



ALBUQUERQUE POLICE DEPARTMENT  
PROCEDURAL ORDERS

SOP 2-92

Effective: 10/25/17 Expires: 10/25/18 Replaces: 07/18/16

## 2-92 CRIMES AGAINST CHILDREN

### 2-92-1 Purpose

It is the purpose of this policy to describe the procedures to be followed by Field Services Bureau personnel while investigating crimes committed against children. For information specific to the Crimes Against Children Unit, refer to the [Juvenile Section SOP](#).

### 2-92-2 Policy

Department policy is to respond to child abuse and/or neglect, immediately. Allegations of child abuse and/or neglect will be thoroughly investigated.

### 2-92-3 Procedures

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#### A. Inter-Agency Cooperation

Department personnel will work in close cooperation with the New Mexico Children, Youth and Families Department (CYFD), Child Protective Services and the District Attorney's office (DA) for the protection of victims and the prosecution of offenders.

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#### B. Dispatched Officers' Responsibilities

1. If the following injuries are present, personnel will notify the Crimes Against Children Unit (CACU) immediately:
  - a. Any inflicted Injury to a child 5 years old and under
  - b. Serious inflicted injury to a child less than 13 years old, when the offender is a household member.
    - i. Serious bruising likely to cause great bodily harm or death.
    - ii. Broken Bones
    - iii. Medical intervention is necessary for treatment of serious inflicted injuries.
    - iv. Inflicted internal injuries
    - v. Burns/Scalding
    - vi. Inflicted head injury requiring medical intervention.
    - vii. Serious neglect likely to cause great bodily harm or death.



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- c. All unattended deaths of children under eighteen years of age or where death is likely:
  - i. Apparent Sudden Unexplained Death in Infancy (SUDI)
    - Sudden Unexpected Death in Infancy (SUDI) is an umbrella term that describes the death of an infant which was not anticipated as a significant possibility 24 hours before the death, or where there was a similarly unexpected collapse leading to or precipitating the events which led to the death.
  - ii. Suicide
  - iii. Homicide by parent or guardian
  - iv. Any accidental death to include; drowning, drug or alcohol overdose
  - v. Apparent natural unattended death
- d. Injury resulting in great bodily harm of a child age 5 and under that appears to have occurred accidentally.
- e. Criminal Sexual Penetration
  - i. Children under age 13
  - ii. The CACU will be notified immediately.
  - iii. Because of the complex nature of child sexual abuse, formal interviews of children under age 13 will be investigated by the CACU.
  - iv. The CACU will investigate all criminal sexual penetration cases where the suspect is a parent, guardian, or other family member, and the victim is under age 18 at the time of report.
  - v. If the reporting victim is between 13 to 17 years old but was under age 12 at the time of the offense, CACU shall take case responsibility, regardless of the relationship between the suspect and victim.
- f. Criminal Sexual Contact
  - i. Children under age 13
  - ii. The CACU will be notified immediately.
  - iii. Because the complex nature of child sex abuse, formal interviews of children under age 13 will be conducted by CACU.

Children 13 years and older

The appropriate area command Impact Unit will be contacted to conduct the investigation.



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2. The officer will secure the scene and await contact from the detective and possibly CYFD personnel.
3. Officers will conduct a complete and thorough preliminary investigation and will write reports (using the State of New Mexico Uniform Incident Report) on all cases (confirmed or suspected) of child abuse, neglect, abandonment, or cruelty to children. Per state statute 32A-4-3 officers will immediately notify CYFD when they have reasonable suspicion that a child is abused or neglected.
  - a. Officers will not use the word(s) "suspected" or "information" in the offense portion of the report. Reports should be titled as child abuse:
    - i. For non-confirmed cases of child abuse.
    - ii. When the reported child abuse occurred outside the jurisdiction of the department. Note: "Information" reports on children are available to the public.
  - b. Officers will forward a copy of their report to CYFD within 48 hours per state statute 32A-4-3
  - c. Referring a case to CYFD does not relieve the officer of the responsibility of completing a criminal investigation.
4. The CACU detectives may be called for assistance on any case involving:
  - a. Non-felony crimes.
  - b. Requests for assistance from CYFD
  - c. Situations where there are questions about abuse and neglect.
5. Field Services officers will have case responsibility for misdemeanor child abandonment/cruelty to children.
6. In instances where a child's death is the exclusive result of a traffic crash where there was not intent to harm a child, Field Services Bureau and/or Traffic Unit will retain case responsibility.
7. In instances where child abuse charges are filed as the result of a DWI, case responsibility shall remain with the primary investigating officer.

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C. Taking Protective Custody of a Child

1. When responding to any form of child abuse, the officer must determine if the child should be removed from the environment for the child's safety. Pursuant to New Mexico Statute 32A-3B-3, an officer may take a child into protective custody when the officer had reasonable grounds to believe the child:
  - a. Is suffering from illness or injury
  - b. Has been abandoned



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- c. Is in danger from surroundings and removal from those surroundings is necessary.
2. In making a determination of removal for protective custody, officers will obtain all pertinent information, and review the need for removal with their supervisor.
3. When taking a child into custody the officer will:
  - a. Notify CYFD immediately.
    - i. A CYFD Child Protective Services caseworker can assist with placing the child in a temporary home.
    - ii. Immediate contact with CYFD is critical so custody petitions can be filed within 24 hours.

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4. CYFD Requests
  - a. When CYFD requests that APD take custody of a child, the officer shall ask the caseworker for any documentation of abuse or neglect.
  - b. If the caseworker has no documentation and the officer does not find reasonable grounds to remove the child, the officer shall:
    - i. Record the caseworker's statement before making the decision to remove the child
    - ii. Request that the caseworker get a court order to remove the child.
  - c. The initial report will list the offense for which the child was taken into protective custody.
    - i. "Protective custody" is not an appropriate title, as protective custody cases are public record
    - ii. Records obtained from CYFD are confidential and cannot be released to the general public or news media.

