

PROTOCOL

**FOR THE INTERAGENCY
INVESTIGATION
OF CHILD ABUSE IN
YAVAPAI COUNTY**

DEVELOPED BY THE

**YAVAPAI COUNTY
CHILDREN'S JUSTICE COUNCIL**

INTERAGENCY TASK FORCE

**YAVAPAI FAMILY ADVOCACY CENTER
TASK FORCE**

PRESCOTT, ARIZONA

November 2000

**Yavapai County Attorney
Charles R. Hastings**

INTERAGENCY PROTOCOL FOR THE INVESTIGATION OF CHILD ABUSE

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This protocol is a product of the commitment and hard work of a large number of individuals, who share a common concern and a dedication to increasing successful prosecution of perpetrators, and reducing further trauma to child victims through streamlining response, investigation, and prosecution of child abuse cases.

As Yavapai County Attorney, I wish to thank the Yavapai County Interagency/Children's Justice Council, as well as the Yavapai Family Advocacy Center Task Force for its dedication and hard work to ensure an improved quality of life for children in Yavapai County and Arizona

Charles R. Hastings
Yavapai County Attorney

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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 is intended to provide guidelines and a reference source for interagency cooperation in the investigation, prosecution, and treatment of child physical and sexual abuse cases.

While it is recognized that each agency has its own mandate to fulfill, we also acknowledge that no one agency or discipline can fully address the problem of child abuse alone. Therefore, 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 will endeavor to clarify each agency's' duties and responsibilities, to limit the number of interviews of the child victim, and to provide a consistent and efficient approach to the investigation, prosecution and treatment of child abuse in Yavapai County.

YAVAPAI COUNTY ATTORNEY PROTOCOL

The Yavapai County Attorney's Office (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 which may arise during the course of an investigation. The on-call attorney may visit the scene, assist in search warrant preparation or otherwise work with law enforcement.

The YCAO has hired, through available grant money, a Deputy County Attorney whose primary job duties are to enhance the prosecution of child/vulnerable adult abuse and neglect, sexual assault and domestic violence cases which have been referred by law enforcement or CPS/APS to the Yavapai Family Advocacy Center (YFAC). This FAC Attorney or his/her designee may serve as the on-call attorney for cases referred to the YFAC and will serve as the YCAO representative on the YFAC multidisciplinary team, as set forth in YFAC protocols. Other attorneys in the YCAO will assist with the prosecution of cases referred to the YFAC, as well as crimes against children which are not referred to the YFAC, such as child homicide.

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 report and decide if the case is to be filed, referred to a municipality for possible misdemeanor prosecution, returned for additional investigation or declined for prosecution.

If a 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. 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.

If a suspect has been booked, a complaint must be filed (charges filed) within 48 hours of an Initial Appearance (which occurs within 24 hours of booking into jail) in order to maintain the bond or release conditions which were set at the Initial Appearance. 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. 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.

If a case is declined for prosecution, a letter indicating this decision will be mailed to the victim by the YCAO. The victim has a right to confer with the prosecutor regarding a decision not to prosecute. 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. A case is not rejected solely on the basis of the victim's

or family's refusal to cooperate. All cases which are turned down may, of course, be re-evaluated if new evidence is presented. The Statute of Limitations allows for charges to be filed up to 7 years from disclosure for felonies Class 2-6. (The Statute of Limitations for misdemeanors is 1 year and there is no Statute on homicide.)

If a case is returned for more investigation, the charging attorney will list the information necessary and return the case to the investigating agency to complete the investigation and resubmit the case for review. The case may either be resubmitted for review, or the law enforcement agency may choose to close the investigation. If the agency does not choose to pursue the investigation, the YCAO should be notified in writing.

If a case is filed, the YCAO shall issue appropriate charges. Felony cases may be sent to a Preliminary Hearing or taken before the Grand Jury for a determination of probable cause; the majority of cases will be taken before the Grand Jury. Grand Jury proceedings are not open to the public.

It is the policy of the YCAO that a Victim Witness Advocate is assigned to the case after it is opened. For cases referred to the Yavapai Family Advocacy Center (YFAC), the Victim Witness Advocate assigned to the YFAC will generally be assigned to the case. Once the case is assigned to a Deputy County Attorney, the Attorney and/or the Victim Witness Advocate will contact the victim as soon as possible to discuss the process and obtain input as to a possible disposition.

YCAO policy is to use a team approach to prosecution, involving the Deputy County Attorney, Victim Witness Advocate, Detectives, Legal Assistants and County Attorney Investigators. County Attorney Investigators are utilized to assist the prosecutor once a case is filed. The Deputy County Attorney will also work with the victim, parent, guardian ad litem or the victim's attorney in conjunction with the Victim Witness Advocate, depending on the case. If the case has involved Child Protective Service (CPS) or Adult Protective Service (APS) intervention, the Deputy County Attorney will attempt to work with the assigned caseworker, recognizing that the goals of the agencies are not always the same.

While not all cases are appropriate for plea offers, the majority will involve an offer to plead guilty to an original charge or to a lesser charge. The Plea Agreement also sets forth a range of sentence which may be imposed, and may set forth certain agreements regarding terms of sentence. A Plea Agreement ensures finality for the victim, a finding of guilt by the Court and an order of restitution, which can cover counseling costs for the victim. In all child sexual abuse cases which involve more than one count, it is anticipated that any plea offer will include lifetime probation, which may be consecutive to prison. Plea offers should be extended well in advance of the trial date so that cases may be resolved as rapidly as possible.

