interviewed by medical personnel.

E. The Medical Evaluation – Sexual Abuse

Forensic medical examination must be pre-approved by a Deputy County Attorney. Decisions whether to conduct the exam will be made in consultation with the law enforcement officer investigating the case following these guidelines:

1. Children Who Give a History of Sexual Abuse

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

2. Sexual Abuse within 120 Hours

Children and adolescents, regardless of gender, who have alleged sexual abuse within the previous 120 hours may need a forensic medical exam to collect specimens and document injuries. This decision should be made in consultation with a deputy county attorney. The victim should be advised not to bathe, change clothing, etc. prior to the exam.

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

4. 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.

5. 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.

6. 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.

7. Other Genital Infections

For children who have less common infections, the need for an exam can be determined by a discussion with available medical personnel. Girls who have a vaginal discharge need to be medically evaluated as soon as possible to determine the cause of the discharge. This may be done by the child's primary care physician or by available medical personnel from the center.

8. Exhibition of Some Sexualized Behavior without reasonable grounds to believe abuse has occurred

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

9. Children who are Preverbal, Non-verbal, or Developmentally Delayed. The forensic exam is an essential ingredient of the investigation after a report as been made.

10. Adolescents

Sexual abuse occurring 3-14 days prior to the report. These children may have evidence of healing trauma and thus a forensic exam would be worthwhile as soon as possible. If more than 14 days has passed since the alleged molest, these adolescents can be seen on a scheduled basis for a forensic exam.

11. Adolescents disclosing "consensual sex"

If there is a question as to whether the sexual contact was "consensual" or "non-consensual", a forensic medical exam should be done.

13. If the victim is under 15 years old, a forensic exam should be done. 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, the on-call deputy county attorney should be contacted for advice.

14. 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.

15. Custody Disputes

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

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

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

F. Procedure for Medical Examination

1. These aspects of the exam are pertinent to all cases, regardless of the time interval from the incident.
2. A complete medical history (including immunizations) should be obtained from the caretaker and the child. If the caretaker is not present, then an effort to contact them by phone should be made only with law enforcement and/or CPS approval. This is to insure that the investigation is not compromised. Medical personnel should, however, convey to law enforcement and/or CPS any urgent need for the medical history.

3. 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.
4. After the regular physical examination, carefully examine the genital and anal areas to detect any injury. This must be done with good illumination and can involve the use of magnification. The colposcope can provide both illumination and magnification in addition to photographic capability. Photographic and/or video documentation of the genital/anal areas is recommended, but is not required. The 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/anal areas; photographs are a secondary consideration.
5. 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.
6. Consider testing for pregnancy and sexually (and non-sexually) transmitted diseases, such as gonorrhea, syphilis, Chlamydia, herpes, trichomonas, staph, strep, candida and HIV. These lab tests may be available on site. However, patients thirteen (13) years and older should be offered referral to the Health Department for HIV testing, and thus will have the choice of confidential versus anonymous testing.
7. Prepare a forensic medical report. A suggested form is provided by the Arizona Department of Economic Security, Administration for Children Youth and Families. This report should be completed in a timely manner unless a particular lab test result or treatment result (e.g. the opening of a labial adhesion) must first be available.
8. When the exam is done within 120 hours of the alleged sexual abuse, in addition to the above medical exam procedure, consideration must be given to whether or a rape kit needs to be done. The rape kit procedure includes (but is not limited to):
 - a. Paper bag individual items of clothing separately

- b. Collect specimens by means of swabs to detect perpetrator body fluids (saliva, semen, etc.)
- c. Collect other debris (trace evidence) which may be present
- d. Collect reference specimens from the victim (saliva, blood, etc.)
- e. Proper air drying (at room air temperature) and handling of specimens to prevent deterioration
- f. Maintain the chain of custody

G. The Medical Evaluation - Physical Abuse and Neglect

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

1. A complete past medical history and the history of the suspected abuse, which should be obtained from the professional who interviewed the child.
2. Inspection of the genital/anal areas with good lighting because children who experience one type of abuse are at risk for all forms of abuse. If the history or exam reveals that sexual abuse is a concern, then the sexual abuse procedure should also be followed.
3. Appropriate lab studies to document the medical conditions caused by injury and to exclude such medical conditions as bleeding disorders.
4. Imaging studies to discover and document injuries that are not externally apparent by physical exam. These studies may include radiographs, ultrasound scans, computerized tomography scanning, nuclear scanning, and magnetic resonance imaging. The studies needed in any given case are variable and must be determined on a case-by-case basis. However, x-rays of the entire skeleton are indicated in most children less than 2 years of age and in selected children over 2 years old if physical abuse

is suspected. These studies must be done at hospitals that have a pediatric radiologist.

5. Color photographs should be done to document visible injuries as well as locations where injuries are not present. A measuring device, color scale and identification label should appear in the photograph. If the law enforcement photographer is not available to take the photographs, the medical unit should have an appropriate camera.
6. A forensic medical record must be prepared using the form provided by the Arizona Department of Economic Security, Administration for Children, Youth and Families. This report should be completed on the day of the exam unless an opinion cannot be given until a particular lab or radiology result is available.
7. A review of medial records of prior medical care may play an important role.

IV

COUNTY ATTORNEY PROTOCOL

The Yavapai County Attorney's Office ("YCAO") has long emphasized a sensitive and coordinated approach to the prosecution of child physical and sexual abuse. The YCAO reviews any investigation submitted by law enforcement agencies for possible filing of criminal charges. An attorney is on call to assist law enforcement agencies in the investigation of these cases, if needed, and to answer legal questions that may arise during the course of an investigation. The on-call attorney may also visit the scene, assist in search warrant preparation, attend the autopsy or otherwise work with law enforcement.

A. REVIEW OF SUBMITTALS

After an investigation is completed by law enforcement or the suspect is booked into jail, the agency report is submitted to the YCAO for review. A charging attorney will review the report and decide if the case is to be filed, returned for additional investigation, referred to a municipality for possible misdemeanor prosecution or declined for prosecution. As a practical matter, not all defendants who are arrested will have charges filed, since further investigation may be necessary before the YCAO is ready to file the case, or the case may not meet the standards for prosecution. If the suspect is out of custody, there is no legally imposed time limit for filing cases, other than the statute of limitations.

1. Arrest of suspect

- a. When the suspect is arrested and booked into jail, an attorney may attend the Initial Appearance to argue for an appropriate bond or other specific terms and conditions of release.
- b. It is helpful if law enforcement notifies the on-call attorney if there is a need to attend the Initial Appearance, especially if the attorney has not been involved prior to arrest.
- c. If a suspect has been booked, a complaint must be filed (charges filed) within 48 hours (excluding weekends and holidays) of an Initial Appearance (which occurs within 24 hours of booking into jail) in order to maintain the bond or release conditions that were set at the Initial Appearance.
- d. If charges are not filed, the defendant is released from custody and all Initial Appearance conditions no longer apply. If the defendant was released at his Initial Appearance (on his

own recognizance or on bond) and no complaint is filed within 48 hours, all release conditions will no longer apply and any bond posted will be exonerated.

2. Submittals returned for more 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.
- c. A copy of this submittal will be sent to CPS by the investigating agency.
- d. The case may either be resubmitted for review or the law enforcement agency may choose to close the investigation.
- e. If the agency does not choose to pursue the investigation, the YCAO should be notified in writing.

3. Submittals declined for prosecution

- a. If a case is declined for prosecution, a letter indicating this decision will be mailed to the law enforcement officer, CPS and the victim by the YCAO.
- b. The YCAO shall confer with the submitting law enforcement agency prior to declining a case for prosecution.
- c. The victim has a right to confer with the prosecutor regarding a decision not to prosecute.
- d. Cases are declined for several reasons, but primarily because they do not meet the office standard, which is that the case must have a reasonable likelihood of conviction at trial.
- e. A case is not rejected solely on the basis of the victim's or family's refusal to cooperate.
- f. All cases that are turned down may, of course, be reevaluated if new evidence is presented.

4. Submittals appropriate for prosecution

- a. The YCAO shall issue appropriate charges.
- b. Felony cases may be sent to a Preliminary Hearing or taken before the Grand Jury for a determination of probable cause.
- c. Grand Jury proceedings are not open to the public.
- d. If the suspect is indicted, the YCAO shall notify CPS of the charges.

B. PROSECUTION

It is the county attorney's policy to use a team approach to prosecution. The team consists of the Deputy County Attorney, county attorney investigators, Victim Advocates, legal assistants and outside agencies, such as child protective services.

1. A county attorney investigator may be utilized to assist the prosecutor once a case is filed.
2. A Victim Advocate acts as a liaison between the Deputy County Attorney and the victim or the victim's representative.
3. The Deputy County Attorney, in conjunction with the Victim Advocate, will work with the victim, parent, guardian ad litem or the victim's attorney on the case.
4. Legal assistants help in the research and preparation of motions regarding special issues surrounding child sexual and physical abuse prosecutions.
5. Child Protective Services ("CPS") is an independent state agency that deals with civil issues involving the child victim. If a case involves CPS intervention, the Deputy County Attorney will attempt to work with the assigned caseworker, recognizing that the goals for the case resolution of the two agencies are not necessarily the same.
6. Prosecution is a team effort among the investigative agency, Child Protective Services, the prosecutor, the 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.

C. CASE DISPOSITIONS – CHANGE OF PLEA OR TRIAL

1. Once the case is assigned to a Deputy County Attorney, the attorney and/or the Victim Advocate will contact the victim as soon as practical to discuss the process and obtain input as to a possible disposition.
2. While not all cases are appropriate for plea offers, the majority of cases will involve an offer to plead guilty to a lesser charge. Plea dispositions are advantageous because they ensure finality for the victim, a judgment of guilt by the court, and an order of restitution for damages incurred by the victim.
3. In all child sexual abuse cases that involve more than one count, it is anticipated that any plea offer will include lifetime probation.

Lifetime probation may be imposed even in cases that include a term of imprisonment.

4. 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 opinion of the victim as to what is just in their case may differ from the views of this office.
 - a. If the victim's view of a disposition diverges from the staffing offer, he or she shall be given the opportunity to discuss their disagreement with the Deputy County Attorney and, if necessary, with the supervisor prior to the plea being finalized.
 - b. If the difference of opinion is still not resolved, the victim has the right and opportunity to notify the pre-sentence probation officer and the court of their opinion.
 - c. Final disposition of a disputed negotiated plea rests with the discretion of the court to either accept or reject the plea offer.
5. If a case cannot be resolved by way of change of plea, the case is set for trial.
6. The county attorney's office recognizes that many victims and/or their lawful representatives are apprehensive about testifying. Trial apprehension is caused by:
 - a. Unfamiliarity with the trial process;
 - b. Uncertainty regarding whether or not the case is proceeding to trial; and
 - c. Unnecessary delays.
 - i. The Deputy County Attorney will not create any unnecessary delays.
 - ii. The Deputy County Attorney will oppose any unnecessary delays.
 - d. Fear of testifying.

D. TRIAL DISPOSITION – TRIAL AND VICTIM PREPARATION

1. Trial preparation is the responsibility of the Deputy County Attorney.
 - a. The Deputy County Attorney should meet with the victim in order to acquaint the victim with the trial process.
 - b. The Deputy County Attorney should strive to develop rapport with the victim.

- c. The Deputy County Attorney along with the Victim Advocate may initially meet with the victim in his or her own home or another place where the victim feels comfortable.
- 2. Victim preparation is the responsibility of the Deputy County Attorney with the assistance of the Victim Advocate.
 - a. In all but very rare cases, the victims are required to testify in court.
 - b. Prior to the trial, the victim will be taken into a courtroom and the Deputy County Attorney and/or the Victim Advocate will explain courtroom protocol and procedures to the victim.
 - c. The Deputy County Attorney is aware that the courtroom may be intimidating to the child/victim.
 - i. In appropriate cases, the Deputy County Attorney will request adaptation of the courtroom in order to fit the victim's needs or pursue videotaped or closed circuit testimony.
 - ii. When handled properly, trial testimony can be a powerful aid to the victim recovery process.
 - iii. 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.
 - (a) 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 Victim Advocate.
 - (b) The support person cannot otherwise be a witness in the case.
 - (c) The Deputy County Attorney will seek appointment of an interpreter or guardian ad litem for a victim in appropriate cases.
 - (d) Prior to trial, the Deputy County Attorney or the Victim Advocate will discuss the possible outcomes of the trial with the victim and the victim's representative.
 - (e) At the option of the victim, he or she may submit to an interview by the defense attorney.
 - 1) The Deputy County Attorney will be present and will actively participate in the interview.

- 2) The Deputy County Attorney will make necessary arrangements for any reasonable conditions requested by the victim, including:
 - a) The presence of the Victim Advocate who acts as a support person for the victim, or
 - b) The presence of another support person
 - 3) The Deputy County Attorney or his/her representative will arrange defense interviews of witnesses at the defense's request.
- d. The Deputy County Attorney or his/her representative will be present and will tape record the interview.
3. The County Attorney's Office recognizes that child sexual and physical abuse cases often require retention of expert witnesses.
 - a. In those cases, the County Attorney's Office will pay reasonable fees for that expertise.
 - b. Professionals are required to testify because they are material witnesses (i.e., they have seen and evaluated the child or are involved in the case within their professional capacity) rather than expert witnesses. In such situations, the professional is not entitled to expert witness compensation.
 - c. 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.
 - d. Special consideration will be given to the experts and professional witnesses to accommodate their schedules in coordinating a time for their testimony. Obvious constraints are imposed on the prosecutor, but efforts will be made to minimize the inconvenience to the expert or professional witness.

E. JURY VERDICTS

1. Once the case has been presented and the jury returns with a verdict, the Deputy County Attorney and/or the Victim Advocate will inform the interested parties and team members of the case outcome.
 - a. A jury has three (3) options in reaching a verdict on any of the charges;
 - i. Not guilty, in which case the defendant is acquitted, charges are dismissed and defendant is free from future prosecution on that matter;

- ii. Guilty, in which case the defendant is bound over for sentencing; or
- iii. Hung jury, in which case the jury was unable to reach a unanimous verdict as to the defendant's guilt or innocence.
 - (a) Officially, this results in a mistrial and the case is reset for trial. The case may be re-tried, resolved by plea or dismissed.
 - (b) 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.

F. SENTENCING

1. If the defendant pleads guilty or no contest, or if the jury finds the defendant guilty, the Deputy County Attorney and/or the Victim Advocate will inform the victim of the sentencing procedure.
2. The sentencing date is 30 to 60 days after conviction.
3. The duties of the Deputy County Attorney include:
 - a. Submitting to the Adult Probation Officer an Adult Probation packet, which includes:
 - i. The departmental reports;
 - ii. The indictment, information, or complaint;
 - iii. Copy of the plea agreement (when applicable);
 - iv. Victim's biological information;
 - v. Other relevant information; and
 - vi. The Deputy County Attorney's sentencing recommendation.
 - b. Informing the victim of his/her right to restitution.
 - c. Informing the victim of sentencing procedure options, such as:
 - i. The defendant may seek a continuance of the original sentencing date in order to present mitigating evidence;
 - ii. The State may seek a continuance in order to present aggravating evidence; or
 - iii. Either side may request a mental health examination under Rule 26.5, Arizona Rules of Criminal Procedure.

- d. Informing the victim of his/her sentencing rights at the sentencing proceeding:
 - i. The victim or the victim's lawful representative has the right to be present at the sentencing;
 - ii. The victim or the victim's lawful representative has the right to address the court.
- e. Assisting the victim in addressing the court.
 - i. The Deputy County Attorney may request of the court that the matter proceed in chambers.
 - ii. The Deputy County Attorney may assist the victim in preparing a written statement to present to the court.

G. POST CONVICTION RELIEF AND APPEALS

1. 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.
 - a. PCR is a legal review of the Change of Plea proceeding. The Yavapai County Attorney's Office Appeals Division handles PCR's.
 - b. An appeal is legal review of the trial proceedings. Appeals are handled by the Attorney General's Office.

H. TRAINING

Prosecutors who handle child abuse and neglect cases should seek appropriate training. The training in Appendix E3 is recommended for prosecutors who handle these cases and should serve as a guideline for such training goals.

Nothing in these Protocols shall be interpreted to mean that prosecutors cannot handle cases involving crimes against children without the recommended training.

I. DISPUTE RESOLUTION

Pursuant to House Bill 2024, child abuse protocols shall contain procedures for dispute resolution among law enforcement, Child Protective Services and the County Attorney's Office. These procedures are set forth in Appendix F3.

V

MENTAL HEALTH INTERVENTION PROTOCOL

As advocates for victims and children, mental health professionals may provide primary therapeutic intervention, support to families, information, and be a source of referral for child abuse allegations because of their contact with children and their families. A primary concern of the mental health professional is to prevent re-victimization of the child. It may be the therapist who hears the initial disclosure, either directly from the victim or indirectly from a third person. Reporting of child abuse is mandatory for mental health professionals; it is incumbent upon the professional to be familiar with current theory and research on child physical, emotional and sexual abuse, as well as neglect.