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5. If the child is to be placed with a family member, relative or other placement, the investigating officer will conduct a criminal history check of the person with whom the child is to be placed. These checks will include but are not limited to:
  - a. Contact CYFD to determine if there is active or prior case history involving the receiving party.
  - b. Wants and Warrants
  - c. NM Courts
  - d. Residence/Call History
6. The results of the criminal history check will be documented in the officer's report.



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D. Confidentiality of Records Pursuant to NMSA 1978 32A-4-33

1. All records or information concerning a party to a neglect or abuse proceeding, including social records, diagnostic evaluations, psychiatric or psychological reports, videotapes, transcripts and audio recordings of a child's statement of abuse or medical reports incident to or obtained as a result of a neglect or abuse proceeding or that were produced or obtained during an investigation in anticipation of or incident to a neglect or abuse proceeding shall be confidential and closed to the public.
2. The records described in Subsection 1 of this section shall be disclosed only to the parties and:
  - a. court personnel;
  - b. court-appointed special advocates;
  - c. the child's guardian ad litem;
  - d. the attorney representing the child in an abuse or neglect action, a delinquency action or any other action under the Children's Code [32A-1-1 NMSA 1978];
  - e. CYFD department personnel;
  - f. any local substitute care review board or any agency contracted to implement local substitute care review boards;
  - g. law enforcement officials, except when use immunity is granted pursuant to Section 32A-4-11 NMSA 1978;
  - h. district attorneys, except when use immunity is granted pursuant to Section 32A-4-11 NMSA 1978;
  - e. any state government social services agency in any state or when, in the opinion of the department it is in the best interest of the child, a governmental social services agency of another country;
  - f. those persons or entities of an Indian tribe specifically authorized to inspect the records pursuant to the federal Indian Child Welfare Act of 1978 or any regulations promulgated thereunder;
  - g. a foster parent, if the records are those of a child currently placed with that foster parent or of a child being considered for placement with that foster parent and the records concern the social, medical, psychological or educational needs of the child;
  - h. school personnel involved with the child if the records concern the child's social or educational needs;
  - i. health care or mental health professionals involved in the evaluation or treatment of the child, the child's parents, guardian, custodian or other family members;
  - j. protection and advocacy representatives pursuant to the federal Developmental Disabilities Assistance and Bill of Rights Act and the federal Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1991;
  - k. children's safehouse organizations conducting investigatory interviews of children on behalf of a law enforcement agency or the department; and



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- i. any other person or entity, by order of the court, having a legitimate interest in the case or the work of the court.
3. A parent, guardian or legal custodian whose child has been the subject of an investigation of abuse or neglect where no petition has been filed shall have the right to inspect any medical report, psychological evaluation, law enforcement reports or other investigative or diagnostic evaluation; provided that any identifying information related to the reporting party or any other party providing information shall be deleted. The parent, guardian or legal custodian shall also have the right to the results of the investigation and the right to petition the court for full access to all department records and information except those records and information the department finds would be likely to endanger the life or safety of any person providing information to the department.
4. Whoever intentionally and unlawfully releases any information or records closed to the public pursuant to the Abuse and Neglect Act or releases or makes other unlawful use of records in violation of that act is guilty of a petty misdemeanor and shall be sentenced pursuant to the provisions of Section 31-19-1 NMSA 1978.

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E. Hospitalization of an Abused or Neglected Child

1. When hospitalizing an abused or neglected child is necessary:
  - a. Officers will complete a police hold on the child with the assistance of CYFD.
  - b. The child will not be removed unless authorized by a police officer of the agency that has been given custody of the child.
2. When a child is already hospitalized because of injuries, the following conditions apply:
  - a. Officers may take the child into protective custody if the parents attempt to remove the child from the hospital.
  - b. Officers have the legal right and responsibility to prevent the removal of the child in cases where the officer reasonably believes:
    - i. The parents are directly responsible for the injuries to the child.
    - ii. There appears to be danger to the physical well-being of the child.

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3. Victims of child abuse may be photographed in all cases without the consent of the parents or legal guardian. Photographs will be taken, if possible when it will not interfere with the well-being of the child. A person from the hospital should be present.



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F. Arrest for Child Abuse

1. Before making an arrest for child abuse, officers should consider the safety and protection of the child. If the child can be removed from the environment in is preferred that a complete investigation be conducted prior to an arrest.

Officers should consider:

- a. Whether the child is safe from the offender
  - b. Whether the offender is a flight risk
  - c. Whether the case can be fully investigated before it is presented to the grand jury, to include medical, psychological evaluations, and forensic interview of the child and witness.
2. All felony arrest warrants, search warrants, and psychological evaluations will be approved by the Assistant District Attorney assigned to the Family Crimes Division.
  3. Domestic Abuse
    - a. Refer to Field Services SOP for duties of Police Officers

Note: Children have the same rights as adults and are granted the same protection as an adult under the Family Violence Protection Act. When children are present, their welfare should be determined.

    - b. If domestic abuse against a child escalates to a felony, the CACU will be notified by the dispatched officer, before further investigation.
    - c. The investigating officer will contact CACU for determination of case responsibility during a domestic violence investigation, if it is determined that felony child abuse charges meeting the criteria of 2-33-2-B exist.

G. Citations may be issued for:

- iv. Abandonment and cruelty to children
- v. Enticement

Citations should only be issued for violations occurring in the investigating officer's presence.

The use of a criminal summons is preferable in situations involving a misdemeanor that has already occurred.

[N/A]