Any proposed plea negotiations will be communicated to the victim via the Victim Witness Advocate or the Attorney. If the victim disagrees with the proposed plea offer, he/she shall be given the opportunity to discuss it with the Deputy County Attorney and, if necessary, with the supervisor. If the conflict is still not resolved, the victim retains the right to notify the pre-sentence probation officer and the Court of their opinion. Final

disposition is, of course, within the discretion of the Court to either accept or reject the plea offer.

The YCAO recognizes that many victims and/or witnesses are apprehensive about testifying. The YCAO has found that such apprehension is generally caused by unfamiliarity with the trial process, uncertainty regarding whether the case is proceeding to trial, and unnecessary delays.

Trial preparation is the responsibility of the Deputy County Attorney. During the case preparation stage, the Deputy County Attorney should meet with the victim and witnesses in order to orient them to the trial process. The Deputy County Attorney should strive to develop a rapport with the victim, particularly in child victim cases. If possible, the Deputy County Attorney, along with the Victim Witness Advocate assigned to the case, may initially meet with the victim at the YFAC or in a location where the victim feels comfortable. In all but rare cases, the victim will be taken into a courtroom and the Deputy County Attorney and/or the Victim Witness Advocate will explain courtroom procedures to the victim.

The Deputy County Attorney will determine as early in the process as possible whether the case will proceed to trial. It is understood that plea deadlines will facilitate this determination. The Deputy County Attorney will oppose unnecessary continuances.

The Deputy County Attorney is aware that the courtroom may be intimidating to the victim. In appropriate cases, the Deputy County Attorney will request adaptation of the courtroom in order to fit the victim's needs, or to pursue videotaped or closed-circuit testimony in appropriate cases. In addition, the Deputy County Attorney will assist the victim in selecting a support person to be present during the victim's testimony, in lieu of, or in addition to, the Victim Witness Advocate. The support person cannot otherwise be a witness in the case. Finally, the Deputy County Attorney will seek appointment of interpreters and other assistants in appropriate cases.

Prior to trial, the Deputy County Attorney or the Victim Witness Advocate will discuss with the victim and the victim's representative the possible outcomes of the trial and the sentencing possibilities.

At the victim's option, the victim may submit to an interview by the defense attorney. The Deputy County Attorney will be present at the victim's request and will actively participate in the interview. In addition, the Deputy County Attorney will make necessary arrangements for any reasonable conditions requested by the victim, including the presence of the Victim Witness Advocate or another person to act as a support person.

The Deputy County Attorney or his/her representative will arrange defense interviews of other witnesses, at the defense's request. In addition, the Deputy County Attorney or his/her representative will be present and will tape-record the interviews. The Victim Witness Advocate may assist in arranging interviews of victims, their family members and any special-needs witnesses.

The YCAO recognizes that child sexual and physical abuses cases often require retention of expert witnesses. In those cases, the YCAO will pay reasonable fees. Often, however,

professionals are requested to testify because they are material witnesses (i.e., they have seen the child or are involved in the case), rather than as expert witnesses. In such situations, the professional is not entitled to expert witness fees. The YCAO recognizes that experts and professional witnesses have scheduling difficulties and will attempt to give adequate notice of a pending trial date as well as work with the witness in determining the proper presentation of the witness' testimony.

The Deputy County Attorney realizes that prosecution is a team effort. All members of the team are under a continuing obligation to exchange information about the case. All team members will report to the Deputy County Attorney any new matters discovered.

If a defendant is acquitted, the Deputy County Attorney and/or the Victim Witness Advocate will inform the interested parties and team members of the jury verdict. A jury may be unable to reach a decision (hung jury) and the case may be retried or disposed of by plea. It is the Deputy County Attorney's responsibility to keep the victim informed of these matters.

If the defendant is convicted, the Deputy County Attorney and/or the Victim Witness Advocate will inform the victim and his/her representative. The Deputy County Attorney and/or the Victim Witness Advocate will describe the next sequence of events in the process, which may include meeting with the pre-sentence report writer assigned, submitting a letter to the judge, and explaining the victim's right to personally address the Court at sentencing. The sentencing date is usually 30 to 60 days after a plea or verdict.

The Deputy County Attorney will submit to the Adult Probation Office (APO) an APO packet, including the departmental reports and other relevant information. In addition, it is the duty of the Deputy County Attorney to inform the victim and his/her representative of the victim's right to receive restitution in the case. The Deputy County Attorney will seek restitution for medical expenses expended by the County for medical records.

The Deputy County Attorney and/or Victim Witness Advocate will inform the victim and his/her representative of the possibilities at sentencing. This includes informing both that the defendant may seek a continuance of the original sentencing date in order to present mitigating evidence, that the State may seek a continuance in order to present aggravating evidence, and that either side may request a diagnostic evaluation and mental health examination under Arizona Rules of Criminal Procedure 26.5. The Deputy County Attorney and /or Victim Witness Advocate will inform the victim and his/her representative that the victim has a right to be present at the sentencing hearing and to address the Court. The Deputy County Attorney may request that the matter proceed in the Court's chambers or that the courtroom be cleared, if appropriate.