The Arizona mandatory reporting law, A.R.S. §13-3620, requires that mental health or social services professionals, or other persons having responsibility for the care or treatment of children, who reasonably believe that a minor has been the victim of physical injury, a reportable offense or neglect, are mandated to report the matter immediately. "Reasonably believe" means if there are any facts from which one could reasonably conclude that a child has been abused, the person knowing those facts is required to immediately report those facts to a peace officer or to Child Protective Services ("CPS"). If the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only. When in doubt, make the report.

The statute also states that anyone who reports a case of suspected child abuse is immune from liability in any civil or criminal proceeding resulting from the report unless the reporter has been charged with or is suspected of committing the abuse, or is acting with malice. Mental health professionals are responsible for maintaining current awareness of any statutory changes that may occur in the reporting law. The Yavapai Family Advocacy Center is available to provide up to date training on Mandatory Reporter issues. (*Appendix A3*)

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

conjunction with the agencies responsible for the investigation of child abuse cases.

A. THERAPEUTIC RESPONSE TO A DISCLOSURE OF ABUSE

1. When it appears that a child is disclosing information that may be considered abuse, the mental health professional should listen carefully and document direct quotes. The professional receiving such information should listen carefully and ask no leading questions. If the child does not spontaneously provide the information, the following questions should be asked:
 - a. **Who:** Who is the suspect? Collect sufficient information to minimize misunderstanding (which uncle, grandfather, etc.)
 - b. **What:** What is the nature of the offense (sexual, physical)
 - c. **When:** When did the last act occur
 - d. **Where:** Where did the crime occur (jurisdiction)
2. No further questioning by the mental health professional should be done at this time.
 - a. If the child has spontaneously answered any of these four questions, do not ask that question.
 - b. Record verbatim statements in written form and do not make any video/audio recording.
3. Once the initial disclosure has been made, only the investigating law enforcement or CPS professionals should do further questioning or interviewing of the child.
 - a. The therapist should remember that his/her relationship with the family and child is therapeutic and not investigative.
 - b. The therapist should not make promises to the child that cannot be guaranteed. For example, do not tell the child, "this does not have to be reported to the authorities," "you won't have to testify," "no one will go to jail," etc.

B. REPORTING THE ABUSE

1. It remains the responsibility of the person to whom the child disclosed to make the report (or cause it to be made) as soon as possible to CPS and law enforcement.
 - a. Questions about what constitutes abuse or how to make a report may be answered by CPS at 1-888-SOS-CHILD (1-888-767-2445 or TDD 1-800-530-1831).

- b. In cases where a child is in imminent danger, law enforcement should be contacted immediately.
- 2. A written report must be completed and sent to the appropriate agency (CPS or law enforcement) within 72 hours of making the initial report.
 - a. The written report should be mailed to CPS at P.O. Box 44240, Phoenix, AZ 85064-4240.
 - b. The therapist should maintain the original copy of the written report, which should be kept in the client's file.
 - c. Upon receiving the information, CPS and law enforcement may contact the mental health professional for further information and arrange for a forensic interview of the child.
 - d. If, through therapy, the child discloses further information regarding the abuse, the therapist should document direct quotes and make a report to CPS and law enforcement.
- 3. Once a report has been made, CPS or law enforcement has the primary responsibility for making further contacts with the family for investigative purposes.
- 4. Once a report has been made, the mental health professional that is working with a child abuse victim may become a part of the court proceedings. This may mean being ordered to appear in court and/or submitting your records to the appropriate authorities.
 - a. Mental health professionals should consult their licensing agencies' requirements regarding their response to such requests.
- 5. The victim and the victim's family should be referred to the Victim/Witness and Victim Compensation Program within the County Attorney's Office, as well as to other appropriate services.

C. THE THERAPIST'S RESPONSIBILITIES AFTER DISCLOSURE OF ABUSE

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

1. In this role, the therapist should delay primary trauma intervention until after the forensic interview and investigation have been completed by the appropriate agency. In the interim, supportive therapy should be provided.
2. Mental health professionals who prefer not to work with child abuse victims, or lack expertise in this area, may also contact the Yavapai County Attorney's Victim Compensation office (928-771-3485) to seek referrals to mental health professionals who specialize in working with child abuse victims.
3. Per A.R.S. §13-3620, mandated reporters, including mental health practitioners, may be requested to release records to CPS and/or law enforcement.
 - a. Offender treatment records may also be obtained pursuant to A.R.S. §13-3630 in any civil, criminal, or administrative proceeding or investigation conducted by CPS or law enforcement in which a child's neglect, dependency, abuse or abandonment is an issue. For that reason, written records should be complete, concise, clear and factual.
 - b. A mental health practitioner who has any questions regarding the release or requested release of records should contact the assigned or on-call County Attorney or Attorney General's Office.
 - c. Any records taken or obtained by the County Attorney, CPS, or law enforcement are subject to the rules of disclosure.
4. Therapists should not disclose facts regarding the allegations to the offender, victim, non-offending parent, caretakers or family members prior to the forensic investigation.
 - a. Explain to the non-offending parent, caretaker and other family members that the facts of the alleged abuse should not be discussed until after the investigative interview is completed by law enforcement and/or CPS.
 - b. Therapists should educate the parent/caretaker that the child may need to talk. Parents should listen, be supportive of the child, and seek support from the treatment professional during this time.
 - c. After the investigation is completed, the non-offending parent/caretaker should be fully informed about the details of the allegations.

5. Professionals involved in the treatment of various parties, (i.e., victim, offender, non-offending parents and siblings) should collaborate with each other to support effective treatment.
6. Appropriate boundaries in working with victims and family members:
 - a. The victim should have a separate therapist from the alleged offender.
 - b. The "non-contact" rules between offender and victim should be followed consistently.
 - c. The victim's therapist should not have direct contact with the alleged offender. Communication should be between the victim's and the alleged offender's respective therapists.
 - d. The victim's therapist should familiarize her/himself with the Adult and Juvenile Probation Departments' special conditions of probation for sex offenders and the guidelines for family reunification.
7. Therapists should provide support to the child victim through the legal process, as appropriate.
 - a. In cases where prosecution occurs, a Victim Advocate will be assigned.
 - b. The role of the Victim Advocate includes providing information about the criminal justice system and victims' rights; notification of court dates; visiting the courtroom with the victim; and being a support person during interviews, depositions and/or court sessions.
 - c. The therapist should provide emotional support to the victim during this process, in conjunction with the preparation done by the Victim Advocate.
8. The therapist should be prepared to be called as a witness, although this will not always be necessary. This may be done by interview, deposition and/or appearance in court.
 - a. Therapists should be aware that there may be legal limitations regarding the content and scope of their testimony.
 - b. The therapist should contact the assigned or on-call County Attorney concerning any questions regarding requests for interviews, depositions or court appearances.
 - c. The therapist should not agree to an interview/deposition with a defense attorney without first consulting with the Yavapai

County Attorney's Office. You may request that a Deputy County Attorney be present with you during a defense interview/deposition.

VI

SCHOOLS

A. REPORTING CHILD ABUSE

The Arizona mandatory reporting law, A.R.S. § 13-3620 **requires:** “Any person who reasonably believes that a minor is or has been the victim of abuse... or neglect that appears to have been inflicted on the minor by other than accidental means... shall **immediately** report or cause reports to be made to a peace officer or to Child Protective Services; 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 peace officer only...” (*Appendix B3, Duty to Report Suspected Abuse*)

B. SCHOOL PERSONNEL CHILD ABUSE PROCEDURE

1. When it appears that a child is disclosing information that may be considered abuse, school personnel should listen carefully.
2. School personnel should document direct quotes from the victim. The only questions school personnel should ask to establish the elements of a crime are:
 - a. **Who** is the suspect? Collect sufficient information to minimize misunderstanding (Which uncle, grandfather, etc.)
 - b. **What** is the nature of the offense (sexual, physical)
 - c. **When** did the last act occur
 - d. **Where** did the crime occur (jurisdiction)
3. School personnel are encouraged to gather information from other school personnel for background, family history, health history, other incidents, etc., to provide to law enforcement and/or CPS to further their investigation.
4. The school employee must report immediately to Child Protective Services (“CPS”) or law enforcement.
 - a. Yavapai County strongly recommends reporting suspected abuse to *both* law enforcement and CPS. The CPS Hotline telephone number is 1-888-SOS-CHILD.
 - b. If the suspected acts are committed by a person not having the care, custody or control of the child, the report shall be made only to a law enforcement officer. (*See Appendix A1 for contact information for law enforcement*)

5. A written report must be completed and sent to the appropriate agency within 72 hours. (*See Appendix C3, Child Abuse Reporting Form*)
6. Upon receiving the information, CPS and/or law enforcement may send an investigator to the school site in order to interview the child.
 - a. School personnel are not to conduct or sit in on the interview.
 - b. If the child volunteers additional disclosures after the initial interview, school personnel will document the information and contact CPS or law enforcement.
7. CPS and/or law enforcement will conduct the investigation.
 - a. The CPS specialist and/or law enforcement will provide proper identification and should confer with the person making the report.
 - b. The CPS and/or law enforcement officer may, at their discretion:
 - i. Enter the school grounds and investigate cases of suspected abuse without unnecessary disruption of normal school activities.
 - ii. Interview the child victim, and all other children residing in the home, on school grounds outside of the presence of school personnel.
 - iii. Conduct interviews of the child without permission from or notice to the parent(s) and/or guardian(s).
 - iv. Remove the child from the school (take temporary custody) if necessary to further the investigation.
 - v. Obtain school records by lawful means.
 - c. CPS or law enforcement is required to notify the parents in writing within six (6) hours if the child is taken into temporary custody. It is NOT the responsibility of school personnel to make notifications to the family.
 - d. If a parent or guardian calls or comes to the school in an effort to locate a child being interviewed, sheltered or removed from school grounds, the school should refer the parent or guardian to CPS and/or law enforcement

C. TRAINING

Each school district is strongly encouraged to provide an annual training regarding the Mandatory Reporting Laws of Arizona. This training is available through the Yavapai Family Advocacy Center (928-775-0669).

D. CONSEQUENCES

The failure to comply with the duty to report might be a class 1 misdemeanor, however, if the failure to report involves a "reportable offense", the person can be found guilty of a class 6 felony.

E. REPORTABLE OFFENSES

Abuses classified by statute as Reportable Offenses are:

1. Indecent Exposure ARS § 13-1402
2. Public Sexual indecency ARS § 13-1403
3. Sexual Abuse ARS § 13-1404
4. Sexual Conduct with a Minor ARS § 13-1405
5. Sexual Assault ARS § 13-1406
6. Molestation of a Child ARS § 13-1410
7. Furnishing items that are harmful to a child via the internet ARS § 13-1404
8. Sexual Assault ARS § 13-1406
9. Surreptitious photographing, videotaping, filming, or digitally recording of a minor ARS § 13-3619
10. Incest ARS § 13-3608
11. Child prostitution ARS § 13-3212

VII

ADULT PROBATION PROTOCOL ADULT SEX OFFENDER CASES

The Adult Probation Department primarily interacts with victims in three ways:

1. Investigation as part of the presentence report for the Court prior to sentencing,
2. Supervision of pretrial/sentenced sex offenders in which any contact with the victim(s) is either expressly prohibited or carefully supervised, and in which any family unification/reunification occurs under guidelines, which are structured and incremental. The risk to the community of any sex offender placed there by the Court should be carefully evaluated on an ongoing basis and
3. In the event that probation employees, in the course of their regular duties, have a reasonable belief that a child is or has been the victim of abuse or neglect. This initiates the same protocol as shared by other service professionals who are mandated by law to report the suspected abuse.

A. PRE-SENTENCE INVESTIGATION

1. Preparing the Report
 - a. In the preparation of a presentence report, the probation officer's assignment is to provide timely, accurate, relevant facts and information to assist the Court in making an appropriate decision as to the sentence.
 - b. If there is a possibility that the defendant will be sentenced to a grant of probation the presentence investigator shall recommend that the Court order the special sex offender conditions, unless there are exceptional circumstances.
 - c. In conducting pre-sentence investigations with sex offenders there are a number of issues unique to this population that should be addressed. The presentence report will provide information including:
 - i. A summary of police report(s), detailing the ages and nature of relationship of the victim and offender,

- ii. A complete description of the assault and grooming behaviors; that is, the method by which the defendant coerced, threatened or manipulated the victim; the location and setting of the assault(s);
- iii. The time span over which the assault behaviors occurred and any weapons which may have been used or were present during the offense.
- iv. Additionally it will include any information in the police report regarding the manner in which the offense was disclosed, the defendant's initial response to disclosure (one of the greatest potential trauma to victims) and any information about trauma to the victim and the response by others to the disclosure.
- v. Much of the report requires information about the defendant including his/her social history, criminal history, substance abuse, mental health problems, financial status, and his/her interpretation of the offense and the level of remorse, accountability or denial.

2. Taking the Victim's Statement

- a. An important part of the report involves the victim's statement.
 - i. Officers should contact the Victim Witness Advocate before contacting the victim. The advocate has often established a rapport with the victim, and therefore the victim might feel more comfortable talking with another stranger if the advocate is present.
- b. It is helpful to let the victims know that this is probably the last time they will have to talk to someone from the Court. He or she has already had to tell the details to numerous individuals, and it should not be necessary to repeat them. However, if it seems that they would like to do so, they should be accommodated.
- c. The main objective is twofold:
 - i. To determine the impact the offense had on the victim(s), degree of trauma to the victim(s); emotionally, physically and financially, whether they have received counseling, and the cost involved, and how they presently view the offender with regard to sentencing; and

- ii. To do so in a manner that ensures victims' rights are protected in all cases and that the victim is not being further traumatized by the process.
- d. If for some reason the victim has not been provided with information about applying for assistance through the Victim's Compensation Fund they should be directed to Victim Witness at (928) 771-3485.
- e. When the victim is a child, every effort should be made to decrease any additional trauma or discomfort and make the interview as easy as possible.
 - i. Many parents do not wish their children to be re-interviewed and choose to speak on the child's behalf. If it is deemed appropriate to interview the victim, and time permitting, the officer can offer to go to the victim's home where the child may feel more comfortable and secure.
 - ii. The interview with the child should occur in the presence of a parent or Victim Witness Advocate, but the officer should encourage the child to express his or her own feelings.
 - iii. More information about the victim's situation can be gathered from other contacts, such as Child Protective Services Specialist, the victim's counselor, the child's attorney or guardian ad litem, significant members of the family and others who may wish to comment.
 - iv. Since a number of victims have still not been in treatment by this time, they or their parent should be encouraged to obtain counseling.

3. Conditions of Probation

- a. The seventeen (17) specialized sex offender conditions shall be recommended for the supervision of sex offenders at the presentence level unless there are exceptional circumstances. This will allow the supervising field officers the ability to further evaluate the case, to order further testing for the defendant, and to provide an appropriate degree of safety in the community for the victim(s) and potential victims.

B. FIELD SUPERVISION

1. Pretrial Officers

- a. If a sex offender is granted pretrial release, in most cases a condition of that release will include the prohibition of any contact with minors.
- b. At the Court's direction the offender will not be permitted to have contact with or reside with any minors.

2. Specialized Officers

- a. Sexual offenders will be assigned to a specialized sex offender field officer, unless there are exceptional circumstances.
- b. Specialized field officers have been trained to understand the intricate dynamics of the sexual deviance, grooming and manipulation tactics, offense cycle, risk factors for re-offense, and treatment strategies and objectives.
 - i. The specialized unit utilizes a collaborative approach to containment.
 - ii. The sex offender supervision team consists of a probation and a surveillance officer who work closely with the treatment providers in order to ensure consistency in messages given to the defendant about treatment goals and expectations, and about probation performance. It also provides for a system of checks and balances in monitoring contact restrictions and decisions regarding unification/reunification.
- c. After sentencing, it is the team's goal to disrupt the defendant's deviant sexuality, to protect the victim and to help prevent further victimization.
 - i. Surveillance of an offender is a critical element in this disruption.
- d. Field work is conducted to assure that defendants are complying with their conditions of probation and their treatment objectives.
- e. Officers work on a continuing basis to assess the risk level of the offenders on their caseloads and determine the frequency and quality of random field contacts.
- f. Offenders must adhere to
 - i. Strict definition of "no contact" with children;
 - ii. Curfews;
 - iii. Compliance with residential restrictions;
 - iv. Employment restrictions; and

- v. Engage in and abide by the treatment contracts and other restrictions.

3. Offender Treatment/Testing

All sex offenders, with rare exception, are required to participate in sex offender specific counseling.

