

ALBUQUERQUE POLICE DEPARTMENT
* PROCEDURAL ORDERS *

Effective: 07/11/2011; Replaces: 01/01/99

2-33 CRIMES AGAINST CHILDREN

POLICY:

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

RULES AND PROCEDURES:

2-33-1 INTER-AGENCY COOPERATION [7]

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

2-33-2 DISPATCHED OFFICERS RESPONSIBILITIES [7]

- A. Upon determining that a felony relating to child abuse/neglect has occurred, the officer will request the on-call Crimes Against Children detective.
- B. The officer will secure the scene and await contact from the detective and possibly C.Y.F.D. personnel.
- C. 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.**
 1. Officers will not use the word(s) "suspected" or "information" in the offense portion of the report. Reports should be titled as child abuse:
 - a. For non-confirmed cases of child abuse.
 - b. When the reported child abuse occurred outside the jurisdiction of the department.

Note: "Information" reports on children are available to the public.

2. Officers will **forward** a copy of their report to C.Y.F.D. **within 48 hours per state statute 32A-4-3**
 - a. Referring a case to C.Y.F.D. does not relieve the officer of the responsibility of completing a criminal investigation.

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- D. The Crimes Against Children Unit will follow up and be responsible for the investigation of all child abuse/neglect felonies.
- E. The Crimes Against Children Unit detectives may be called for assistance on any case involving:
 - 1. Non-felony crimes.
 - 2. Requests for assistance from C.Y.F.D.
 - 3. Situations where there are questions about abuse and neglect.
- F. Field Services officers will have case responsibility for misdemeanor child abandonment/cruelty to children.

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CRIMES AGAINST CHILDREN UNIT RESPONSIBILITIES

- A. The Crimes against Children Unit (C.A.C.U.) will be called out to assume investigative responsibility for any of the following cases.

- 1. Child abuse or neglect resulting in death, or whereon the child is likely to die.
 - 2. Apparent S.I.D.S deaths.
 - 3. Child abuse or neglect causing injuries resulting in great bodily harm (see N.M. State Statute, Section 30-1-12A).
 - 4. Child deaths or injury resulting in great bodily harm that appear to have occurred accidentally.
- Note:** On all cases requiring a weekend, holiday, or after duty call-out of C.A.C.U. personnel, the on-call supervisor will be called first.
- 5. In situations where the likelihood of death is no longer imminent, case responsibility will be assumed by the Crimes Against Children Unit.
 - 6. Suspected SIDs cases or apparent accidental death of a child. C.A.C.U. will conduct the investigation.

- B. Criminal Sexual Penetration

- 1. Children less than 13 years of age.
 - a. The Crimes Against Children Unit will be notified immediately.
 - b. Because of the complex nature of child sexual abuse, formal interviews of children less than 13 years of age will be investigated by the Crimes Against Children Unit.
- 2. The Sex Crimes Unit will investigate all criminal sexual penetration cases in which the victim is 13 years of age or older, unless the suspect is a parent, guardian, or other family member.

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C. Felony crimes relating to child abuse/neglect include but are not limited to abuse that results in:

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| 1. Severe head injury | 2. Bone fractures |
| 3. Internal injuries | 4. Burns, scalding |
| 5. Criminal sexual contact | 6. Torture |
| 7. Exploitation by Pedophiles | 8. Visible bruising as a result of a battery, on a child under five years of age. |

D. Juvenile Abduction/Attempted Abduction

- * 1. Field Services personnel will contact their supervisor and will also contact the on-call **Child Exploitation Detail** detective who will assume on-scene responsibility. The preliminary investigation (original report) will still be completed by Field Services personnel.
- 2. The Field Services supervisor will coordinate the proper notification of investigative personnel and ensure that all officers involved complete their reports and submit them to the on-scene detective prior to leaving the scene.

E. Contacting Crimes Against Children Personnel

- 1. Supervisors and detectives can be reached between 0730 and 1600 hours at the Crimes Against Children Unit.
- 2. A.C.A.C.U. supervisor and detective are on-call 24 hours a day, 7 days a week.
- 3. Personnel will immediately contact the Crimes Against Children Unit (or the on-call C.A.C.U. supervisor after normal duty hour) if;
 - a. The child is under five (5) years of age and has visible bruising on their person.
 - b. The child is under the age of eighteen (18) and requires medical attention as a result of a battery.
 - c. It is apparent to the officer that the child could be in imminent danger.
 - d. The officer plans on forwarding the report to the Crimes Against Unit for follow-up investigation.

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TAKING PROTECTIVE CUSTODY OF A CHILD

- A. 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.

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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 is:

1. Suffering from illness or injury
2. Has been abandoned
3. Is in danger from it's surroundings and removal from those surroundings is necessary.