The Deputy County Attorney and/or Victim Witness Advocate will explain to the victim and his/her representative the possibility of an appeal or a petition for post-conviction relief (PCR). PCR's are handled by the YCAO Appeals Division, while appeals are handled by the Arizona Attorney General's Office.

PROTOCOLS FOR VICTIM WITNESS ADVOCATES

1. The victim advocates on call are summoned by law enforcement to respond to crime victims at hospitals, crime scenes, police stations, etc.
2. The advocates, generally responding in teams of two, contact the supervising officer at the scene to get briefed on the status of the victim.
3. The advocates introduce themselves to the crime victim and explain their role. They offer to assist with practical concerns, such as immediate safety of the child and non-offending parent.
4. The advocates will remain with the victim and non-offending parent during the time that law enforcement is present and for sometime thereafter to provide support and encouragement.
5. The advocate will not generally be present during the actual interview of the child by law enforcement.
6. The advocate will help the non-offending parent identify immediate needs regarding the health and welfare of the child. For instance, the advocate may discuss medical care, intervention with school counselors, referral to social service agencies and temporary housing if necessary. The victim or non-offending parent will be encouraged to identify support systems available to the family.
7. The advocate will briefly discuss the victim compensation program, which may be able to provide funds for counseling, medical expenses, funeral expenses and lost wages as a direct result of the crime. The advocate will leave with the victim the necessary paperwork to fill out and return to the compensation program in order to apply for these funds.
8. Based on the advocate's observations, he/she may identify other immediate needs of the victim and/or the child: encouraging intake of fluids (if all physical exams are completed); asking if they are on any medications which were missed due to crisis reporting; inquiring about other children in the home who need attention (such as being met at the school bus or picked up at a friend's house, etc.) Much crisis intervention work involves remembering those things on behalf of victims in crisis who may forget the simple day-to-day tasks.
9. The advocate will discuss with the victim and/or the non-offending parent how to take care of themselves and their children during the next few days when the crisis of discovering or reporting the crime is most intense. The advocate will leave with the victim or the non-offending parent the Crisis Care Sheet developed by the Victim Witness Division staff and encourage the victim to read it frequently. The Crisis Care Sheet addresses the fact that eating and sleeping patterns may be interrupted; nightmares may occur, as well as unexpected crying, panic attacks, dizziness, nausea

and other psychological and physiological responses. The victim is assured that these responses are normal and will become less intense with time.

10. The advocate's responsibility is to predict and to prepare. The victim advocate is not charged with gathering information. It may be necessary for the advocate to redefine his or her role frequently during interaction with the victim.
11. The advocate will attempt to secure an arrangement which assures safety for the child and/or non-offending parent before the advocate terminates the meeting.
12. The advocate who has responded on the crisis call will be available for follow-up with the victim or will arrange to have someone else contact the victim the next day.

**YAVAPAI COUNTY INTERAGENCY COUNCIL INVESTIGATION
PROTOCOL FOR CRIMES AGAINST CHILDREN
(Physical Abuse, Sexual Abuse, Death/Homicide)**

A. INTERAGENCY COUNCIL ORGANIZATION

1. The Interagency Council (IAC) is a group of multi-disciplinary professionals including police, prosecutors, Child Protective Services (CPS), Victim Witness Program, medical doctors, mental health providers, school personnel, and medical examiner's office.
2. Rebecca Alh is the coordinator for the IAC and can be reached through the Yavapai County Attorney's Office (445-5038).

**B. GOALS OF THE INTERAGENCY COUNCIL INVESTIGATION
PROTOCOL:**

1. To protect the child victim from further abuse.
2. To minimize the trauma to the child victim during the course of investigation and prosecution of the case.
3. To obtain sufficient and accurate evidence for prosecution of the perpetrator, and to aid both the victim and prosecutor in the successful prosecution of the case.
4. To promote statutory crime reporting requirements (See A.R.S. §13-3620 in Appendix B).
5. To train and coordinate professionals dealing with the handling of child abuse cases.
6. Insofar as possible, minimize trauma to victim's family through contact with the Victim Witness and Victim Compensation Programs within the County Attorney's Office in addition to referrals to other appropriate services.

**C. FOCUS: This protocol refers to Crimes Against Children committed both by
intrafamilial and by non-related perpetrators.**

D. INTERAGENCY COUNCIL CONTRAST TO Multi-Disciplinary Team (MDT)

1. The Yavapai IAC focuses on coordinating the investigation and prosecution of serious crimes against children involving in-home and out-of-home perpetrators.
2. The Prescott MDT focuses on case diagnosis, effective use of local resources and services, case management and prevention of further abuse involving cases of in-home perpetrators.

E. CPS INVOLVEMENT

1. CPS responsibility is the protection of children from abuse, neglect or exploitation by their parents or caretakers (familial).
2. The goals for conducting a CPS risk assessment:
 - a) Determine nature and the extent of current and future risks to the child for maltreatment or exploitation.
 - b) Gather information to determine validity of abuse allegations.
 - c) Involve parents (if appropriate) in decision-making process.
 - d) If child cannot be protected in the home, out-of-home placement will be considered (relative or foster care).
3. Interagency communication: CPS, law enforcement and the County Attorney are mutually responsible for sharing information regarding developments in the case, status of the family and impact on the victim and family as it relates to the investigation of the case, including the possible release or detainment of the alleged perpetrator.