- a. The Probation Officer, not the offender, chooses the therapist that will be utilized in the offender's treatment. This matter is critical issue as offenders often wish to engage in treatment that does not address their offending behaviors.
- b. Probation officers will utilize the services of a therapist who is specifically trained in the treatment of sex offenders.
 - i. Therapists specializing in the treatment of sex offenders are certified by the Association for the Treatment of Sexual Abusers (ATSA) certified and utilize a cognitive behavioral approach with a strong emphasis on relapse prevention. They are also well versed in the need for group process amongst the offending population.
 - ii. In treatment, offenders participate in polygraph and phallometric assessments and engage in a behavioral reconditioning component.
- c. If not completed at the presentence level, offenders will have a sex offender specific assessment prior to the commencement of treatment.
- d. During the initial phase of treatment, offenders will be required to engage in polygraph and phallometric testing.
 - i. Offenders are required to take an instant offense polygraph test if they are in denial.
 - ii. If they have admitted to what the victim has alleged, offenders are required to submit to a sexual history or disclosure polygraph examination, which covers their sexual history and often reveals additional paraphilias that they will need to address if they are to make significant progress in learning to control their deviant behavior.
 - iii. Since offenders' self-report is often inaccurate and incomplete, polygraph examinations are a useful tool for encouraging sexual offenders to disclose sexual secrets.
 - iv. The sex offender program focuses on assisting offenders in eliminating sexually deviant thoughts, fantasies and

behaviors. Once the offender has extinguished secretive and manipulative behaviors, they can begin to work toward establishing healthy relationships.

- e. Also in the initial phase of treatment, offenders are required to submit to a pretreatment Abel Assessment of Sexual Interest or penile plethysmograph assessment.
 - i. These phallometric tests are used to objectively assess the offender's significant patterns of sexual arousal.
 - ii. When there has been significant time and progress in treatment, post-tests can be administered to determine if deviant responses are decreased and appropriate responses are increased.
- f. The offender is placed in a cognitive-behavioral therapy group.
 - i. The contracted treatment providers are part of the "sex offender supervision team" that helps break down the secrecy and denial of many sex offenders.
 - ii. Open communication between therapists, probation officers, surveillance officers and treatment specialists is maintained in order to monitor offenders.
 - iii. Group treatment also helps eliminate the tendencies toward secrecy and manipulation, which are not as easily extinguished in one-on-one counseling.
- g. Offenders are given a series of homework assignments, which must be successfully completed as they progress in therapy.
- h. Offenders are not allowed contact with any children, including their own, until certain treatment goals have been met and until the instant offense polygraph and/or sexual history polygraph is passed.
 - i. Contact with a victim should proceed only after a detailed clarification process supervised by both the offender's therapist and victim's therapist (offenders and victims would not be seen by the same provider).
 - ii. Professionals involved in the treatment of offenders and others in the treatment of victims should collaborate with each other to support effective treatment.
 - iii. Premature confrontation between a victim and the offender should not occur.

- iv. If the case is one of in-home sexual abuse, or abuse by a close family member, the custodial parent should be informed of the probation department's guidelines for contact.
 - (a) The spouse or partner should be aware that the offender will not be allowed to return home or have contact with the victim or other children until various treatment objectives have been met, a process which could take years, to accomplish.
 - (b) In some instances it will not occur.
- i. The process of unification/reunification is slow and structured. It is a major decision to allow an offender to enter into or to return to an intimate living situation with a child or a child who has been previously victimized.
 - i. The Officer would not permit such an arrangement until both the officer and the therapist believe that the partner or non-offending partner is able to protect the children from victimization or further abuse.
 - ii. In some cases the non-offending party would not be considered capable of protecting children.
 - iii. The partner and the offender need to be totally aware of the pre-offense thoughts, fantasies and behaviors of the offender.
 - iv. The offender must also present a detailed plan for relapse prevention.
 - v. Informed support person's groups are helpful with the unification/ reunification process.
 - (a) Many family members report being angry at "the system," which they perceive as being responsible for their disrupted family. Group treatment and support can help redirect the responsibility toward the offender and also help the partner to become part of a strong support system for the child.
 - (b) The attitude and strength of the child victim's support system are crucial to recovery of sexual trauma.
- vi. Non-offending partners in sexual abuse cases often have been victimized themselves; they carry the additional burdens of providing a healthy and protective

environment for their children while attempting to deal with their own past victimization.

- (a) The partner must be an active member of a partners' group and be evaluated as an appropriate chaperone before being considered an adequate protector of children.
- (b) Often times in cases of unification/reunification, the offender's therapist will meet with the children to assess whether or not relapse prevention measures are being adhered to in the home.
- (c) Similarly, child victims sometime develop "trauma bonds" with their victimizer. Therefore, a child's self-report of readiness to reunify would not be considered sufficient for such a serious undertaking.

4. Monitoring

Specialized Probation Officers often attend various offender and/or victim therapy groups. This allows the Officers to maintain awareness of the issues the offenders and their families are facing.

- a. Officers monitor the offender's living situation, employment, access and risk to children, adherence to the conditions of probation and the sex offender treatment contract, substance abuse, use of free time and other areas of his/her environment.
 - i. Detailed information is obtained about the offender's family members and other children with whom the offender may come in contact.
 - ii. This information is shared with all members of the team.
 - iii. Adult chaperones must be fully informed about the offender's criminal offense and sign a written form of consent before any contact with the children can occur.
- b. Maintenance/Monitoring polygraphs should take place throughout the offender's term of probation.
 - i. Probation Officers will often review homework and special assignments given in group, increase supervision, and verify with family members the offender's accountability and behavioral changes.

- ii. Every attempt within the officer's power is made to assess a potential victim's emotional well being and provide for victim safety and recovery.

C. MANDATORY REPORTING OF SUSPECTED ABUSE

1. Adult Probation Department employees may be the first persons to whom children disclose abuse or they may detect possible abuse or neglect as a function of their job.
 - a. The Arizona mandatory reporting law, A.R.S. §13-3620 **requires:** "Any person who reasonably believes that a minor is or has been the victim of abuse... or neglect that appears to have been inflicted on the minor by other than accidental means... shall **immediately** report or cause reports to be made to a peace officer or to Child Protective Services; 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 peace officer only..." (*Appendix B3, Duty to Report Suspected Abuse*)
 - b. This law also applies to Probation Department employees.
 - i. If one reasonably believes that a child has been neglected or abused, the Probation Department employee is required to immediately report the incident to CPS and to local law enforcement.
 - ii. The information about possible abuse may be received through the child's self-report, the observation of neglect or physical injury or third party disclosure.
2. Child's Self Disclosure
 - a. When it appears that a child is disclosing information about possible abuse, efforts should be made to promote a quiet, safe place to facilitate the conversation.
 - b. The person receiving the information shall listen openly and speak at the child's developmental level in a positive, non-judgmental manner.
 - c. If the child has not spontaneously provided the following information about the abuse, only these questions should be asked as needed to complete the information:
 - i. **What** happened?
 - ii. **Who** did it? Collect sufficient information to minimize misunderstanding (which uncle, grandfather, etc)
 - iii. **When** did it happen?

- iv. **Where** did it happen? (jurisdiction)
 - d. Efforts should be made to document the child's exact words during the disclosure. Direct quotes will later be included in the offense report.
 - e. Probation employees should not make any promises of confidentiality or outcome. For example, do not tell the child, "this does not have to be reported to the authorities," "you won't have to testify," "no one will go to jail," etc.
 - f. Follow the reporting procedure as specified in section D (below).
3. Observations of Injury, Neglect and/or Unusual Behavior
- a. Probation employees should be observant of bruising, injury, or unusual behavior, which may be the result of abuse or neglect.
 - b. Employees observing the abuse may ask the four questions listed in the previous section to attempt to ascertain the cause.
 - c. If the responses lead to suspicion of abuse or neglect, or if the responses are inconsistent with the observations, report as described in section D (below).
4. Third Party Report of Abuse

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

D. REPORTING PROCEDURES

1. The employee, after observing or hearing about the suspected abuse as outlined in sections C.2 and 3, shall immediately call both CPS Hotline at 1-888-SOS-CHILD and the local law enforcement agency where the suspected abuse occurred.
 - a. A written report will also be mailed to CPS within 72 hours of the initial report (*Appendix C3, Child Abuse Reporting Form*)
 - b. The report will include the names and addresses of minor and minor's parents or person having custody of the minor if known, the minor's age, nature and extent of injuries or

neglect, any evidence of previous injuries or neglect and other information that might be helpful.

- c. If the report concerns a person who does not have care, custody or control of the minor, the report shall be made to a peace officer only.
2. Due to the sensitive nature of an impending investigation, the employees shall respond in a manner that protects the victim, preserves evidence and enhances the professional role of each collaborating agency.
 - a. It is often difficult to determine who plays what role in an abuse allegation; therefore, the employee will not provide any information about the suspected abuse to the parents or any alleged perpetrators.
 - b. The employee shall refer questions about reasonable belief of abuse to CPS or the law enforcement agency involved.
 - c. After assessing the information and determining a need, the employee will attempt to secure an arrangement, which assures the immediate safety of the victim prior to leaving.
3. If the information was obtained from a third party (as described in section C., 4 above), document the information provided.
 - a. Do not interview the child, but remain observant.
 - b. If any injury is observed, the four questions listed in section C.2c may be asked.
 - c. After the third party has been directed to report the suspected abuse, the employee shall make a follow-up report to CPS and the appropriate local law enforcement agency.
4. The incident will be documented per Yavapai County Adult Probation Department policy.

VI

JUDICIAL PROTOCOL

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

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

A. Judicial Training

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

B. Language Abilities

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

1. When administering the oath to a young child, all that should be required is a promise to tell the truth or "what really happened."
2. Since in any criminal trial every person is competent to be a witness, there should be no need for a separate competency hearing. (See *A.R.S. §13-4061*) If a judge decides to conduct one anyway, unless the court is particularly adept at using age appropriate language, the prosecutor should be allowed to conduct the questioning.

3. Arizona law prohibits psychological exams to determine credibility.

C. Attorney Conduct

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

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

D. Reducing Courtroom Trauma

A Child-Friendly Courtroom environment should:

1. Allow a support person to be nearby/next to the child;
2. Allow child to hold a blanket, a stuffed animal, a doll, or other small comforting object;
3. In some cases, provide a small table and chairs for testimony rather than the witness stand;
4. Provide a pillow or booster chair for the witness chair;
5. Consider removal of robes and coming off the bench;
6. Work with the bailiff to provide water, kleenex, and to adjust the microphone;
7. Be aware of younger children's reduced attention spans and the need for breaks. Provide opportunities for the child to use the restroom;
8. Consider whether the child's testimony should be in the early morning or after school, take the child's schedule or daily routine into consideration when scheduling the child's testimony;

9. Consider the necessity of clearing the courtroom of spectators other than the press (proper findings are a must);
10. Use child friendly props; use of anatomically detailed dolls should only occur in rare instances;
11. Be aware of signs of distress in the child;
12. Let the child know it is okay to tell the judge if he/she doesn't understand a question; and
13. Provide for the separation of child victim/witnesses and his/her family from the defendant and non-supportive family, etc.

E. Priority Case Scheduling

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

F. Victim's Rights

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

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

1. Conditions of release terms should be explicit as to phone, personal, or written contact and even as to not being in the victim's neighborhood;
2. When funds are available for a true pre-trial supervision, release conditions should be monitored by the pretrial supervision agency.

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

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

IX
REPORTING COMPLIANCE
AND
TRAINING GUIDELINES DEVELOPMENT

In Fiscal Year 2004-2005, the participants agreed that the Annual Report will consist of a document highlighting the contents of the 2004 Protocol for the Investigation of Child Abuse, the standards for training and the plan for monitoring implementation of the protocol.

CPS Region Supervisors and Law Enforcement Agency Representatives in Yavapai County along with the Yavapai County Attorney will establish a Reporting/Compliance Working Group ("Working Group") for Fiscal Year 2004-2005. The Working Group will meet and make recommendations to their respective agency heads concerning the content of the Annual Report for Fiscal Year 2005-2006. Agencies will take immediate steps to identify agency information that will be tracked and reported. The Working Group will be responsible for forwarding appropriate and timely reports to Governor, President of the Senate and Speaker of the House as required by A.R.S. § 8-817(B)(8).

Yavapai County understands that the Maricopa County Training Development Committee is working together with the Children's Justice Task Force and Arizona Peace Officer Standards and Training Board to develop training available to professionals throughout the state.

APPENDICES

APPENDIX A

PROFESSIONAL RESOURCES IN YAVAPAI COUNTY

APPENDIX	DESCRIPTION
A1	Law Enforcement Agencies in Yavapai County
A2	Child Protective Services Offices in Yavapai County
A3	Yavapai Family Advocacy Center

YAVAPAI COUNTY LAW ENFORCEMENT AGENCIES

Arizona Department of Public Safety

111 W. Commerce Drive
Prescott, AZ 86305
Phone: (928) 778-3271
Facsimile: (928) 776-1089

Camp Verde Marshal's Office

33 W. Moser Lane
P.O. Box 710
Camp Verde, AZ 86322
Phone: (928) 567-6621
Facsimile: (928) 567-6238

Chino Valley Police Department

1020 Palomino Road
P.O. Box 406
Chino Valley, AZ 86323
Phone: (928) 636-7240
Facsimile: (928) 636-1972

Clarkdale Police Department

49 N. 9th Street
P.O. Box 308
Clarkdale, AZ 86324
Phone: (928) 634-7240
Facsimile: (928) 634-1679

Cottonwood Police Department

199 S. 6th Street
Cottonwood, AZ 86326
Phone: (928) 634-8992
Facsimile: (928) 634-0611

Jerome Marshal's Office

P.O. Box 335
Jerome, AZ 86331
Phone: (928) 634-8992
Facsimile: (928) 649-2776

Prescott Police Department

222 S. Marina
P.O. Box 2059
Prescott, AZ 86302
Phone: (928) 771-5800
Facsimile: (928) 778-3839

Prescott Valley Police Department

7601 E. Civic Circle
Prescott Valley, AZ 86314
Phone: (928) 772-9261
Facsimile: (928) 772-2700

Sedona Police Department

100 Roadrunner Drive
Sedona, AZ 86336
Phone: (928) 282-3102
Facsimile: (928) 204-7808

Yavapai Apache Nation Police Department

353 Middle Verde Road
P.O. Box 1188
Camp Verde, AZ 86322
Phone: (928) 567-4259
Facsimile: (928) 567-7594

Yavapai Prescott Tribal Police

530 Merritt Avenue
Prescott, AZ 86301
Phone: (928) 443-1599
Facsimile: (928) 443-1603

Yavapai County Sheriff's Office

255 E. Gurley Street
Prescott, AZ 86301
Phone: (928) 771-5800
Facsimile: (928) 771-3294

CHILD PROTECTIVE SERVICES YAVAPAI COUNTY OFFICES

District III

Law Enforcement Designated Hotline
Telephone Number: 1-877-238-4501

Prescott

Child Protective Services Office
1509 A. West Gurley
Prescott, AZ 86301
Phone: (928) 445-1860
Facsimile: (928) 778-6587

Cottonwood

Child Protective Services Office
1500 E. Cherry Street, Suite B
Cottonwood, AZ 86326
Phone: (928) 634-7561 xt 6844
Facsimile: (928) 648-6852

Prescott Valley

Child Protective Services Office
8128 E. Highway 69, Suite A
Prescott Valley, AZ 86314
Phone: (928) 759-0316
Facsimile: (928) 759-0321

YAVAPAI FAMILY ADVOCACY CENTER

Yavapai Family Advocacy Center

8485 E. Yavapai

P.O. Box 26495

Prescott Valley, AZ 86312

Phone: (928) 775-0669

Facsimile: (928) 759-0474

APPENDIX B

LAWS

APPENDIX	DESCRIPTION
B1	Definitions Pertaining to Crimes Against Children
B2	County Medical Examiner Law
B3	Duty to Report Suspected Abuse

DEFINITIONS PERTAINING TO CRIMES AGAINST CHILDREN

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

For purposes of coordinated investigation pursuant to statutory mandates, an "extremely serious conduct allegation" pursuant to A.R.S. §8-801(2) means an allegation of conduct by a parent, guardian or custodian of a child that, if true, would constitute any of the following:

- Sexual Conduct With A Minor
- Sexual Abuse
- Molestation Of A Child
- Incest
- 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(c))

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 any structure or vehicle in which volatile, toxic, or flammable chemicals are found or equipment is possessed by any person for 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
- physical condition which imperils

"Serious Physical Injury" means physical injury which creates:

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

EMOTIONAL ABUSE

A.R.S. §8-821 permits a CPS Specialist or peace 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. §13-1406) 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;
- Distributing, 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 or 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 cohabiting.

"Sadomasochistic abuse" means flagellation or torture by or upon a person who is nude or clad in undergarments or 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.

COUNTY MEDICAL EXAMINER

§ 11-595. Right to enter premises; right to seize articles

- A. The county medical examiner or any person performing the duties of a county medical examiner may enter any room, dwelling, building or other place in which the body or evidence of the circumstances of the death requiring investigation may be found, provided that a law enforcement agent investigating the death obtains a search warrant for private property other than in the immediate location where the body was found.
- B. The county medical examiner or any person performing the duties of a county medical examiner, with the permission of the law enforcement agent investigating the death may take into his or her possession any object or article found on the deceased or in the deceased's immediate vicinity which in his or her opinion may aid in the determination of the deceased's identity or determination of the cause or manner of death. Upon completion of his or her findings, the medical examiner or the person performing the duties of a county medical examiner shall within thirty days, deliver such object or article to the law enforcement agency concerned, the legal representatives of the deceased or to the county treasurer.