B. In making a determination of removal for protective custody, officers will obtain all pertinent information, and review the need for removal with their supervisor.

C. When taking a child into custody the officer will:

1. Notify C.Y.F.D. immediately.
 - a. An C.Y.F.D. Child Protective Services caseworker can assist with placing the child in a temporary home.
 - b. Immediate contact with C.Y.F.D. is critical so custody petitions can be filed within 24 hours.
2. Pursuant to New Mexico Statute 32A-3B-5, if a child is taken into custody and is not released to the child's parent, guardian or custodian, the person taking the child into custody shall give written notice as soon as possible, and in no case later than twenty-four hours, to the child's parent, guardian or custodian and to the court together with a statement of the reason for taking the child into custody.

D. C.Y.F.D. Requests:

1. When C.Y.F.D. requests that A.P.D. take custody of a child, the officer shall ask the caseworker for any documentation of abuse or neglect.
2. If the caseworker has no documentation and the officer does not find reasonable grounds to remove the child, the officer shall:
 - a. Tape record the caseworker's statement before making the decision to remove the child.
 - b. Request that the caseworker get a court order to remove the child.
3. The initial report will list the offense for which the child was taken into protective custody.

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- a. "Protective custody" is not an appropriate title, as protective custody cases are public record.
- b. Records obtained from C.Y.F.D. are confidential and cannot be released to the general public or news media.

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HOSPITALIZATION OF AN ABUSED OR NEGLECTED CHILD

A. When hospitalizing an abused or neglected child is necessary:

1. Officers will complete a police hold on the child.
2. The child will not be removed unless authorized by a police officer or the agency that has been given custody of the child.

B. When a child is already hospitalized because of injuries, the following conditions apply:

1. Officers may take the child into protective custody if the parents attempt to remove the child from the hospital.
2. Officers have the legal right and responsibility to prevent the removal of the child in cases where the officer reasonably believes:
 - a. The parents are directly responsible for the injuries to the child.
 - b. There appears to be danger to the physical well-being of the child.

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C. 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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ARREST FOR CHILD ABUSE

A. 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, it is preferred that a complete investigation be conducted prior to an arrest. Officers should consider:

1. Whether the child is safe from the offender.
2. Whether the offender is a flight risk.
3. Whether the case can be fully investigated before it is presented to the grand jury, to include medical and psychological evaluations.

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- B. When the offender is suspected of a felony crime against a child, an arrest will not be made until a Crimes Against Children Unit detective has reviewed the facts of the case.
- C. All arrest warrants, search warrants, metro court complaints, and psychological evaluations will be approved by the Assistant District Attorney assigned to the Family Crimes Division.

[N/A]

- D. Domestic Abuse

- 1. 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.

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- 2. If domestic abuse against a child escalates to a felony, the Crimes Against Children Unit will be notified by the dispatched officer.

[N/A]

- E. Citations may be issued for:

- 1. Abandonment and cruelty to children (City Code 12-1-5-1).
 - 2. Enticement (City Code 12-1-5-2).

Note: 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.

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[N/A]

CHILD MOLESTATION REPORTS

- A. Child molestation refers to sexually oriented incidents or indecent exposure, enticement, obscene language, or criminal sexual contact of a minor.
- B. Reports of child molestation that occurred on school property or while the victim was traveling to or from school will be handled as follows:

Officers will transmit (via service channel) pertinent suspect information to Albuquerque Public Schools (A.P.S.) Security for a radio broadcast.

- C. All reports of child molestation will be recorded on an Uniform Incident Report form. Officers writing these reports will indicate that a copy will be sent to A.P.S. Security in the agency optional use box (in the Status Distribution box).

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- D. A.P.S. Security maintains a child molester file that is available to police officers, upon request. The information in these files is confidential and should be considered as an investigative aid, rather than confirmed factual data.

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FORCED ENTRY SEARCH WARRANTS AND/OR METHAMPHETAMINE LABS

[N/A]

- A. If children are present at the scene of a search where forced entry is necessary and weapons may be drawn or where a methamphetamine lab is found, child abuse charges against the parents/guardians of those children may be justified.

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1. In cases where child abuse charges are clearly justified, those charges will be filed at the time of the incident, and will be fully documented in the offense report.

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2. In cases where the possibility of child abuse exists, either due to a "lab" situation or as a result of action the police were forced to take, the reporting officer will:

- a. Clearly document the danger to which the child was exposed.
- b. Ensure that a copy of that report goes to the Crimes Against Children Unit.

- B. Notification of the Crimes Against Children Unit

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- 1. Upon determining that a felony child abuse situation exists, the on-call Crimes Against Children Unit detective will be notified.
- 2. The Crimes Against Children Unit will alert the District Attorney's Office, so a decision can be made on whether or not child abuse charges will be filed.