F. LAW ENFORCEMENT INVOLVEMENT

1. The officer receiving the referral screens and evaluates it (see appropriate checklist).
2. Law enforcement completes its investigation and proceeds with the case per internal policy/procedures for the possible arrest and prosecution of the perpetrator.
3. Call the County Attorney's office as soon as possible in sexual abuse cases occurring within seventy-two (72) hours of the incident, in physical abuse cases involving serious physical injury, and all death cases.
4. In all other cases, call the County Attorney's office in the normal course of the Investigation/prosecution process.

G. COOPERATIVE EFFORT

1. It is vital for the welfare of the victim, the dependency case, and the investigation that CPS and law enforcement maintain communication with each other on all facets of investigations, including interviews.
2. The Yavapai Child Fatality Review Team will review all deaths of children under 18 years of age in the county.
3. IAC meetings may be called by the County Attorney's office from time to time, either to coordinate efforts on the case being prosecuted or to discuss a troublesome case.

4. IAC meetings will be called by the coordinator at least quarterly to review and modify program goals, objectives and procedures, as needed.

H. CONDITIONS OF RELEASE OF THE ACCUSED

1. Should the accused be arrested and his/her release is under consideration, the following conditions of release are recommended:
 - a) That the accused immediately move out of the home if he/she is still in the home, where applicable.
 - b) That there be no contact between the victim and the accused.
2. Release determinations should be discussed between the County Attorney, victim, law enforcement and CPS.

LAW ENFORCEMENT CHILD HOMICIDE/POTENTIAL HOMICIDE CHECKLIST

(To be used in situations where a child is found deceased or the child has been taken by emergency medical personnel for treatment but where death is possible.)

1. Recognizing that the majority of child fatalities are not criminal homicides, initially treat each case as a possible homicide until demonstrated otherwise.
2. Do not interfere with any reasonable emergency procedures to save the child's life.
3. If the child is transported to the hospital for emergency medical treatment, go to the hospital to monitor events, interview witnesses, obtain any necessary physical evidence, take photographs, and generally to investigate the case.
4. **CALL THE COUNTY ATTORNEY'S OFFICE AS SOON AS POSSIBLE.**
5. Also call Victim Witness as well as CPS when necessary.
6. Whenever there is a report of a child death or possible death, an exigent circumstance exists justifying a warrantless police entry, even absent probable cause of a crime, in order to protect the child or other children. That exigency, however, may disappear soon after such entry. In order to remain on the scene to investigate, the County Attorney must be consulted.
7. In all cases, a Consent to Search Form should be presented to an owner/occupant of the premises who has proper legal authority (see attached forms).
8. In any case where a death has been confirmed, call the medical examiner for advice on what to look for, collect or assist at the scene to help distinguish between a homicide, SIDS or accidental death. Also request that the medical examiner come to the scene.
9. In any case where a death has been confirmed, request not only a Consent to Search Form but also contact the medical examiner for specific authority, pursuant to A.R.S. §11-594 (A), (B) (1) and §11-595 (See Appendix C) for the law enforcement agency to assist the medical examiner to search the premises and seize evidence. Any such search should be restricted to "the immediate location where the body was found." The County Attorney can help to interpret that phrase in any particular case.
10. If probable cause exists to obtain a search warrant, the County Attorney will assist in preparing and obtaining a search warrant.
11. The scene should be protected in all respects as a potential homicide scene until demonstrated otherwise.
12. Any search should include the following:
 - a) Photos or video of the entire scene.

- b) Seizure of any item possibly related to the death or medical emergency including food, beverages, medications, chemicals, bedding, clothes, toys, weapons, items with any body fluids or contents.
 - c) Make note of any unusual odor or temperature.
 - d) If neglect is a possible issue, observe the scene for the presence or absence of adequate baby/child supplies such as baby formula.
13. As in any serious crime investigation, conduct separate audio- or video-taped interviews of all potential witnesses including any suspects.
 14. Prior to an autopsy being performed, obtain all available physical evidence as well as any prior medical records, where possible, and present all this evidence to the medical examiner. The autopsy should be attended and photographed by an investigating officer, who also receives additional physical evidence from the medical examiner.
 15. Investigators should keep all lab specimens and transport them to the laboratory to reserve the chain of evidence, per your departmental policies.
 16. Run a background investigation on any suspect, focusing on prior criminal history and general background.
 17. Check CPS records on family.
 18. Check all of the child's previous medical records.