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

A. 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 the death of an infant who is protected under § 36-2281 shall immediately report or cause reports to be made of this information to a peace officer or to child protective services in the department of economic security, 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 peace 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 it 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:

1. 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.
2. Any peace officer, member of the clergy, priest or christian science practitioner.

3. The parent, stepparent or guardian of the minor.
 4. School personnel or domestic violence victim advocate who develop the reasonable belief in the course of their employment.
 5. Any other person who has responsibility for the care or treatment of the minor.
- B. 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.
- C. 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.
- D. Reports shall be made immediately by telephone or in person and shall be followed by a written report within seventy-two hours. The reports shall contain:
1. The names and addresses of the minor and the minor's parents or the person or persons having custody of the minor, if known.
 2. 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.
 3. Any other information that the person believes might be helpful in establishing the cause of the abuse, child abuse, physical injury or neglect.

- E. 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 child protective services in the department of economic security. For the purposes of this subsection, "newborn infant" means a newborn infant who is under thirty days of age.
- F. 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 peace officer or to child protective services in the department of economic security, 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 peace officer only.
- G. 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 peace officer or child protective services worker investigating the minor's neglect, child abuse, physical injury or abuse on written request for the records signed by the peace officer or child protective services 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.
- H. When telephone or in-person reports are received by a peace officer, the officer shall immediately notify child protective services in the department of economic security and make the information available to them. Notwithstanding any other statute, when child protective services receives these reports by telephone or in person, it shall immediately notify a peace officer in the appropriate jurisdiction.

- I. 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 involved minor may be performed.
- J. 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.
- K. Except for the attorney client privilege or the privilege under subsection L of this section, no privilege applies to any:
 - 1. Civil or criminal litigation or administrative proceeding in which a minor's neglect, dependency, abuse, child abuse, physical injury or abandonment is an issue.
 - 2. Judicial or administrative proceeding resulting from a report, information or records submitted pursuant to this section.
 - 3. Investigation of a minor's child abuse, physical injury, neglect or abuse conducted by a peace officer or child protective services in the department of economic security.
- L. 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.

- M. 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:
1. Personal information about individuals other than the patient.
 2. 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.
- N. If any portion of a psychiatric record is excised pursuant to subsection M of this section, a court, upon application of a peace officer or child protective services 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 peace officer or child protective services worker investigating the abuse, child abuse, physical injury or neglect.
- O. 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.
- P. For the purposes of this section:
1. "Abuse" has the same meaning prescribed in § 8-201.
 2. "Child abuse" means child abuse pursuant to § 13-3623.
 3. "Neglect" has the same meaning prescribed in § 8-201.
 4. "Reportable offense" means any of the following:
 - (a) Any offense listed in chapters 14 and 35.1 of this title or § 13-3506.01.
 - (b) Surreptitious photographing, videotaping, filming or digitally recording of a minor pursuant to § 13-3019.

- (c) Child prostitution pursuant to § 13-3212.
- (d) Incest pursuant to § 13-3608.

APPENDIX C

FORMS

APPENDIX	DESCRIPTION
C1	Temporary Custody Notice
C2	Infant Death Investigation Checklist and Instructions
C3	Suspected Child Abuse/Neglect Report Form
C4	Consent to Search Form – Child Death
C5	Consent to Search Form – Child Medical Emergency
C6	Medical Records Request Form
C7	Authorization to Release Medical Records

ARIZONA DEPARTMENT OF ECONOMIC SECURITY

TEMPORARY CUSTODY NOTICE

On (date) _____, at (time) _____ AM /PM, temporary custody of (child's name) _____

was taken at (address) _____ by (agency) _____

Describe the specific reason(s) temporary custody is necessary _____

Check the circumstances (imminent risk factor) that most clearly describes the reason temporary custody was necessary:

- ☐ Medical or psychological examination required to diagnose abuse or neglect.
- ☐ No caregiver is present and the child cannot care for himself or herself or for other children in the household.
- ☐ A child has severe or serious non-accidental injuries that require immediate medical treatment.
- ☐ A child requires immediate medical treatment for a life-threatening medical condition or a condition likely to result in impairment of bodily functions or disfigurement, and the child's caregiver is not willing or able to obtain treatment.
- ☐ A child is suffering from nutritional deprivation that has resulted in malnourishment or dehydration to the extent that the child is at risk of death or permanent physical impairment.
- ☐ The physical or mental condition of a child's caregiver endangers a child's health or safety.
- ☐ A medical doctor or psychologist determined that a child's caregiver is unable or unwilling to provide minimally adequate care.
- ☐ The home environment has conditions that endanger a child's health or safety, such as unsanitary disposal of human waste, animal feces or garbage, exposed wiring, access to dangerous objects, or harmful substances that present a substantial risk of harm to the child.
- ☐ A medical doctor or psychologist determined that a child's caregiver has emotionally damaged the child; the child is exhibiting severe anxiety, depression, withdrawal, or aggressive behavior due to the emotional damage; and the caregiver is unwilling or unable to seek treatment for the child.
- ☐ The child's caregiver has engaged in sexual conduct with a child, or has allowed the child to participate in sexual activity with others.
- ☐ Other circumstances place a child at imminent risk of harm requiring removal (*describe specific circumstance*). _____

The Department of Economic Security, Child Protective Services (CPS) must:

- ☐ Return your child within **72 hours** (not including weekends and holidays) unless CPS files a legal paper, called a petition, with the Juvenile Court. If a petition is filed, your child will be kept in the temporary custody of CPS.
- ☐ Return your child within **12 hours** if your child was removed to be examined by a medical doctor or psychologist, unless abuse or neglect is diagnosed, **and**
- ☐ Inform you of the right to give a verbal or written response to the allegations and have them included in the investigation report. Any documentation you give and what you say or write will be included in the case record and can be used in court proceedings.

- ☐ **A Preliminary Protective Hearing will be held on (date) _____ (time) _____**
- OR** ☐ **Location (court name) _____ (address) _____**
- ☐ **You will be notified if CPS files a petition and a Preliminary Protective Hearing is set. CPS will provide you a written notice of the date, time and location of the hearing within 24 hours after the petition is filed.**

If a petition is filed, you have the right to have an attorney represent you. The Juvenile Court will appoint an attorney to represent you if you qualify financially. The court may also appoint an attorney or a guardian ad litem to represent your child's best interest.

Before the Preliminary Protective Hearing, you must meet with your attorney. Prior to the Preliminary Protective Hearing, a meeting will be held to try to reach an agreement about placement of your child, what services should be provided and visitation with your child. The availability of reasonable services will be considered. The child's health and safety will be a main concern at this meeting.

Other people may attend this meeting including: child, relatives, other interested persons with whom the child might be placed, witnesses, advocates or a person who has knowledge of your child or an interest in the welfare of your child.

It is your responsibility to participate in all services determined reasonable and necessary by the court. If you do not, the court may hold further hearings to terminate your rights as a parent. This means your child will never be returned to you.

Services available to parents, guardians and custodians, and agencies to contact for assistance are listed on the back of this form.

CHILD PROTECTIVE SERVICES SPECIALIST'S NAME (Please print)	AREA CODE AND PHONE NO. ()
--	--------------------------------

ARIZONA DEPARTMENT OF ECONOMIC SECURITY'S ADDRESS (No., Street, City, State, ZIP)

CHILD PROTECTIVE SERVICES SUPERVISOR'S NAME (Please print)	AREA CODE AND PHONE NO. ()
--	--------------------------------

METHOD OF NOTICE: On (date) _____, at (time) _____ AM/PM, I served notice to (parent, guardian or custodian) (print name) _____Method used: ☐ given directly ☐ left at residence ☐ other (specify) _____

Address where mailed/left/given (No., Street, City, State, ZIP) _____

ASK: Is the child or child's parents of American Indian heritage/ancestry? ☐ Yes ☐ No ☐ Unknown

PARENT, GUARDIAN OR CUSTODIAN'S SIGNATURE _____

CHILD PROTECTIVE SERVICES SPECIALIST'S SIGNATURE (Or law enforcement officer)	DATE
---	------

Equal Opportunity Employer/Program ☐ This document available in alternative format by contacting (602) 542-3598 ☐ Disponible en español en la oficina local.

Information for Parents and Guardians

PURPOSE. This form is required by Arizona law to notify the parent, guardian or custodian when a child is removed from his/her custody and placed in temporary custody prior to filing a Dependency Petition or for psychological or physical examination. This form also provides additional resources and services available to the parent, guardian or custodian.

You may call the Parent Assistance Statewide Hotline, 1-800-732-8193, or Phoenix (602) 542-9580, for more information on the Juvenile Court system and how to obtain legal assistance.

You may call the Family Advocacy Office at 1-877-527-0765, to request a review of the child's removal. In order to ensure sufficient time for review of the removal, please make this call within 48 hours (*not including weekends and holidays*) of receiving this notice.

You have the right to call the Office of the Ombudsman-Citizen's Aide, if you have a complaint about CPS actions. The Ombudsman-Citizen's Aide will impartially investigate the complaint, inform you of the results of the investigation and provide you with referrals for additional assistance. To contact the Ombudsman-Citizen's Aide call: 1-800-872-2879, or Phoenix (602) 277-7292.

You have the right to participate in the mediation program in the Office of the Attorney General if a dispute arises between you and CPS. Mediation will be arranged when requested by a family member or CPS. To contact the mediation program call: Phoenix - (602) 542-4192; Tucson - (520) 628-6504; Flagstaff - (520) 773-0474.

Services and Programs

Services provided are child-centered and family-focused to promote family preservation, independence and self-sufficiency. Programs available include, but are not limited to:

In-Home Services: Directed at strengthening the family unit to enhance parenting skills including:

- ☐ Intensive family preservation
- ☐ Parent aide services
- ☐ Parent skills training
- ☐ CPS child care
- ☐ Referrals to community services
- ☐ Counseling
- ☐ Peer self-help
- ☐ Services to high-risk infants and their families

Out-of-Home Placement: Placements provided for children who are unable to remain in their homes including:

- ☐ Relative homes
- ☐ Foster homes
- ☐ Group homes
- ☐ Residential treatment centers
- ☐ Independent living subsidy arrangements
- ☐ Community placements
- ☐ Selected placements, as ordered by juvenile court
- ☐ Adoption
- ☐ Guardianship

Child Protective Services is referring you to the following services: _____

Additional service needs will be assessed prior to the Preliminary Protective Hearing.

COMPLETION AND DOCUMENTATION

1. This notice must indicate the date and time that the child was placed in temporary custody of the child's name.
2. Describe the specific reason why temporary custody is necessary must be indicated or stated.
3. Check the specific factors that constitute imminent danger that corresponds to the reason the child was removed.
4. The CPS Specialist's and CPS Supervisor's name, phone numbers, and address of the local CPS office must be completed.
5. Method of Notice section must be completed. One method of notice must be checked and this section must be signed by the CPS Specialist or law enforcement officer who took temporary custody of the child.
6. If the parent, guardian or custodian is served directly, he/she should be asked to sign the form. If he/she refuses, write in "Refuses to Sign" on the signature line.
7. Leave a copy of the form with the parent, guardian or custodian even if the parent refuses to sign.

DISTRIBUTION

1. The original is given to the parent, guardian or custodian:
 - a. Immediately if he/she is present at the removal;
 - b. Within 24 hours if out-of-state (mailgram);
 - c. As soon as possible if residence is unknown at time of removal.
2. A copy is sent to the Assistant Attorney General to file with the petition.
3. A copy is retained in the case record.

RETENTION A copy of the form is retained in the permanent case record.

ARIZONA INFANT DEATH INVESTIGATION CHECKLIST

Scene Investigated by _____ Agency _____ Phone Number _____ County _____

A. General Information

1. Infant's name _____ Sex _____ Age _____ Date of birth _____
2. Date of death _____ Time of death _____ AM/PM Location _____
3. Father's name _____ Age _____ Occupation _____
4. Mother's name _____ Age _____ Occupation _____
5. Are there siblings? ☐ Yes, ☐ No If yes, list ages _____
6. Home address (if different from location of death) _____
7. Pediatrician (family physician) _____ Physician's Phone _____

B. Past History

1. Birth weight _____ lbs _____ oz Was infant premature? ☐ Yes, ☐ No If yes, number of weeks premature _____
2. Place of Birth (Hospital and City/State) _____
3. Any problems with pregnancy and delivery? ☐ Yes, ☐ No If yes, explain _____
4. During pregnancy, did anyone: ☐ Smoke? Who? _____ ☐ Use drugs? Who? _____ What? _____
5. Has infant ever required hospitalization or emergency care? ☐ Yes, ☐ No If yes, explain: When? _____ Where? _____, Why? _____
6. Anything unusual about sleeping habits or breathing? ☐ Yes, ☐ No Has infant turned blue or stopped breathing? ☐ Yes, ☐ No
Has infant had seizures or convulsions? ☐ Yes, ☐ No If yes, explain _____
7. Any other medical problems or concerns? ☐ Yes, ☐ No If yes, explain _____
8. Has infant been immunized? ☐ Yes, ☐ No If yes, are immunizations up to date? ☐ Yes, ☐ No, ☐ Unknown Date of last immunization _____
9. Have there been other child deaths in this family or relatives of the immediate family? ☐ Yes, ☐ No If yes, where? _____ Cause of death(s) _____ Age(s) at death _____

C. Recent History

1. Was the infant ☐ Breast-fed ☐ Bottle-fed ☐ Both? Last feeding _____ AM/PM What was last feeding? _____
2. Recent illness? ☐ Yes, ☐ No If yes, what? ☐ Appetite change, ☐ Cough, ☐ Diarrhea, ☐ Ear infection, ☐ Fever, ☐ Irritability/listlessness, ☐ Sniffles, ☐ Vomiting, ☐ Weakness/ "floppiness", ☐ Wheezing, ☐ Other _____
Were medications or home remedies given? ☐ Yes, ☐ No If yes, what _____ * Amount _____ Time _____ AM/PM
3. Was there recent exposure to chemicals? ☐ Yes, ☐ No If yes, what _____ When _____
4. Is anybody in the house sick? ☐ Yes, ☐ No If yes, who _____ Illness _____
5. Was there a history of a recent fall or injury? ☐ Yes, ☐ No If yes, explain _____
6. Was the infant in anyone else's care in the last 48 hours? ☐ Yes, ☐ No If so, whom? _____
7. Last date infant was seen by a medical provider _____ Where? _____ Reason for visit _____

D. Scene

1. Last seen alive _____ AM/PM Was infant behaving normally? ☐ Yes, ☐ No If no, describe: _____
2. Who discovered the infant? Name _____ Relationship _____ Time _____ AM/PM
3. Position infant was in when found? ☐ Abdomen, ☐ Back, ☐ Side Position when put to bed? ☐ Abdomen, ☐ Back, ☐ Side
What was the infant wearing? _____ How was the infant covered? _____
4. Were the nose and mouth obstructed? ☐ Yes, ☐ No If yes, with or by what? _____
5. Describe infant's sleeping environment ☐ Crib, ☐ Bed, ☐ Sofa, ☐ Other _____ Type of mattress ☐ Soft, ☐ Hard, ☐ Waterbed, ☐ Exposed plastic covering Were any of the following found in infant's bed? ☐ Pillow, ☐ Blankets, ☐ Cushions, ☐ Toys, ☐ Pets, ☐ Other _____ Temperature of room _____
6. Was the infant sleeping alone? ☐ Yes, ☐ No If no, with whom? ☐ Child, ☐ Adult, ☐ More than one person Estimated weight of sleeper(s) _____ Drug or alcohol used? ☐ Yes, ☐ No If yes, what? _____
7. Was the infant ☐ Warm, ☐ Cool
8. Were attempts made to revive the infant? ☐ Yes, ☐ No If yes, by whom? _____ Time of attempt _____ AM/PM
Method of attempt ☐ CPR, ☐ Shaken, ☐ Other _____
9. Does anyone in the immediate household or daycare facility smoke? ☐ Yes, ☐ No If yes, identify relationship _____

Comments: (Use this space to elaborate on questions above or to note anything unusual)

*Use "Comments" section if more space is needed. Collect all medication/home remedy containers for submission to Medical Examiner.

White = First Responder

Canary = Medical Examiner

Pink = ADHS

ARIZONA INFANT DEATH SCENE INVESTIGATION CHECKLIST INSTRUCTIONS

Scene Investigated by- Name of the person responsible for the death scene investigation.

Agency: Name of the agency that the person works for. Phone Number: Telephone number where the scene investigator can be reached.

County: County of the infant death investigation.

A. GENERAL INFORMATION

1. Infant's Name- Include the infant's first, middle and last names. Also known as (a.k.a.) can be added if this is appropriate. Sex- Indicate whether the infant is male or female. Age- Age of the infant in months or days at the time of death. Date of Birth- Month, date and year of the infant's birth.
2. Date of Death- Actual date of the infant's death. Time of Death- Actual time infant died. Location- Identify where the infant's death occurred, (i.e. home, day care, relative's home, etc.) Give the address, including city.
3. Father's Name- Indicate the first, middle and last names of the infant's father. Age of the father in years. Usual occupation of the father.
4. Mother's Name- Indicate the first, middle and last names of the infant's mother. Age of the mother in years. Usual occupation of the mother.
5. Siblings- If yes, indicate ages.
6. Home Address - If different from the location of death, indicate the home address, including city and state.
7. Pediatrician (Family Physician)- Name of the physician who was providing the infant's ongoing health care. Phone- Indicate the physician's phone number.

B. PAST HISTORY

1. Birth Weight- Weight of the infant at the time of birth in pounds and ounces. Prematurity- If premature, indicate# of weeks premature.
2. Place of Birth- Indicate the hospital and City/ State where the infant was born.
3. Difficulty with pregnancy/delivery- Answer yes or no. If yes, explain.
4. Smoking during pregnancy- Indicate if any household member smoked tobacco during this pregnancy. If yes, identify relationship to infant. Drugs during pregnancy- Indicate if any household member abused drugs during this pregnancy. If yes, identify relationship to infant and type of drug.
5. Hospitalization/ Emergency Care- Indicate if the infant has been admitted to the hospital or seen in an emergency room. Explain the reasons for hospital admission or emergency room visit.
6. Indicate if infant had any unusual sleeping habits, if infant ever turned blue or stopped breathing, and if infant had seizures or convulsion. If yes, explain.
7. Other medical conditions noted- Answer yes or no. If yes, explain.
8. Immunization- Indicate if the infant received any immunizations. Indicate if immunizations are up to date and the date of last immunization.
9. History of other child deaths in the family. If yes, identify where, cause of death, and age of child at death.

C. RECENT HISTORY

1. Type of feeding- What type of feeding did the infant regularly receive? Check appropriate box. Last feeding- Indicate the time of the last feeding. What- Indicate what the infant consumed.
2. Recent Illness- Answer yes or no. If yes, check the box corresponding to the condition. Other-Describe other conditions not listed. Medicine- Indicate name of medication or home remedy. Amount- Amount infant was given. Time- Indicate the time medicine was given to infant. Collect all medication or home remedy containers for submission to Medical Examiner.
3. Chemicals- Indicate if the infant was exposed to any chemicals or noxious agents. What- Describe chemical. When- Give date of exposure.
4. Sickness in the household- Indicate if family members or close contacts have exposed the infant to any recent illnesses. Who – Indicate relationship. Illness– Type of illness.
5. Injury or fall- Indicate if the infant had a recent accident. If yes, explain.
6. Recent caregivers- Answer yes or no. If yes, indicate relationship with infant.
7. Last date infant was seen by medical provider– Indicate date. Where- Indicate medical center or physician name. Reason- Indicate why infant was seen.

D. SCENE - (Ask person who discovered the infant)

1. Last seen alive- Indicate the time and circle AM or PM. Behavior - Indicate if infant's behavior was normal. If no, describe infant's behavior.
2. Who discovered the infant- Name and relationship of the individual and time this occurred.
3. Position when found- Indicate infant's position when found. (Check the appropriate box) Position when put to bed-Indicate the position of the infant when put to sleep. (Check the appropriate box) Clothing-Describe what was infant wearing. Covering- Describe how was infant covered.
4. Nose or mouth obstruction- Answer yes or no. If yes, indicate what was causing the obstruction.
5. Infant's sleeping environment- Describe the infants sleeping environment. Other category may include infant carrier, car seat, floor, sofa, swing, etc. Items in bed with infant- Note any items in the bed or immediate sleeping environment. Room Temperature- Indicate if room was cold, hot or normal.
6. Sleeping arrangement- Indicate if infant was sleeping alone. If no, identify co-sleepers. Weight – estimate weight of co-sleepers(s). Drug or alcohol usage- Indicate if co-sleepers used drugs or alcohol. Answer yes or no. If yes, explain.
7. Infant's temperature- Check appropriate box.
8. Attempts to revive infant- Check appropriate box. If yes, note by whom. Time of attempt- Indicate time. Method of attempts- Check appropriate box. Other– Describe other types of attempts if not listed.
9. Household or day care smokers- Answer yes or no. If yes, indicate the relationship to infant.

COMMENTS

Use this space to elaborate on questions above or anything unusual. List the medication or home remedies identified in Section C #2. Attach additional sheets when necessary.

ROUTING INSTRUCTIONS – First responders keep the original. Send yellow copy to County Medical Examiner's Office. Send pink copy to Arizona Department of Health Services. The address is listed below. Please call (602) 542-1875 if any additional information is needed.

Arizona Department of Health Services
Office of Women & Children's Health
Unexplained Infant Death Council
150 N. 18th Avenue, Suite 320 Phoenix, AZ 85007
Fax: (602) 542-1843

INTRODUCTION AND RECOMMENDATION FOR THE USE OF THE INFANT DEATH CHECKLIST (PROTOCOL)

INTRODUCTION:

In 2002, the State of Arizona passed into law two statutes concerning the investigation of unexplained infant deaths in Arizona. A.R.S. 36-2292 requires the Department Of Health Services to establish protocols for death scene investigations of apparent natural infant deaths. These protocols must specifically address the need for compassion and sensitivity with parents and caregivers, include recommended procedures for law enforcement, and require scene investigations as a component of the infant death investigation. A.R.S. 36-2293 requires that law enforcement officers complete an infant death investigation checklist during investigations of unexplained infant deaths and further requires law enforcement officers to complete the checklist prior to autopsy. The intent of these two statutes was to standardize the process of unexplained infant death investigations throughout the state, and to ensure medical examiners are provided sufficient information from investigators to assist in determining the cause and manner of an infant's death.

Unexplained infant deaths are those for which there is no cause of death obvious when the infant died. Unexplained infant deaths would not include those in which there was a previously diagnosed life-threatening illness that clearly contributed to the death (i.e., complications of prematurity, congenital anomaly, infectious disease), or when there is a clear cause of death, immediately known (i.e., accident, homicide, etc.). In cases of an unexplained infant death, a thorough investigation is necessary to accurately determine the cause and manner of the death. That process includes a death scene investigation, interviews with parents and caregivers, a review of the infant's clinical history, and a complete autopsy.

In developing the required investigative protocols, the Unexplained Infant Death Advisory Council reviewed guidelines set forth by national infant death organizations, as well as those of other states where such guidelines exist. This review led the Council to create a short form protocol or checklist titled the "Arizona Infant Death Investigation Checklist (2002)." The form is a carbon pack triplicate to allow easy distribution. Instructions for completing the checklist are conveniently printed on the reverse side. The Council believes that uniform use of this checklist will standardize the investigation of unexplained infant deaths in Arizona, while also ensuring that pertinent information is gathered and documented in each case. The checklist is to be used by law enforcement officers, but may also be used by other death investigators. Distribution of this form to medical examiners prior to the autopsy will assist medical examiners in accurately determining the cause and manner of death. Data contained in the form may also provide information for researchers examining the causes of unexplained child deaths and stillborn infants.

Although the recognized definition of an "infant" is a child under one year of age, law enforcement officers are encouraged to use the death investigation checklist in any case of an unexplained child death. The unexplained death of a child over one year of age will require the same investigative process, and the checklist may remain a valuable tool to law enforcement and medical examiners in such instances.

RECOMMENDATIONS:

Death Scene Investigation - The death scene investigation is an essential component of a thorough investigation of unexplained child deaths. Information gathered during the scene investigation augments information obtained from autopsy and review of the child's clinical history. Information gathered during the death scene investigation can help the pathologist interpret postmortem findings. This information will aid in the determination of accidental, environmental, or other unnatural causes of deaths, including child abuse and neglect. Although the ultimate goal of a death scene investigation is to accurately assign a cause of death, equally important goals are the identification of health threats posed by consumer products; identification of risk factors associated with unexplained infant deaths; and using the opportunity to refer families to grief counseling and support groups.

The Unexplained Infant Death Advisory Council recommends a thorough death scene investigation by trained investigative personnel, even in cases where a child may have been transported to a hospital or other location. Access to the death scene must take into consideration issues of privacy and standing, as with any other law enforcement investigation. The death scene investigation should include careful observation and documentation, including measurements and photographs. Consideration should be given to lawfully seizing any items deemed to have evidentiary value, or which may assist in determining the cause of the child's death.

Officer Demeanor – Parents or caregivers who experience the sudden, unexpected death of a child need compassion, support, and accurate information. Those responsible for determining the cause of death must have both technical skills and sensitivity, as they go about their difficult task. A knowledgeable and sympathetic approach will contribute to gathering necessary information while also supporting parents in crisis.

The Unexplained Infant Death Advisory Council recognizes that law enforcement officers know, all too well, that infants and children can die at the hands of parents or caregivers. Such instances, however, are statistically very rare. The vast majority of unexplained infant deaths are attributed to natural causes, not criminal acts. The Council, therefore, recommends that law enforcement officers conduct their investigations with compassion and sensitivity for the parents and caregivers they contact. It is recommended that officers interview parents and caregivers with a non-accusatory demeanor, and withhold judgment until all the facts and medical evaluations are known. In those rare instances where an autopsy or other evidence indicates criminal activity occurred, officers might find it necessary to adopt a different demeanor. Until such time, officers should offer compassion and support to families and caregivers. Recognizing that the grief and feelings of guilt associated with a child's death can be devastating, officers should be familiar with local support groups and be able to provide referral information for long-term support.

Suspected Child Abuse/Neglect Report Form

Today's Date: _____

Circle Day of Week: **M** **Tu** **W** **Th** **F**

CHILD INFORMATION						
Last Name	First Name		Middle Name		AKA	
Social Security No.	Ethnicity	Date of Birth	Age	Grade	Height	Weight
Home Address		City		Zip	Home Phone	
COMPOSITION OF FAMILY (WHO LIVE IN HOUSEHOLD)						
Last Name	First Name	Gender	Relation to Student	Work Phone	Cell Phone / Pager No.	✓ If Alleged Perpetrator
ALLEGED PERPETRATOR(S) AND/OR WITNESS(ES) (IF NOT LISTED ABOVE)						
Last Name	First Name	Gender	Relation to Student	Address/Phone No.		✓ If Alleged Perpetrator

Nature of suspected abuse or neglect: (Check ☒ all that apply)

☐ Physical Abuse ☐ Sexual Abuse ☐ Neglect ☐ Other

How and when did school/agency become aware of the situation (include name of personnel who first learned of abuse).

What were the child's responses to the following four questions (use exact quotes and verbatim language).

1. What happened? _____

2. Who did it? _____
3. When did it happen? _____
4. Where did it happen? _____

Additional information volunteered by the child (use exact quotes and verbatim language whenever possible). **Note:** Please attach additional pages whenever needed.

Observation of the child's injury(ies) (if any): _____

CJP-04-03

Continued Reverse Side ⇒

Describe child's demeanor at time of disclosure and note recent changes observed: _____

Other information that might be helpful (such as the child's assessment of his/her risk): _____

1. Contact Appropriate Police Agency:
(List ☒ agency contacted)

Contact made with:

☐ _____ Police Department
() -
Officer _____ Badge # _____
DR # _____

Other agency, if any, notified:

☐ _____
() -
Officer _____ Badge # _____
DR # _____

2. Contact Child Protective Services (CPS):

1-888-767-2445

CPS Intake Worker _____
CPS Intake
P.O. Box 44240
Phoenix, Arizona 85064-4240

CPS Office Assigned _____

3. Within 72 hours of receiving report, mail
a copy of this form to:

School/Agency Name

Address

City

Zip

Phone

Name of Person Who Received Disclosure

Name of Coordinator

Signature(s) of person(s) completing this report:

Name/Title

Date

Name/Title

Date

Name/Title

Date

Name/Title

Date

Check ☒ those that apply and record child's physical injury(ies), including shape, size, type (letter), and color (number) as appropriate, on the diagrams of the child to show location of the injury(ies).

☐ **A = Burn**

☐ **B = Bruise**

☐ **C = Laceration**

☐ **D = Fracture**

☐ **E = Other**

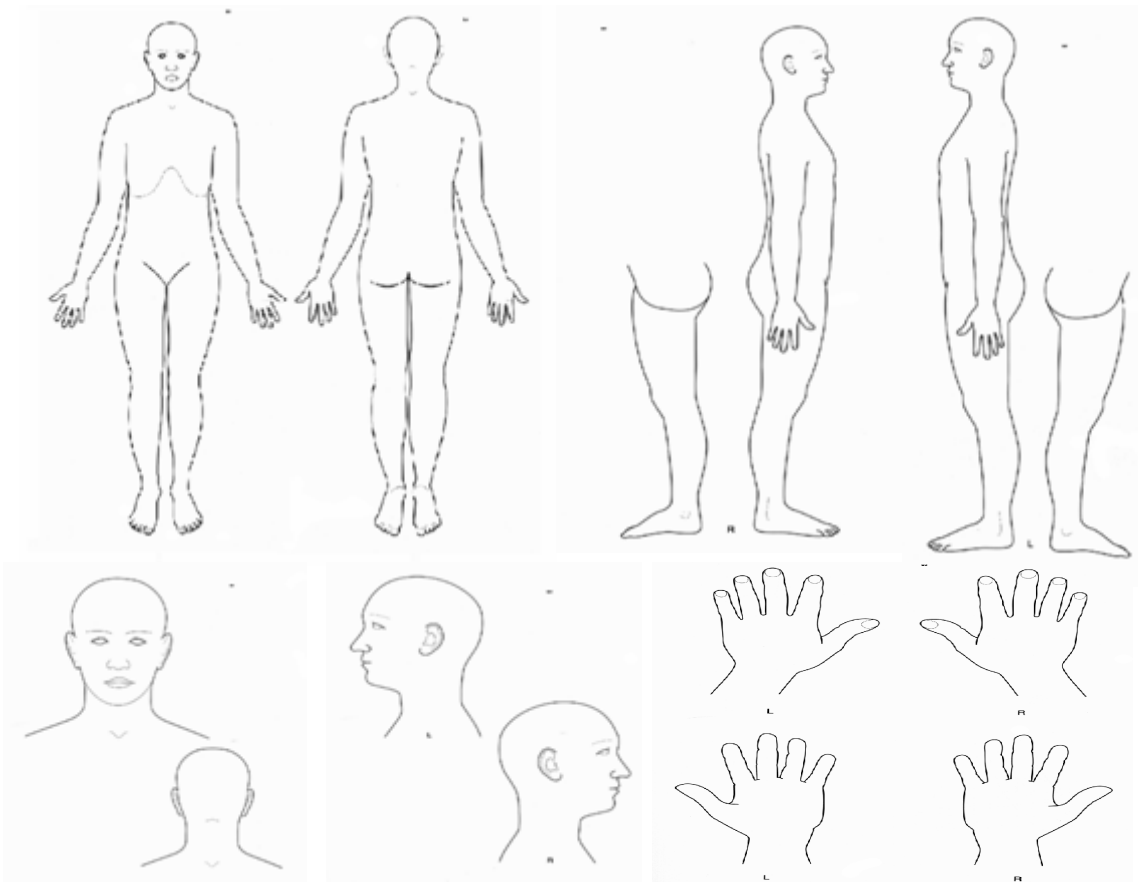
☐ **1 = Bright Red**

☐ **2 = Purple**

☐ **3 = Blue**

☐ **4 = Green**

☐ **5 = Yellow**



**CONSENT TO SEARCH FORM
(IN CASES IN CHILD DEATH)**

The _____ has responded to
(Agency)

(Address)

after a report of a child death. The _____
(Agency)
fully understands the emotional trauma that exists as a natural
consequence of this emergency. Nevertheless, an immediate
investigation is necessary to determine the cause and origin of the death.

The _____ requests permission
(Agency)
to search _____
(Address of home, including outbuildings, all vehicles and any persons)

for any items that may assist in the investigation and to seize any relevant
items. You are not legally required to consent to any such search and
seizure. Even if you do give consent for the search and seizure, you may
withdraw that consent at any time by clearly indicating your wishes to any
officer of _____ involved in the investigation.
(Agency)

I have read and understand the foregoing. I hereby authorize _____
_____ to search the area referred to
(Agency)

above.

Dated: _____ Time: _____

Signature: _____

**CONSENT TO SEARCH FORM
(CHILD-SERIOUS MEDICAL EMERGENCY)**

The _____ has responded to
(Agency)

_____ (Address)
after a report of a serious medical emergency involving a child. The

_____ fully understands the emotional
(Agency)

trauma that exists as a natural consequence of this emergency.
Nevertheless, an immediate investigation is needed to determine the
cause of the medical emergency. The results of the investigation may
assist in the child's treatment and recovery.

The _____ requests permission
(Agency)
to search _____
(Address of home, including outbuildings, all vehicles and any persons)

for any items that may assist in the investigation and to seize any relevant
items. You are not legally required to consent to any such search and
seizure. Even if you do give consent for the search and seizure, you may
withdraw that consent at any time by clearly indicating your wishes to any
officer of _____ involved in the investigation.
(Agency)

I have read and understand the foregoing. I hereby authorize _____
_____ to search the area referred to
(Agency)

above.