LAW ENFORCEMENT CHILD SEXUAL ABUSE CHECKLIST

1. Make sure child is safe and not in proximity of suspect.
2. Obtain supervisory approval to refer the case to the Yavapai Family Advocacy Center (YFAC) as soon as possible.
 - a) Referral to the YFAC may be made during normal business hours (Monday-Friday, 8:00 a.m.-5:00 p.m.) by telephone to the YFAC at 520-775-0669.
 - b) Referral to the YFAC may be made at any other time by paging the Director or designee at 520-443-7122.
 - c) When making a referral to the YFAC, be prepared to give as much information as possible regarding the nature of the case and the needs of the victim and family. This will assist the Director in arranging necessary services.
 - d) If referral to the YFAC is accepted, you may eliminate the need to contact CPS, Victim Witness and the County Attorney, as these notifications will be made by the YFAC Director.
3. Notify Child Protective Services if abuse occurred in home. If possible, CPS should delay releasing any information that might alert suspect until #7 (below) is accomplished.
4. Notify Victim Witness on-call caseworker, through the involved law enforcement agency.
5. Child victim should be interviewed by a trained police interviewer, using audio or video tapes to record interview. The interview setting should be a non-threatening, non-coercive, safe environment. CPS caseworker and other resource people should be available for consultation. If the case has been accepted for referral to the YFAC, the YFAC will provide the interview setting and will arrange for the appropriate resource people to be present for consultation.
6. If assault occurred within 72 hours, notify the County Attorney's Office A.S.A.P., and arrange for an immediate examination by a pediatrician. If assault occurred 72 or more hours prior, an examination should be conducted by a pediatrician, and the County Attorney should be contacted as soon as reasonably possible.
7. Concerning "consensual sex," the following guidelines have been issued by the County Attorney's Office:
 - a) If there is a question as to whether the sexual contact was "consensual" or "non-consensual" a forensic medical exam should be done.
 - b) If the victim is under 15 years old, a forensic medical exam should be done.

- c) If the victim is age 15, 16, or 17, and the perpetrator is within 24 months (two years) of age of the victim, the on-call Deputy County Attorney should be contacted for advice.
8. Contact County Attorney if possible prior to any contact with suspect. Depending upon circumstances, consider a body wire or phone confrontation.
9. Interview witnesses and investigative leads separately, using audio or video tapes if possible.
10. Contact family physician for any medical records, preferably pursuant to parental consent. If no consent, request records pursuant to A.R.S. §13-3620(C) (See Appendix B).
11. Document and photograph any physical evidence and crime scene if applicable. Use color bar when taking photographs.
12. Investigators should keep all lab specimens and transport them to the laboratory to preserve the chain of evidence, per department policy.
13. Run background checks on victim and suspect, including prior criminal history of suspect, information relating to the credibility of victim and general background on both.
14. Try to determine suspect's accessibility to other children.
15. Interview suspect using audio or video tapes, after #6 (previous page) is attempted.
16. Obtain search warrant, when applicable, to gather evidence.
17. Confer with County Attorney on any question.

LAW ENFORCEMENT CHILD PHYSICAL ABUSE CHECKLIST

1. Make sure child is safe and not in proximity of suspect.
2. Obtain supervisory approval to refer the case to the Yavapai Family Advocacy Center (YFAC) as soon as possible.
 - a) Referral to the YFAC may be made during normal business hours (Monday-Friday, 8:00 a.m.-5:00 p.m.) by telephone to the YFAC at 520-775-0669.
 - b) Referral to the YFAC may be made at any other time by paging the Director or designee at 520-443-7122.
 - c) When making a referral to the YFAC, be prepared to give as much information as possible regarding the nature of the case and the needs of the victim and family. This will assist the Director in arranging necessary services.
 - d) If referral to the YFAC is accepted, you may eliminate the need to contact CPS, Victim Witness and the County Attorney, as these notifications will be made by the YFAC Director.
3. Notify Child Protective Services if abuse occurred in home.
4. Notify Victim Witness on-call caseworker, through the involved law enforcement agency.
5. Child victim should be interviewed by a trained police interviewer, using audio or video tapes to record interview. The interview setting should be a non-threatening, non-coercive, safe environment. CPS caseworker and other resource people should be available for consultation. If the case has been accepted for referral to the YFAC, the YFAC will provide the interview setting and will arrange for the appropriate resource people to be present for consultation.
6. If assault involves serious physical injury, notify the County Attorney's Office A.S.A.P. and arrange for immediate physical examination and treatment, if not already accomplished.
7. Interview witnesses and investigative leads separately, using audio or video tapes if possible.
8. Contact child's physician for any medical records, preferably pursuant to parental consent. If no consent, request records pursuant to A.R.S. §13-3620(C) (See Appendix B).
9. Document and photograph all injuries, both when reported and approximately 48 hours later. Use color bar.

10. Investigators should keep all lab specimens and transport them to the laboratory to preserve the chain of evidence, per your department policy.
11. Run background checks on victim and suspect, including prior criminal history of suspect, credibility of victim and general background on both.
12. Try to determine suspect's accessibility to other children.
13. Interview suspect using audio or video tape.
14. Obtain search warrant, when applicable, to gather evidence, including any possible weapon.
15. Confer with County Attorney on any questions.

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

This form is available upon request.

Phone: (520) 626-1997

Fax: (520) 626-8056

E-mail: acainfo@ahsc.arizona.edu

Mail:

Arizona's Child Abuse InfoCenter
Arizona Health Sciences Center
1501 N. Campbell Avenue
PO Box 245073
Tucson, AZ 85724-5073

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

This form is available upon request.

Phone: (520) 626-1997

Fax: (520) 626-8056

E-mail: acainfo@ahsc.arizona.edu

Mail:

Arizona's Child Abuse InfoCenter
Arizona Health Sciences Center
1501 N. Campbell Avenue
PO Box 245073
Tucson, AZ 85724-5073

MEDICAL RECORDS REQUEST

This form is available upon request.