Dated: _____ Time: _____

Signature: _____

Witness: _____

MEDICAL RECORDS REQUEST

The _____ requests that the medical
(Name of Police Agency)
records of _____, D.O.B. _____
be given to _____.

The requested records include the following:

- Admitting notes
- Progress notes
- Nursing notes
- Discharge summary
- Social work notes
- Lab reports
- Doctor's orders
- Consultation notes and reports
- X-ray, CT and MRI reports

This request is made pursuant to an official investigation involving the minor's possible neglect or abuse and Arizona Revised Statute §13-3620(C).

C. "A person having custody or control of medical records of a minor for whom a report is required or authorized under this section shall make such records available to a peace officer or child protective services worker investigating the minor's neglect or abuse on written request for the records signed by the peace officer or child protective services worker. Records disclosed pursuant to this subsection are confidential and may be used only in a judicial or administrative proceeding resulting from a report required or authorized under this section."

Failure to provide these records may subject the person and/or institution responsible to criminal prosecution under A.R.S. §13-3620(J):

J. "A person who violates any provision of this section is guilty of a class 1 misdemeanor."

(Officer)

(Date)

**YAVAPAI COUNTY ATTORNEY'S OFFICE
AUTHORIZATION TO RELEASE MEDICAL RECORDS**

PATIENT NAME				DATE OF BIRTH		
CARE OR SERVICE INFORMATION TO BE RELEASED <input type="checkbox"/> History and Physical <input type="checkbox"/> Operative Report <input type="checkbox"/> Laboratory Report <input type="checkbox"/> Cardiopulmonary Report <input type="checkbox"/> Discharge Summary <input type="checkbox"/> ER Record <input type="checkbox"/> X-Ray Report <input type="checkbox"/> Pathology Report <input type="checkbox"/> Consultation Report <input type="checkbox"/> Physical Rehab <input type="checkbox"/> All Records <input type="checkbox"/> Other: _____					DATE(S) OF CARE/SERVICE	
REASON(S) INFORMATION REQUESTED						
NAME OF PERSON(S) AUTHORIZED TO RECEIVE INFORMATION				FAX #:		
ADDRESS						
CITY		STATE		ZIP		

The undersigned hereby authorizes _____ to furnish to the Authorized Person(s) named above with a copy of the information related to type of care or service(s) indicated above that was provided to the Patient for the date(s) stated above.

The undersigned understands that the information in the Patient's health record may include information relating to communicable disease, acquired immunodeficiency syndrome (AIDS), or human immunodeficiency virus (HIV). It may also include information about behavioral or mental health services, and treatment for alcohol and drug abuse.

PATIENT
INITIALS

The undersigned understands that any disclosure of information carries with it the potential for further disclosure by the above-name recipient, and the information may not be protected by federal confidentiality rules.

The undersigned understands that (1) authorizing the disclosure of this health information is voluntary; (2) the undersigned can refuse to sign this authorization; (3) the undersigned need not sign this form in order to assure treatment; and (4) the undersigned may inspect or request a copy of the information to be used or disclosed, as provided in CFR 164.524. If the undersigned has questions about disclosure of the Patient's health information, the undersigned can contact the provider's Health Information Management Department.

This authorization will be considered invalid based on expiration date or event determined by patient as noted below. The undersigned may revoke this authorization at any time by providing written notice of revocation to the provider's Health Information Management Department. I understand that the revocation will not apply to information that has already been released in response to this Authorization. I understand that the revocation will not apply to Patient's insurance company when the law provides the insurer with the right to contest a claim under Patient's policy.

The undersigned will be given a copy of this Authorization, after signing.

EXPIRATION DATE OR EVENT

PATIENT SIGNATURE		
IF PATIENT IS UNABLE TO CONSENT BY REASON OF AGE OR SOME OTHER FACTOR, STATE REASON AND PROVIDE APPROPRIATE DOCUMENTATION WHERE APPLICABLE		
LEGALLY AUTHORIZED REPRESENTATIVE	DATE	RELATIONSHIP TO PATIENT
WITNESS	DATE	

APPENDIX D

CHILD PROTECTIVE SERVICES

APPENDIX	DESCRIPTION
D1	Child Protective Services Response System
D2	Child Protective Service Cue Questions

DEATH OF A CHILD – HIGH RISK
101 Death of a child due to neglect
111 Death of a child due to physical abuse or suspicious death
SRT 2 Hours MRT 24 Hours
PHYSICAL ABUSE

201 PHYSICAL ABUSE – HIGH RISK – Severe/life threatening injuries requiring emergency medical treatment and/OR parent presents severe physical harm to a child NOW
SRT 2 Hours MRT 24 Hours

Injuries **REQUIRING EMERGENCY MEDICAL TREATMENT** which may include:

- Head injury with risk of Central Nervous System damage
- Internal injury
- Multiple injuries or multiple plan injuries (battering)
- Severe facial bruises
- Fractures or bruises in a non-ambulatory child
- Fractures
- Instrumentation injury with risk of impairment
- Immersion burns
- Second and third degree burns
- Parent, guardian or custodian provides prescribed/non-prescribed or illegal drugs or alcohol to a child under the age of six (6) and the child is exhibiting symptoms of the drug or alcohol

Child under the age of six (6) observed or reported to be struck in the head, face, neck, genitals or abdomen which could likely cause an injury

Child under the age of twenty-four (24) months is shaken (Shaken baby syndrome)

Physical abuse by a parent, guardian or custodian who has a previous substantiated Priority 1 or High Risk report

Parent, guardian or custodian threatens or presents serious bodily harm to a child NOW

202 – PHYSICAL AUBSE – MODERATE RISK
 Serious/multiple injuries which may require medical treatment and/r a child at risk for serious physical abuse if no intervention is received

SRT 48 Hours
ART 24 Hours
MRT 72 Hours

Injuries **THAT MAY REQUIRE MEDICAL TREATMENT** which may include:

- Multiple injuries or multiple plan injuries
- Injuries to torso or extremities
- Injury to child under age one (1)
- Fractures
- Parent, guardian or custodian provides prescribed/non-prescribed or illegal drug or alcohol to a child six (6) years of age or older and the child is exhibiting symptoms of the drug or alcohol
- Munchausens Syndrome by Proxy

Low Risk injury to child under the age of six(6)

Child six (6) year of age or older observed or reported to be struck in the head, face, neck, genitals or abdomen which could likely cause an injury

Parent, guardian or custodian present serious bodily harm to a child or fears or threatens to harm child if no intervention received and he or she has a previous substantiated report of physical abuse

Newborn child (under 3 months of age) born to parents whose parental rights have been previously terminated

203 – PHYSICAL ABUSE – LOW RISK
 Injuries not requiring medical treatment and/or parent threatens physical harm if no intervention is received

SRT 72 Hours
ART 48 Hours
MRT 72 Hours **Excluding Weekends & Holidays**

Injuries **NOT REQUIRING MEDICAL TREATMENT** which may include:

- First degree or cigarette burns
 - Injury to buttocks or scalp (i.e. hair loss)
 - Injury to bony body parts (i.e. shins, knees, elbows, etc)
 - Single or small bruises
 - Parent, guardian or custodian provides prescribed/non-prescribed or illegal drugs or alcohol to a child and the child is exhibiting symptoms of the drug or alcohol
 - Bleeding (i.e. hit in the face bloody nose)
 - NOT Eligible for Family Builders
- Parent, guardian or custodian fears or threatens to harm a child if no intervention is received

Enforcement, CPS reports assigned the following Risks require special Law Enforcement contact: 100, 101, 201, 301, 401, 202, 302 (only sexual contact between children), 402, 403, and (when determined to be substantiated) 203.

204 – PHYSICAL ABUSE - POTENTIAL RISK
 Child at risk of physical injury due to stressors in the home

SRT 7 Consecutive Days
ART 72 Hours **Excluding Weekends & Holidays**

Home environment stressors place child at risk of physical abuse which may include domestic violence, mental illness, substance abuse, history of physical abuse with no current injury, etc.

Appendix F CPS RESPONSE SYSTEM

Please note that while all CPS risk reports may be jointly investigated with Law

**NEGLECT – REPORTS ARE
SCREENED FOR “SUBSTANTIAL
RISK OF HARM”**

301 – NEGLECT – HIGH RISK

Severe/life threatening situations requiring emergency intervention due to the absence of a parent, or a parent who is either unable due to physical or mental limitations or is unwilling to provide minimally adequate care.

**SRT 2 Hours
MRT 24 Hours**

Delayed or untreated medical condition which is life threatening or permanently disabling which may include Infant Doe, comatose state or debilitation from starvation or possible non-organic failure to thrive

Child of any age who is alone and cannot care for self or for other children due to physical, emotional or mental inability (This includes a parent, guardian or custodian who is incarcerated or hospitalized.)

Child under the age of six (6) is alone NOW

Child six (6) to nine (9) years of age is alone for three (3) hours or longer or unknown when parent, guardian or custodian will return

Imminent harm to child under the age of six (6) due to inadequate supervision by parent, guardian or custodian

Neglect results in serious physical injury or illness requiring emergency medical treatment. Failure to use child restraints pursuant to ARS 28-907 are not reports.

Imminent harm to child due to health or safety hazards in living environment which may include exposure to the elements.

Child assessed as suicidal by qualified mental health professional and parent, guardian or custodian is unwilling to secure needed emergency medical treatment including psychiatric treatment

No parent willing to provide immediate care for a child and child is with a caregiver who is unable or unwilling to care for the child NOW or child is left to his or her own resources

History of extensive gestational substance abuse to child under three (3) months of age or mother or child tests positive for non-prescribed or illegal drug or alcohol withdrawal symptoms

Child under two (2) months of age displays non-prescribed or illegal drug or alcohol withdrawal symptoms

Mother is using cocaine, heroin, methamphetamines or PCP and is breastfeeding a child

**302 – NEGLECT - MODERATE RISK –
Serious/non-life threatening situations
requiring intervention due to the absence
of a parent, or a parent who is unable due
to physical or mental limitations or is
unwilling to provide minimally adequate
care**

**SRT 48 Hours
ART 24 Hours**

Child age eleven (11) to thirteen (13) years of age caring for a child age (6) or younger for twelve (12) hours or longer

Living environment presents health or safety hazards to a child under the age of six (6) which may include human/animal feces, undisposed garbage, expose wiring, access to dangerous objects or harmful substances, etc

Due to inadequate supervision or encouragement by parent, guardian or custodian sexual conduct or physical injury occurs between children. This includes a licenses or certified DES facility or a licensed DHS Level I, II or III Behavioral Health Treatment facility

No parent willing to care for a child and child is with a caregiver who is unable or unwilling to continue caring for the child less than ONE (1) week

Newborn child (under 3 months of age) born to parents whose parental rights have been previously severed.

303 – NEGLECT – LOW RISK

Situations which may require intervention due to the absence of a parent, or a parent is unable due to physical or mental limitations or is unwilling to provide minimally adequate care, which includes exploitation of a child

**SRT 72 Hours
ART 48 Hours**

**MRT 72 Hours Excluding Weekends &
Holidays**

Delayed or untreated medical problem cause child pain or debilitation that is not life threatening AND parent, guardian or custodian is unwilling to secure medical treatment.

Child under the age of nine (9), who is not alone at the time of the report, but has been left alone within the past fourteen (14) days

Parent, guardian or custodian demonstrates an inability to care for a child within the past thirty (30) days including leaving a child with inappropriate or inadequate caregivers

Living environment presents health or safety hazards to a child six (6) years of age or older which may include human/animal feces, undisposed garbage, exposed wiring, access to dangerous objects or harmful substances etc.

Food not provided and child chronically hungry

Significant developmental delays due to neglect

Use of a child by a parent, guardian or custodian for material gain which may include forcing the child to panhandle, steal or perform other illegal activities

Parent, guardian or custodian is not protecting child from a person who does not live in the home AND who abused a child * NOT Eligible for Family Builders

No parent willing to care for a child and child is with a caregiver who is unable or unwilling to continue caring for the child beyond ONE (1) WEEK UP TO THIRTY (30) DAYS (Reporting source will need to call back if beyond thirty (30) days.) NOT Eligible for Family Builders

**304 – NEGLECT - POTENTIAL RISK
Child at risk of neglect due to stressors in
the home**

**SRT 7 Consecutive Days
ART 72 Hours Excluding Weekends &
Holidays**

Parent, guardian or custodian has no resources to provide for child's needs (supervision, food, clothing, shelter and medical care) and child's needs may be neglected

Home environment stressors place child at risk of neglect which may include mental illness, substance abuse, etc.

Living environment is likely to present a health or safety hazard to a child

Child adjudicated dependent due to finding of incompetency or not restorable to competency pursuant to ARS 8-201 * NOTE eligible for Family Builders

Sexual conduct or physical injury between children and unknown if parent, guardian or custodian will protect * NOT Eligible for Family Builders if sexual conduct; eligible if it involves physical injury

Complaint by law enforcement or officer of juvenile court alleging dependency due to a delinquent or incorrigible act committed by a child under age eight (8) {ARS 8-201}

EMOTIONAL ABUSE
EMOTIONAL ABUSE – HIGH RISK N/A

502 – EMOTIONAL ABUSE – MODERATE RISK – Child diagnosed by a mental health professional as exhibiting symptoms of emotional abuse caused by a parent
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SRT 48 Hours
ART 24 Hours
MRT 72 Hours

Child diagnosed by qualified mental health professional as exhibiting severe anxiety, depression, withdrawal or untoward aggressive behavior which could be due to serious emotional damage by parent, guardian or custodian

503 – EMOTIONAL ABUSE – LOW RISK Parent demonstrates behavior which may result in emotional trauma to a child

SRT 72 Hours
ART 48 Hours
MRT 72 Hours Excluding Weekends & Holidays

Parent, guardian or custodian demonstrates behavior or child reports parent, guardian or custodian behavior which is likely to have the effect of fear, rejection, isolation, humiliation or debasement of a child

EMOTIONAL ABUSE - POTENTIAL RISK N/A
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TRACKING CHARACTERISTICS (action request communication) DOES NOT REQUIRE AN INVESTIGATION, BUT MAY REQUIRE AN ACTION
--

TB Notice that a family or alleged abusive person known to another state CPS is residing in or believed to be relocating to Arizona

TD Request for courtesy assessment from another state CPS to ensure the safety of a child

TE Runaways from other states or shelter due to out-of-state request, or courtesy ICPC shelter

TF Court ordered pick up (domestic relations)

TG Mental health treatment needed, but cannot be obtained without CPS intervention

PI Physical Injury Between Children

SX Sexual Conduct Between Children

TRACKING CHARACTERISTICS CON'T REQUIRES AN INVESTIGATION AND MUST INCLUDE AT LEAST ONE (1) REPORT ALLEGATION

AB Child Abandonment
DV Domestic Violence
FR False Report Indicated
NF Near Fatality – an act certified by a physician, placed the child in serious or critical condition (Federal definition)
SEN Substance Exposed Newborn
TH Child in care, custody and control of DES via court order or Voluntary Foster Placement Agreement

TJ Administrative ordered investigation

TK Court ordered investigation

TL Private dependency petition

TM Substance abuse contributes to the maltreatment

TN DES certified child care home

TO Family resides on Indian Reservation or Military Base

TP Family Assistance Administration (AFDC teenage parent recipient) report

TSH Safe Haven Newborn

TSX Sexual Conduct Between Children

TPI Physical Injury Between Children

MITIGATING FACTORS (REQUIRES DOCUMENTATION IN THE CASE RECORD BY THE SUPERVISOR)

M1 No perpetrator access to child victim during the determined response time

M2 Child victim hospitalized or in other safe environment and will remain there during the determined response time

M3 Maltreatment occurred thirty (30) days or longer prior to report for child victim age one (1) or older

M4 Family receiving treatment related to report allegation and, in the opinion of the treatment provider, the child victim will be safe during the determined response time

M5 Law enforcement report and no contact with CPS by phone at time of law enforcement response; may mitigate up to Potential Risk Standard Response Time

AGGRAVATING FACTORS (Requires documentation in the case record by the supervisor)
--

A1 Child victim placed in temporary custody by law enforcement or court order

A2 Parent, guardian or custodian is described as volatile or dangerous

A3 Ability to locate child victim is time limited

A4 Family in crisis **NOW**

A5 Chronicity including previous validated or undetermined investigated reports

A6 Special needs of child victim place child victim at greater risk

A7 Child victim in care, custody and control of DES via court order or Voluntary Foster Placement Agreement

A8 Administrative directive for quicker response time

A9 Child victim expressing fear of maltreatment if going home

SEXUAL ABUSE	402 – SEXUAL ABUSE – MODERATE RISK Sexual behavior or attempted sexual behavior occurring 8 days or up to 1 year ago and/or child is exhibiting indicators consistent with sexual abuse	403 – SEXUAL ABUSE – LOW RISK Sexual behavior or attempted sexual behavior occurring beyond 1 year and perpetrator currently has access to a child	SEXUAL ABUSE – POTENTIAL RISK N/A
401 – SEXUAL ABUSE – HIGH RISK Physical evidence of sexual abuse reported by medical doctor or child reporting sexual abuse within the past seven (7) days.	<div> <div>SRT 2 Hours</div> <div>MRT 24 Hours</div> </div> <p>Physical evidence of sexual abuse reported by a medical doctor or child reporting sexual abuse within the past seven (7) days</p> <p>Child reporting vaginal or anal penetration or oral sexual contact (oral contact with the penis, vulva or anus) within past seventy-two (72) hours AND has not been examined by a medical doctor</p>	<div> <div>SRT 72 Hours</div> <div>ART 48 Hours</div> <div>MRT 72 Hours Excluding Weekends & Holidays</div> </div> <p>Parent, guardian or custodian sexually abused a child in the past AND is now living in a home with a child</p> <p>Attempted sexual behavior or sexual behavior when last occurrence was beyond one (1) year including sexual abuse, sexual assault, sexual exploitation of a minor, incest, child prostitution, molestation of a child and sexual conduct with a minor and the perpetrator currently has access to the child</p> <p>NOT Eligible for Family Builders</p>	
	<div> <div>SRT 48 Hours</div> <div>ART 24 Hours</div> <div>MRT 72 Hours</div> </div> <p>Sexual behavior within the past eight (8) to fourteen (14) days including sexual abuse, sexual assault, sexual exploitation of a minor, commercial sexual exploitation of a minor, incest, child prostitution, molestation of a child and sexual conduct with a minor</p> <p>Attempted sexual behavior or sexual behavior when last occurrence is unknown or when last occurred beyond fourteen (14) days and up to one (1) year including sexual abuse, sexual assault, sexual exploitation of a minor, incest, child prostitution, molestation of a child and sexual conduct with a minor</p> <p>Parent, guardian or custodian suggests or entices a child to engage in sexual behavior, but there is no actual touching including encouraging a child to view pornographic materials</p> <p>Child is exhibiting physical or behavioral indicators which are consistent with sexual abuse AND there are indicators the behavior is caused by parent, guardian or caretaker</p> <p>Child is living in the home with a person convicted of a sexual offense against a child</p>		

CPS Cue Questions

PRE-SCREENING CUE QUESTIONS:

1. May I have your name, phone number and relationship to the child? (Assure the reporting source they can remain anonymous. Explain that CPS will not be able to contact him/her for additional information without a name and phone number).
2. What is your concern about the child? How old is the child?
3. What is the family's home address? Does the child live there? If not, where can we locate the child, i.e., school, day care, relative, etc.? Who is living in the home?
4. Do you know who abused or neglected the child? If so, who? (This includes staff of a licensed or certified DES facility/foster or childcare home or a licensed DHS Level I, II, or III Behavioral Health Treatment facility). Do you know when he/she will see the child next?
5. Did the (parent, guardian or custodian) know about the abuse or neglect?
6. Is the (parent, guardian or custodian) letting the child see this person?

CUE QUESTIONS

IF IT IS DETERMINED TO HAVE ALL OF THE ELEMENTS OF A REPORT FOR FIELD INVESTIGATION (i.e. a child victim, maltreatment by a parent, guardian or custodian and the child can be located), CHECK CPSCR AND GATHER REPORT DEMOGRAPHICS.

- Include the address of the child, the name of the apartment complex, trailer park and directions as needed.
- When gathering ethnicity, ask the caller if they have reason to believe any family members may be Native American. If so, what tribe?

PHYSICAL ABUSE CUE QUESTIONS:

1. Describe the injury (size, shape, color and location).
2. Do you know when the injury occurred? Has abuse occurred before? How often does the abuse occur?
3. What did the child say happened or how did the injury occur?
4. Do you know if the child was seen by a medical doctor? If so, what is the name and phone number of the doctor? If the source is a medical doctor, is the injury consistent with the explanation?
5. Were there any witnesses? If so, who?

If the call concerns a licensed or certified DES facility/foster or child care home or a DHS Level I, II or III Behavioral Health Treatment facility, ask:

6. Did the injury occur as a result of restraint?
7. What kind of restraint was used?
8. Why was the child restrained?
9. Will the staff person have contact with the child or other children in the facility?

10. Do you know the name of the licensing specialist? If so, what is the name and phone number?
11. Do you know the name of the child's case manager? If so, what is the name and phone number?

EMOTIONAL ABUSE CUE QUESTIONS:

1. Specifically, what is the person doing? (to have the impact on the child).
2. Have you noticed a change in the child's behavior?
3. What signs or behaviors is the child exhibiting?
4. Do you think the child's behavior is related to what the parent, guardian or custodian is doing? If so, how?
5. Do you know if the child has seen a medical doctor, psychologist or mental health professional? If so, what is the name and phone number? Do you know the diagnosis?

NEGLECT CUE QUESTIONS:

A. INADEQUATE SUPERVISION

1. Is the child alone NOW? If yes, how long has the child been alone? Where is the person who is suppose to be watching the child? When will the person return? Have you called the police?
2. If the child is not alone, who is watching the child now? What are your concerns about the person who is watching the child?
3. Do you know how often and when this happens?
4. What happens when the child is alone or inadequately supervised?
5. Does this child know how to contact the parent, guardian or ustodian?
6. Does the child have emergency numbers and know how to use the phone?
7. Do you know if anyone is checking on the child? If so, what is the name and phone number? How often?

If the call concerns a licensed or certified DES facility/foster or child care home or DHS Level I, II or III Behavioral Health Treatment facility, ask:

8. What supervision was being provided at the time of the exual conduct or physical injury between the children?
9. Did the facility/foster or child care home know that the child may physically or sexually assault another child?
10. Did the staff/foster or child care home person know that the child may physically or sexually assault another child?
11. What steps were been taken to prevent the child from assaulting other children?
12. What steps are being taken to restrict contact between the child and other children?
13. Do you know the name of the licensing specialist? If so, what is the name and phone number?

14. Do you know the name of the child's case manager? If so, what is the name and phone number?

B. SHELTER

1. When was the last time you saw the child or the home?
2. Describe any health or safety hazards where they live. Has anything happened to the child?
3. Do you know how long they have been in this situation?
4. Do you know why they live like this?

C. MEDICAL CARE

1. What are the child's symptoms?
2. Is the parent, guardian or custodian aware of the problem?
3. Do you know when they last saw a medical doctor? Who was the medical doctor? If so, why?
4. Do you know the reasons the person is not getting medical care for the child?

If reporting source is a medical doctor or doctor's representative ask only the following questions:

5. What is the medical or psychiatric condition or diagnosis of this child and when did it begin?
6. What medical care and/or medication (including psychiatric) is needed?
7. What will happen if the child does not receive the medical care?
8. What are your concerns about the parent, guardian or custodian response to the problem?

D. FOOD

1. What makes you believe the child is not getting enough food? Describe the physical condition of the child?
2. Do you know if someone else is feeding the child? If so, who?
3. When was the last time you saw the child or have you been in the home? If so, describe the food you saw.
4. Do you know if the child has seen a medical doctor? If so, what is the name and phone number?

E. CLOTHING

1. Describe what the child is wearing and the weather conditions?
2. What effect is it having on the child?

F. METHAMPHETAMINE LABS

1. Where was the parent, guardian or custodian "cooking" the drug?
2. Was the child present?

3. If they were not cooking in the home, where were they cooking?
 - Proximity to the home?
4. Where were they venting the drug fumes?
5. Where are the chemicals stored?
6. What is the proximity to the children and the children's access to the chemicals/meth?
7. Is there any drug or chemical residue? If yes, where?
8. What is the condition of the home?

G. SAFE HAVEN NEWBORN

1. Is the parent or agent who delivered the newborn still present?
2. Did the parent express an intent to return for the newborn infant?
3. Does the child appear to be a newborn infant? (Under seventy-two hours old)
4. What is the newborn's condition?
5. Does the infant need immediate medical attention? If so, have you called 911?
6. Did the parent or agent offer any information about themselves or the newborn?
7. Did the parent or agent say why they brought the newborn to a Safe Haven?

SEXUAL ABUSE CUE QUESTIONS:

1. Why do you think the child has been sexually abused or is at risk of sexual abuse? (activities, physical signs or behaviors)
2. Who saw these activities, signs or behaviors?
3. Has the child told anyone? If so, who and when?
4. What is the child saying about sexual abuse?
5. Do you know where and when this last occurred?
6. Do you know what contact this person has with the child?
7. Do you know if the child **has** seen a medical doctor? If so, what is the name and number?

ABANDONED CUE QUESTIONS:

1. Do you know where the parent is now?
2. When did the parent last have contact with the child?
3. When do you think the parent is coming back?
4. What arrangements did the parent make for care of this child?

5. How long are you able or willing to care for the child? Are there relatives available? If so, what is the name, address, phone number?
6. Are the parent's willing to make other arrangements for the child?

IF THE PARENT IS THE SOURCE AND WANTS THE CHILD REMOVED FROM THE HOME, ASK THE PARENT:

7. Would you be willing to work with CPS to make alternative arrangements (other than CPS placement) for the care of your child?

DRUG EXPOSED INFANTS CUE QUESTIONS:

1. Has the child or mother been tested? If so, what are the results?
2. What is the name of the medical doctor and/or hospital?
3. What is the parental history of drug use? (What drugs, when was last drug use, used during what trimester)?
4. What is the parental history of drug treatment?
5. Describe the medical and physical condition of the child?
 - a. Birth weight
 - b. Gestational age
 - c. Apgar score
 - d. Prenatal care
6. Have preparations been made in the home for the new baby?

NON-SEXUAL EXPLOITATION CUE QUESTIONS:

1. Describe how the child is being exploited.
2. What reason was given for the exploitation?
3. How long has this been going on?

POTENTIAL ABUSE AND NEGLECT CUE QUESTIONS:

1. Describe behaviors (of the parent, guardian, custodian or child) that give you reason to believe that abuse or neglect may occur.
2. Has abuse or neglect happened before? If so, when and where?
3. Has the _____ (parent, guardian or custodian) expressed concerns about hurting or not being able to care for the child?

CLOSURE CUE QUESTIONS

1. Do you know what school or child care facility the child attends? If so, what is the name of the school or child care facility?
Dismissal/pick-up time?
2. Has the child expressed concerns about going home? If so, what did the child say to you?
3. Has law enforcement been notified? DR/Badge number?
4. Does the child have any of these special needs or problems?
 - a. Bizarre behavior
 - b. Extremely angry or volatile
 - c. Physically ill
 - d. Mentally ill
 - e. Language other than English
5. Does the _____ (parent, guardian or custodian) have any of these special needs or problems:
 - a. Bizarre behavior
 - b. Extremely angry or volatile
 - c. Physically ill
 - d. Mentally ill
 - e. Language other than English
6. SUBSTANCE ABUSE:
 - A) Does anyone in the home abuse drugs or alcohol? If yes:
 - who?
 - what drugs?
 - how often?
7. DOMESTIC VIOLENCE:
 - A) Is there domestic violence in the home? If yes:
 - who is the abuser? the victim?
 - how often does the domestic violence occur?
 - when was the last incident?
 - have the police been called? If yes, what was the outcome?
 - have there been any injuries to adults and or children? If yes, please describe them.
 - where are the children during the domestic violence?
8. Does any other person living in the home or involved with the family have a language barrier?
9. Do you know if CPS or any other agency has been involved with this family?
10. If this report is assigned for field investigation, are there any issues we need to be aware of to ensure the worker's safety, i.e., guns, dogs, etc.?

A.R.S. §41-1010 CUE QUESTIONS

1. Is there any reason to believe that substantial harm will result from disclosure of your name? If so, what is the substantial harm?
 - Request specific reasons, if known.May we have your name and phone number

APPENDIX E

RECOMMENDED TRAINING

APPENDIX	DESCRIPTION
E1	First Responders
E2	Child Physical Abuse Investigations
E3	Child Sexual Abuse Investigations
E4	Forensic Interviews – Basic
E5	Forensic Interviews – Advanced
E6	Prosecutors

FIRST RESPONDERS RECOMMENDED TRAINING

The training shall cover the following or its equivalent for any member tasked with responding to reports of child abuse/neglect:

Protocol Section:	Law Enforcement Section CPS Section School Section
Legal Section:	Title 13 Title 8 Scene Preservation: photos, evidence collection Search warrants Temporary Custody Notices Juvenile Rights Mandated Reporting Law

INVESTIGATIONS CHILD PHYSICAL ABUSE/NEGLECT RECOMMENDED COURSES

The specific Children's Justice Task Force courses (Child Physical Abuse Investigations and Medical Aspects, Child Sexual Abuse Investigations, and Forensic Interviewing – Basic 8 Hour) meet the recommended standards for members tasked with conducting an investigation of extremely serious conduct allegation. Any equivalent course shall cover:

1. Introduction and Risk Factors
2. Inflicted Coetaneous Injuries
3. Caretaker Interviews
4. Suspect Interviews
5. Interviewing Medical Personnel
6. Burns
7. Fractures
8. Head Injuries
9. Abdominal Trauma
10. Failure to Thrive
11. Scene Investigation

**INVESTIGATIONS
CHILD SEXUAL ABUSE
RECOMMENDED TOPICS FOR TRAINING**

1. Jurisdiction
2. Who Should Be Interviewed
3. Why Should People Be Interviewed Immediately
4. Victim Interview
5. Establishing Time Frames – “Significant Childhood Events”
6. Transition Tips (investigation – trial)
7. Witness Interviews - “Verbal Corroboration”
8. Tangible Evidence - Physical Corroboration
9. How to Get Medical Records (A.R.S. § 13-3620)
10. Search Warrants and Related Court Documents
11. Interviewing Suspects
12. Eliminating Defenses
13. Defense Attorney Interviews
14. Understanding and Accepting your Caseload

BASIC FORENSIC INTERVIEWING RECOMMENDED TOPICS 8-HOUR COURSE

1. Victimology
2. Forensic Interviewing
3. Semi-structured Cognitive Interview
4. Videotaped Samples of Forensic Interviews
5. Interviewing Adolescents

ADVANCED FORENSIC INTERVIEWING RECOMMENDED TOPICS HOUR COURSE

1. Medical Aspects of Physical and Sexual Abuse
2. Development and Linguistic Considerations
3. Semi-Structured Cognitive Interview
4. Disclosure Patterns
5. Memory and Suggestibility
6. Interviewing Developmental Delayed Victims
7. Interviewing Preschool, Reluctant and Anxious Children
8. Interviewing Child Witnesses
9. Sexual Trauma and Sex Offending Behavior
10. Secondary Trauma
11. Taking it to the Jury
12. Investigators as Experts – Preparing a Resume for Court
13. A View from the Bench
14. Cultural Considerations
15. Legal Considerations in Forensic Interviews
16. Courtroom Testimony
17. The Defense

PRACTICA – 2 child interviews, courtroom testimony

PROSECUTORS RECOMMENDED COURSES AND TOPICS

It is recognized that in a rural prosecutor's office such as the Yavapai County Attorney's Office, specialization by prosecutors is not always feasible and caseloads often demand that prosecutors handle every type of crime, regardless of training. With this in mind, the following training is recommended for prosecutors who handle child abuse and neglect cases:

1. 8-hour basic forensic interviewing training
2. 40-hour advanced forensic interviewing training. (Because this course involves practice for interviewing and testifying that is 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 following courses or their equivalent are recommended:
 - a. Investigation and Prosecution of Child Abuse
 - b. Investigation and Prosecution of Child Fatalities and Physical Abuse.
 - c. Childproof: Advanced Trial Advocacy for Child Abuse Prosecutors
5. Prosecutors should look for similar training and other courses offered by APAAC, NCDA, NDA and APRI.

APPENDIX F

OTHER

APPENDIX	DESCRIPTION
F1	Attorney General's Opinion on Interviewing Students in Public Schools
F2	Forensic Interview Guidelines
F3	Dispute Resolution

STATE OF ARIZONA
OFFICE OF THE ATTORNEY GENERAL

ATTORNEY GENERAL OPINION by TERRY GODDARD ATTORNEY GENERAL May 26, 2004	No. I04-003 (R04-003) Re: Law Enforcement Interviews of Students at Public Schools
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TO: The Honorable Slade Mead
Arizona State Senate

The Honorable Linda Lopez
Arizona House of Representatives

Questions Presented

You have asked the following questions related to the authority of law enforcement officers to interview students at public schools and the authority of school boards to adopt parental notification policies for such interviews:

1. Whether a school official must comply with a law enforcement officer's demand to interview a student;
2. Whether a school official must comply with a law enforcement officer's directive to refrain from contacting the parents of a student whom the officer intends to interview; and whether a school official may be held criminally liable for disregarding such a directive;

3. Whether a school official must comply with a law enforcement officer's directive to refrain from informing a student whom the officer intends to interview that the student has the right to consult his or her parents before answering the officer's questions; and whether a school official may be held criminally liable for disregarding such a directive;
4. Whether a school official must comply with a parent's demands to (a) inform the parent whenever a law enforcement officer seeks to interview the child/student, and (b) prohibit the officer from interviewing the child/student unless the parent is present; and
5. Whether a school official must advise a student of juvenile Miranda rights before interviewing the student regarding acts that constitute crimes.