Phone: (520) 626-1997

Fax: (520) 626-8056

E-mail: acainfo@ahsc.arizona.edu

Mail:

Arizona's Child Abuse InfoCenter
Arizona Health Sciences Center
1501 N. Campbell Avenue
PO Box 245073
Tucson, AZ 85724-5073

GUIDELINES FOR THE FORENSIC INTERVIEW PROTOCOL

A. General Principles

1. Investigative/forensic interviews are to be approached with a neutral, fact-finding attitude for the purpose of collecting information after an allegation of sexual abuse has emerged.
2. The interviewer should appear neutral and supportive.
3. The well-being and the best interests of the child should be of primary concern.
4. The interview should be conducted in a comfortable atmosphere that enables the child to speak freely.
5. The language and interviewing approach used by the interviewer should be developmentally appropriate.
6. Interview procedures may be modified to accommodate very young children or children with special needs.

B. Preservation of Interviews

1. Ideally, all forensic interviews should be preserved on videotape.
2. Recognizing that video preservation of interviews is not always possible, it is suggested that videotaping be used in the following conditions:
 - a) Allegations where the non-offending caretaker is ambivalent toward the investigation or is non-supportive.
 - b) The child has special needs or challenges such as learning or developmental disabilities.
 - c) Allegations involving a stranger abduction.
 - d) The child presents as a "difficult" interview candidate.
 - e) Multiple victims are suspected or alleged.
 - f) The alleged offender is in a position of trust outside the home.
 - g) Multiple offenders are suspected or alleged.

C. Qualifications of Interviewers

1. Forensic interviewers should have developed a knowledge base and continuing education in the following areas:
 - a) child development

- b) sexual abuse and physical abuse dynamics
 - c) interviewing techniques
 - d) legal issues and child abuse laws
2. It is suggested that forensic interviewers routinely engage in peer review.

D. Collateral Information and Interviews

1. It is suggested that interviewers review relevant background material such as police reports, psychological testing, court records, and statements from interested parties when available.
2. An interview with the professional referral source is preferred. Information concerning the history of the allegation, individuals significant to the child, caretaker's response to the disclosure, number and content of previous interviews should be gathered. Specific questions that the referral source wishes to address will be discussed.
3. When available, the interviewer should interview the child's caretaker regarding his or her understanding of the alleged abuse, family history, living arrangements, and any changes in the child.

E. Process of Child Interview

1. Based on research on children's memory development, a semi-structured cognitive interview is recommended. This process is outlined as follows:
 - a) Rapport-building discussion of neutral topics to briefly ascertain a child's developmental and language level.
 - b) Free narrative/recall-allowance of spontaneous disclosures.
 - c) Open-ended questions concerning the alleged abuse to encourage descriptions of specific incidents.
 - d) Attempts to ascertain details of the alleged abuse in as non-leading manner as possible using focused questions.
 - e) Allowance and support for ventilation of emotions.
 - f) Summary and closure on a neutral topic.
2. Interview techniques may be modified for children with special needs or difficulties in order to assist them in providing information. Younger children may require more directive interview techniques due to their developmental limitations.

F. Length of Interview

1. School-age children should not be interviewed for more than approximately 50 minutes without a break in the task.
2. Pre-school children should not be interviewed for more than approximately 20 minutes without a break in the task.

G. Persons Present or Observing the Interview

1. The interview may be observed by law enforcement personnel or CPS caseworkers investigating the allegations, and the child's Guardian ad litem.
2. Medical personnel involved in the forensic process may observe the interview.
3. 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.
4. Family members of the alleged perpetrator should not be present during the interview.
5. The alleged perpetrator should not be present during the interview.

H. Use of Props

1. The sexual suggestiveness of aids or props used during the interview should be minimized. Stuffed animals or drawings are preferred to anatomically detailed dolls.
2. Anatomically detailed props of any nature should be used only as a last resort. When the dolls are used, it should be according to the procedure described in the instruction manual.

THE MEDICAL EVALUATION OF THE CHILD SUSPECTED OF HAVING BEEN ABUSED

- I. Sexual Abuse
 - A. The Forensic Interview and Videotaping
 - B. Forensic Medical Examinations
 - 1. Indications
 - 2. Procedure

- II. Physical Abuse and Neglect
 - A. Forensic Medical Examination
 - 1. Indications
 - 2. Procedure

The Medical Evaluation of the Child Suspected of Being Abused

The medical evaluation, which primarily addresses the well-being and safety of the child, may also yield legal evidence. It therefore is an important part of the evaluation of the child abuse victim. It is seldom, however, that the physical exam will "prove" that abuse has occurred, especially when the concern is sexual abuse. The majority of "after 72 hour" exams are normal, but this does not preclude the possibility the abuse occurred. The most important part of the evaluation is the history given by the child.

These examinations must be performed by physicians who are competent in the forensic exam of children as well as in providing expert testimony in judicial proceedings. These physicians should be able to document their education, training and experience in the area of child abuse and neglect.