Summary Answers

1. If law enforcement officers¹ are seeking only to interview a student, the officers are subject to regular school policy regarding access to students. Law enforcement officers making an arrest or serving a subpoena or a search warrant, however, generally have the right to immediate access to a student.
2. Although Arizona law does not require that school officials notify parents before law enforcement officers interview a student, school officials may generally provide such notice. However, in instances where law enforcement officers seek to interview a student in connection with an investigation of child abuse or other criminal activity by the student's parent, insistence on parental notification and/or

¹ Throughout this opinion, the term "law enforcement officer" includes members of federal, state, and local law enforcement agencies, and anyone acting on their behalf, including school resource officers.

consent is improper. A school official who insists on parental notification under these circumstances may be subject to “criminal liability” for hindering prosecution if the school official acts with the “intent to hinder the apprehension, prosecution, conviction or punishment of another for any [crime].” A.R.S. §§ 13-2511 and - 2512. Insistence on parental notification is also inappropriate under circumstances in which delay pending parental notification would jeopardize public safety.

3. School officials must comply with a law enforcement officer’s directive to refrain from informing a student that the student may consult his or her parents before answering the officer’s questions if the proposed interview relates to an investigation of child abuse or other criminal activity by the student’s parent or where delay pending notification of a parent would jeopardize public safety. In other circumstances, a school official may inform a student that he or she may consult with a parent prior to questioning.

4. School officials are not required to comply with unconditional demands from parents for prior notice of, or consent to, police interviews of a student. This issue may appropriately be addressed in school policies as described above.

5. A school official is not required to advise a student of juvenile Miranda warnings unless the official is conducting a custodial interrogation and acting in the capacity of a law enforcement officer.

Analysis

A. Authority of School Boards to Set Policies Regarding Law Enforcement Interviews.

“School boards have only the authority granted by statute, and such authority must be exercised in a manner permitted by statute.” *Campbell v. Harris*, 131 Ariz. 109, 112, 638 P.2d 1355, 1358 (App. 1981); see also Ariz. Att’y Gen. Op. I88-062. Rules that school boards prescribe and enforce to govern schools must be consistent with law. A.R.S. § 15-341(A)(1).

Law enforcement officers making an arrest or serving a subpoena or search warrant have the right of immediate access to a student. Ariz. Att’y Gen. Op. I77-211; see also Ariz. Att’y Gen. Ops. I82-002, I82-094 (addressing procedures for taking a student into temporary custody). However, law enforcement officers seeking only to interview a student are subject to the school’s overall policy regarding access to students who are in class. Ariz. Att’y Gen. Op. I77-211. School policies regarding access to students should make this distinction between law enforcement officers arresting a student and those interviewing a student.

B. School Parental Notification Policies.

Arizona law neither requires nor prohibits school policies requiring notice to parents before officers interview students. To the extent that schools adopt parental notification policies, they must be flexible enough to take into account a variety of circumstances, including whether the proposed questioning relates to allegations of child abuse or other criminal activity by the student’s parent(s), whether the student is suspected of committing a crime or is a possible witness in a criminal investigation, and whether delay pending parental notification will jeopardize public safety.

1. Questioning regarding possible child abuse or other criminal activity by a parent.

If a law enforcement officer seeks to interview a student in connection with an investigation

of alleged child abuse by a parent, parental notification is not permitted. *See* Ariz. Att’y Gen. Op. 188-062. Similarly, if a parent or guardian is suspected of some other type of crime and the student has information as a witness, parental notification is inappropriate because it could result in the parent evading arrest, destroying evidence, concealing the crime, or otherwise creating a threat to the community. *See* Wis. Att’y Gen. Op. OAG 5–94. Parental notification under these circumstances could expose school officials to criminal liability, depending on the school official’s intent. *See* A.R.S. §§ 13-2511, 13-2512.²

2. Student suspected of criminal activity.

When a student is suspected of criminal activity, the Fifth Amendment may apply to law enforcement interviews. The Fifth Amendment protection against compelled self-incrimination affords all citizens, including juveniles, the right to refuse to answer questions that a law enforcement officer poses. *State v. Maloney*, 102 Ariz. 495, 498, 433 P.2d 625, 628 (1967). Under *Miranda v. Arizona*, law enforcement officers may not conduct custodial interrogations without first advising criminal suspects that they have the right to remain silent, to consult with an attorney, to have an attorney appointed if they cannot afford an attorney, and that anything they say may be used against them in a court of law. 384 U.S. 436, 444 (1966). Questioning by law enforcement officers may be deemed “custodial” for *Miranda* purposes regardless of the location of the interview if the person being questioned has been deprived of freedom of action in any significant way. *See In re Jorge D.*, 202 Ariz. 277, 280-81, 43 P.3d 605, 608-09 (App. 2002) (custodial questioning of a

² A.R.S. § 13-2512(A) provides: “A person commits hindering prosecution in the first degree if, with the intent to hinder the apprehension, prosecution, conviction or punishment of another for any felony, the person renders assistance to the other person.” The definition of “rendering assistance” to the other person—the parent in this scenario—includes knowingly “[w]arning the other person of impending discovery.” A.R.S. § 13-2510(2). Hindering prosecution in the second degree is the same crime except that it applies to those who hinder prosecution of persons who have committed misdemeanors rather than felonies. A.R.S. § 13-2511.

juvenile at school).

Confessions to law enforcement officers are presumed involuntary—notwithstanding Miranda warnings—and to rebut this presumption, the State must show by a preponderance of the evidence that the suspect made the confession freely and voluntarily. *State v. Jimenez*, 165 Ariz. 444, 448–49, 799 P.2d 785, 789–90 (1990). Courts apply a “totality of the circumstances” test in assessing the validity of a confession or of a juvenile’s waiver of his Fifth Amendment right against self-incrimination. *Fare v. Michael C.*, 442 U.S. 707, 724–25 (1979). Arizona courts have attached particular significance to whether a parent was present when police interviewed the juvenile. *See In re. Andre M.*, 2004 WL 875629 ¶ 11 (Ariz. Apr. 23, 2004) (noting that a parent “can help ensure that a juvenile will not be intimidated, coerced or deceived during an interrogation”). Although a parent’s absence during questioning does not, in itself, render a juvenile’s statement to police inadmissible, in that situation “the State faces a more daunting task of showing that the confession was neither coerced nor the result of ‘ignorance of rights or of adolescent fantasy, fright or despair’ than if the parent attends the interrogation.” *Id.*

In light of the significance that Arizona courts place on having a parent present during a juvenile’s custodial interrogation, school districts may appropriately adopt policies requiring parental notification prior to a law enforcement interview of a student suspected of committing a crime.

3. *Student is a possible witness in a criminal investigation.*

Fifth Amendment concerns do not present themselves when a student is a potential witness, rather than a suspect, in a criminal investigation. Although parental notification is not required under Arizona law, it is permissible in this situation (unless the child has witnessed criminal activity

relating to the child's parent), and schools may adopt policies requiring such notification.

4. *Public Safety Concerns.*

Parental notification is inappropriate if delay pending notification creates a significant risk to public safety. Such a situation would exist, for example, if law enforcement officers suspect a student of possessing or having information about a handgun on campus. In other instances, delay attendant to a notification/consent policy may result in destruction of evidence or concealment of a crime. Any parental notification policy should be flexible enough to accommodate these types of circumstances and to allow for the exercise of common sense by school officials.³

C. **Informing Students that They May Refuse to Participate in a Law Enforcement Interview Without First Speaking with a Parent.**

School officials must comply with a law enforcement officer's directive to refrain from informing a student that the student may consult his or her parents before answering the officer's questions if the proposed interview relates to an investigation of child abuse or other criminal activity by the student's parent or if delay pending parental notification would jeopardize public safety. Under other circumstances, a school official may inform a student that he or she may consult with a parent and/or an attorney prior to questioning by the police, notwithstanding a police directive to the contrary.

The parameters regarding these types of communications are not established by caselaw or

³An analysis of potential criminal liability requires specific facts. However, notifying parents under these circumstances, without more, would not subject a person to criminal liability for obstructing criminal investigations or prosecutions. See A.R.S. §13-2409. A person violates A.R.S. § 13-2409 when he or she "knowingly attempts by means of bribery, misrepresentation, intimidation or force or threats of force to obstruct, delay or prevent the communication of information or testimony relating to a violation of any criminal statutes to a peace officer" Under some circumstances, a person could violate A.R.S. § 13-2403 by refusing to aid a peace officer. A person violates A.R.S. § 13-2403 if, "upon a reasonable command by a person reasonably known to be a peace officer," he or she "knowingly refuses or fails to aid" the peace officer in effectuating or securing an arrest or preventing the commission by another of any offense.

by statute but school officials and law enforcement should strive to strike the appropriate balance between the interests of schools in keeping parents informed of matters affecting their children and the needs of law enforcement officers conducting criminal investigations.

D. **Complying with Parental Requests for Notification Prior to Law Enforcement Interviews of the Student.**

As set forth above, school officials may notify parents of a proposed law enforcement interview of their child except when law enforcement authorities suspect a parent of abuse or some other type of crime or when delay pending notification creates a significant risk to public safety. School officials are not required to comply with parental demands regarding parental notification. This issue may, however, be addressed by school policies.

E. **Advising Students of Juvenile Miranda Rights.**

The *Miranda* requirement applies only to custodial interrogation by law enforcement agents. “School principals, though responsible for administration and discipline within the school, are not law enforcement agents.” Navajo County Juvenile Action No. JV91000058, 183 Ariz. 204, 206, 901 P.2d 1247, 1249 (App. 1995). However, a school official must give Miranda warnings if he or she is acting as an agent or instrument of the police. *Id.* Thus, a school official who interviews a student at the request or direction of a law enforcement agency, acts as an instrument of that agency and must advise the student of his or her Miranda rights before proceeding with the interview. *Id.*

Conclusion

Generally, school officials may notify parents before police interview their children. Any policy requiring parental notice or consent, however, must not apply when any alleged criminal

conduct involves the parent or when advance parental notification creates an unreasonable risk to public safety.

Terry Goddard
Attorney General

FORENSIC INTERVIEW GUIDELINES

The child victim is often the principal source of information about allegations of child abuse. These guidelines are intended as a framework for professionals who are interviewing and are not an all-inclusive guide.

Purpose: The purpose of the interview is to collect information after an allegation of abuse has emerged.

The Interviewer: It is recommended that the interviewer shall receive training and demonstrate an ability to perform fact-based interviews. Recommended training includes completion of basic forensic interview training as well as an advanced training curriculum, such as the training seminar offered by the Arizona Children's Justice Task Force.

The Interview: The interview is approached in a neutral, fact-finding attitude for the purpose of collecting information. The interviewer should appear neutral and supportive. The forensic interview process is based on a semi-structured cognitive interview:

1. Rapport building discussion of neutral topics to briefly ascertain the child's developmental and language level.
2. Free narrative/recall – allowance of spontaneous disclosures.
3. Open-ended questioning – Questions that allow a broad range of responses (e.g. "What did he do when you told him "no"? Where was your mom when this happened?")
4. Focus questions – specific questions elicit additional details from the child. (e.g. "Was he in the house or in the yard? Did he put his mouth anywhere else?")
5. Neutral closing – End on a neutral topic.

Where: It is recommended that the interview be conducted in a neutral victim-friendly environment such as the Yavapai Family Advocacy Center.

When: The initial child interview should occur as close to the event in question as feasible. Whenever possible, the child interview should also be timed to maximize the child capacity to provide accurate and complete information. This often involves consideration of the child's physical and mental state (e.g. alert, rested, fed), immediate safety concerns, and the possible impact of delays on the child's ability to recall and report an experience.

Persons Present or Observing the Interview: The interview may be observed by law enforcement personnel, medical personnel, prosecutors and CPS caseworkers investigating the allegations and other allied professionals involved in the investigation process. It is the responsibility of the primary law enforcement investigator to assure that only the appropriate professionals are allowed to observe the interview.

It is recommended that the child making the allegations be interviewed alone. In limited circumstances, a third person may be present provided that they do not ask questions or speak, and such an interview must be recorded to prevent the third person from becoming a witness. Also, they should sit out of direct sight of the child.

The perpetrator or family members of the perpetrator should not be present during the interview.

Use of Props: The use of props during the interview should be minimized. Props such as stuffed animals or drawings may be utilized at the interviewer's discretion to assist a reluctant child in the process of disclosure or the description of specific acts.

Preservation of Interviews: All interviews (other than the initial interview by the first responding officer) of children alleging abuse should be preserved on videotape and/or audio tape and/or disc.

It is recommended that the interviews by the first responding officer also be audio recorded whenever possible.

Recordings of interviews shall be preserved as evidence in accordance with agency policy.

DISPUTE RESOLUTION PROCEDURES

YAVAPAI COUNTY ATTORNEY'S OFFICE

Dispute from a Deputy County Attorney ("DCA") to an outside agency:

1. Bring the matter to the attention of a Yavapai County Attorney Office ("YCAO") Supervisor and obtain clearance to attempt informal resolution by personal communication with Officer/CPS worker/Assistant Attorney General.
2. If unsuccessful, DCA will discuss result with YCAO Supervisor and determine the next step to be taken. In most cases the Supervisor will discuss with the immediate supervisor in the other agency.
3. If issue(s) remain unresolved after contact with the immediate supervisor, the Supervisor should staff the issue with the County Attorney to determine what additional steps will be taken. If further review is desired, the County Attorney will attempt to follow the review process established by the outside agency.
4. Lodging a formal complaint with an outside agency should be done only when informal options have been explored and only as a last resort.
5. No contact with the head of another agency expressing criticism of that agency shall be made without prior approval by the County Attorney, Chief Deputy or Law Enforcement Liaison. In most cases, it will be necessary for such contact to be made by the County Attorney, Chief Deputy or their designee.

Dispute from outside agency personnel with a Deputy County Attorney:

1. Attempt resolution by personal communication with the YCAO DCA.
2. If issues remain unresolved, the outside agency worker should contact the Supervisor of the YCAO DCA and request a review of the DCA's decision/action.
3. If the YCAO Supervisor is unable to resolve the matter, the outside agency worker with their immediate supervisor's knowledge (and following any other requirements of their parent agency) may contact the County Attorney and request further review.

LAW ENFORCEMENT AGENCIES

It is essential that Law Enforcement, Child Protective Services, and the Yavapai County Attorney's Office communicate effectively. To ensure there is an effective line of communication, the following procedure should be utilized.

Dispute from outside agency with patrol/deputy:

1. In circumstances when patrol officers/deputies respond to an incident and there is a need to seek resolution beyond the officer's/deputy's ability, the respective agency seeking resolution shall speak to the on-duty supervisor from that law enforcement agency.
2. In the event there is no on-duty supervisor, the agency seeking resolution shall contract law enforcement communications (dispatch), see Appendix A1, and request a supervisor, following that agency's chain of command. All necessary steps will be taken to resolve the complaint.
3. In the event the issue cannot be resolved at that level, the CPS or County Attorney representative will notify their respective chain of command asking for a meeting at the management level. This conferring may be completed over the phone as necessary to accommodate a timely response.

Dispute from outside agency with detective/investigator:

1. In circumstances when child crimes investigators are investigating a complaint and there is an issue that requires resolution beyond the detective's ability, the detective's supervisor or commander shall be notified.
2. If this is not sufficient to resolve the issue, the CPS or County Attorney representative shall notify their respective chain of command asking for a meeting at the management level. This conferring may be completed over the phone as necessary to accommodate a timely response.

Dispute from law enforcement personnel with an outside agency:

1. Officers/Deputies shall use a similar process to raise concerns with the County Attorney's Office or with Child Protective Services as appropriate and within their prescribed guidelines.

CHILD PROTECTIVE SERVICES

Dispute from a CPS Specialist, Supervisor, APM, DPM, PM with an outside agency:

1. Lodging a formal complaint with an outside agency should be done only when informal options, using the chain of command, have been explored and no resolution has been reached by the interested parties.

2. Formal complaints to an outside agency will be initiated only by the Deputy Program Managers or Program Manager of District III.

Dispute from outside agency personnel with a CPS Specialist:

1. Attempt resolution with the CPS Specialist by personal communication.
2. If issues remain unresolved, make contact with the CPS Unit Supervisor. Explain in detail what the outstanding issue entails.
3. If issues remain unresolved, make contact with the responsible Assistant Program Manager and set up a one-to-one meeting to discuss the outstanding issues.
4. If issues remain unresolved, contact the appropriate Deputy Program manager on day-to-day operations and ask for final review of the circumstances of the dispute. The Deputy Program Manager will consult with Program Manager on issues involving systematic barriers that will need to be addressed as a statewide system.
5. Any individual barriers will need to be addressed with senior management from the respective entities to engage in conflict resolution pertaining to the Interagency Protocol in Yavapai County.