- I. Sexual Abuse
 - A. The Forensic Interview and Videotaping

This is not the realm of the examining physician. Forensic interviews should be conducted by trained forensic interviewers as part of the full medical evaluation.
 - B. The Medical Evaluation
 - 1. Indications for forensic medical examinations: In the majority of cases there is no question as to whether a forensic medical exam needs to be done. However, occasionally there are reports that involve concern about possible sexual abuse in which the need for an exam is not clear-cut.
 - a) Children who Give a History of Sexual Abuse: All children who give a history of sexual abuse occurring any time in the past should be seen for

forensic medical exam. Traditionally there has been much discussion about this group of children based on the types of sexual activities they reveal. It is known that children may under-report their descriptions of abusive activities upon initial disclosure. Therefore, to decide that a child does not need an exam because he/she gives only history of exposure, fellatio or fondling over clothing, for example, may result in missing physical findings or treatable diseases.

- b) Sexual Abuse within 72 Hours: Children or adolescents, regardless of gender, who have alleged sexual abuse within the previous 72 hours, need a forensic medical exam as soon as possible to collect specimens and document injuries. The victim should be advised not to bathe, change clothing, etc., prior to exam.
- c) Genital/Rectal Pain and/or Bleeding: These children 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 ones. If these children are examined first by a community physician, then he/she should call in a child abuse report if there appears to be reasonable suspicion that abuse has occurred. CPS or law enforcement should request a forensic medical exam.
- d) Sexually Transmitted Diseases:
 - 1. Gonorrhea, Syphilis, Chlamydia, Trichomonas, Genital Herpes and Venereal Warts. These children definitely need to be seen for forensic exam, even if the diagnosis/treatment has occurred elsewhere. Any lab reports that exist must accompany the child when he/she is seen.
 - 2. HIV Positive: These children 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 the he/she acquired the virus from the HIV positive mother.
 - 3. Gardnerella or Monilia: If there is no history or other indication of sexual abuse, these children do not need to be seen for a forensic exam.
 - 4. Other Genital Infections: For other children who have less common infections, the need for an exam can be determined by a discussion with one of the forensic physicians.
 - 5. Girls who have a vaginal discharge need to be medically evaluated as soon as possible to determine the cause of the discharge. This may be done by the child's primary care physician or by the forensic physician.

- e) Sexualized Behavior, No Clear History of Molestation: It would be appropriate that the child be referred for counseling as a first intervention rather than for a forensic exam. The exam can then be done if the child gives a history of molestation or if the therapist, after working with the child for awhile, feels that sexual abuse has probably occurred even though the child still gives no history.
- f) Children Who are Preverbal, Non-verbal, or Developmentally Delayed: The forensic exam is an essential ingredient of the investigation when there is concern about sexual molestation.
- g) Adolescent
 - 1. Sexual abuse occurring 3-14 days prior to the report: These children may have evidence of healing trauma and thus a forensic exam would be worthwhile as soon as possible. If more than 14 days has passed since the alleged molestation, these adolescents could be seen on a scheduled basis for a forensic exam.
 - 2. Concerning "consensual sex," the following guidelines have been issued by the County Attorney's Office:
 - a) If there is a question as to whether the sexual contact was "consensual" or "non-consensual" a forensic medical exam should be done.
 - b) If the victim is under 15 years old, a forensic medical exam should be done.
 - c) If the victim is age 15, 16, or 17, and the perpetrator is within 24 months (2 years) of age of the victim, the on-call Deputy County Attorney should be contacted for advice.
- h) 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, there is a history or reasonable concern about sexual abuse.
- i) Molest Allegations/Concerns during Regular Medical Exams by Community/Emergency Department Physicians: After consideration of history, behavioral changes and examination findings, that 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.
- j) Abortions Done on Minors

These physicians must consider the possibility of sexual abuse.

If there is reasonable suspicion that abuse has occurred, then the physician should make a child abuse report prior to the abortion. See previous page for the issues of age and consent. Fetal tissue can be used to identify the father (perpetrator) of the baby. A forensic exam is not required.

k) Pregnant Teens

See above "Abortions Done on Minors"

2. Procedure for Forensic Medical Examination

- a) These aspects of the exam are pertinent to all cases, regardless of the time interval from the incident.
 1. 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.
 2. The child should be given a choice of whether he/she would like a supportive adult (of their own choosing) in the exam room. If this adult is disruptive during the exam, the physician may ask the adult to leave.
 3. Careful examination of 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.
 4. Photographic documentation of the genital/anal areas is recommended, but is not required. Factors to be considered would be the level of cooperation of the child and his/her emotional state. The physician's primary obligation (keeping in mind the best interest of the child) is to do a thorough and accurate exam of the genital/anal areas; photographs are a secondary consideration.
 5. Careful examination of the entire body to detect any signs of trauma, neglect, or abnormal medical conditions. Photographic documentation of any positive findings is recommended. If the law enforcement photographer is not available to do this, then a medical unit should have an appropriate camera.
 6. Consideration of testing for pregnancy and sexually (and non-sexually) transmitted diseases, such as gonorrhea, syphilis, chlamydia, herpes, trichomonas, staph, strep, candida and HIV. These lab test should be available on site. However, patients 13 years and older should be

referred to the Health Department for HIV testing, and thus will have the choice of confidential versus anonymous testing.

7. Preparation of a forensic medical report using the form provided by the Arizona Department of Economic Security, Administration for Children, Youth, and Families. This report should be completed the day of the examination, unless a particular lab test result or treatment result (e.g., the opening of a labial adhesion) must first be available.
 - a) When the exam is done within 72 hours of the alleged sexual abuse event, then, in addition to the above medical exam procedure, consideration must be given to whether or not a rape kit needs to be done. The rape kit procedure includes (but is not limited to):
 1. Collection and proper bagging (not plastic) of the victim's clothing.
 2. Scanning of the body with ultraviolet light looking for semen.
 3. Collection of specimens by means of swabs to detect perpetrator body fluids (saliva, semen, etc.).
 4. Collection of other debris (trace evidence) which may be present.
 5. Collection of reference specimens from the victim (saliva, hair, blood).
 6. Proper air drying (room air temperature) and handling of specimens to prevent deterioration.
 7. Maintain the chain of custody.

II. Physical Abuse and Neglect

A. The Medical Evaluation

1. Indications for Forensic Medical Examinations: Children suspected by CPS, law enforcement or medical personnel of having been physically abused or neglected should have an exam as soon as possible. Children with fairly minor visible injuries may have serious internal injuries.
2. Procedure for Forensic Examinations

This exam should include:

- a) A complete history (including past medical history and any history of sexual abuse) and physical examination. The exam must include 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 be followed.

- b) Appropriate lab studies to document the medical conditions caused by injury and to exclude such medical conditions as bleeding disorders.
- c) Imaging studies to discover and document injuries which are not externally apparent by physical exam. These studies may include radiographs, ultrasound, nuclear scanning, and magnetic resonance imaging. The studies needed in any given case are variable and must be determined on a case-by-case basis. However, x-rays of the entire skeleton are indicated in most children under two years of age in whom physical abuse is suspected and in some older children.
- d) Color photographs should be done to document visible injuries. A measuring device, color scale and identification label should appear in the photograph. If the law enforcement photographer is not available to do this, the medical unit should have an appropriate camera.
- e) 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.
- f) A review of medical records of prior medical care may play an important role.

THERAPEUTIC INTERVENTION PROTOCOL THE LAW & REPORTING

Mental health professionals are frequently the source of referral for child abuse victims' allegations because of their intensive contact with children and their families. Children are often referred for mental health treatment in behavioral problems. The behaviors exhibited may create suspicion of abuse. The child may also disclose abuse in therapy.

A.R.S. §13-3620 requires that certain mental health and social service professionals, and other persons having responsibility for the care or treatment of children and whose observation or examination of any minor discloses reasonable cause to believe that a child has been abused or neglected are mandated to report the matter immediately to the appropriate law enforcement agency or Child Protective Services. There is no privilege of confidentiality under Arizona Law or Professional Ethical Standards regarding a report of suspected child abuse, neglect or abandonment (AAMFT 2.1 a&b; APA 5 preamble; NASW H.1; AACD B.4).

THERAPEUTIC INTERVENTION CHECKLIST

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 only questions that should be asked are those necessary to document the reported abuse, to establish reasonable grounds to believe that abuse has occurred and that there is no imminent danger to the child. The therapist should remember that their relationship with the family and child is therapeutic and not investigative. The therapist should continue with therapy.
2. It remains the responsibility of the person to whom the child disclosed to make the report (or cause it to be made) ASAP to CPS or law enforcement if he or she has reason to believe that abuse has occurred. Questions about what constitutes abuse or how to make a report may be answered by CPS @ 1-800-SOS-CHILD.
3. A written report must be completed and sent to the appropriate agency (CPS or law enforcement) within 72 hours. In cases where a child is in imminent danger, law enforcement should be contacted immediately (See attached child abuse reporting form).
4. 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. 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.
5. Once a report has been made, CPS or law enforcement has the primary responsibility for making further contacts with the family for investigative purposes. In order to protect the victim and the investigation, the therapist should contact law enforcement to make them aware of any further needs to contact the family and child for therapeutic purposes.

6. 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.
7. 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. Mental health professionals who prefer not to work with child abuse victims, or lack the expertise in this area, may also contact Victim Witness to seek referrals to mental health professionals who work with child abuse victims.
8. We are currently establishing a Forensic Interview Team to reduce the trauma to children caused by multiple interviews. The Forensic Interview Team will conduct a videotaped interview that will meet the needs of both criminal and CPS investigations. Law enforcement investigators, CPS social workers, and prosecutors will observe the interview behind a one-way glass. (See Forensic Interview Team Protocol.)

SCHOOLS THE LAW AND REPORTING

Educators are often the source of referral for child abuse victims because of their extensive contact on a daily basis. They are often the first persons to whom children disclose abuse or who suspect abuse because they recognize resultant behavioral changes. School personnel are required by law to report all cases of suspected child abuse to a law enforcement agency or Child Protective Services (CPS). If school personnel fail to report the occurrence of child abuse or neglect, then they are guilty of a misdemeanor. (See Appendix B, A.R.S. § 13-3620.)

SCHOOL PERSONNEL CHILD ABUSE CHECKLIST

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 are those necessary to establish reasonable grounds to believe that abuse has occurred. This may include contacting other school personnel for background, family history, health history, other incidents, etc. CPS or law enforcement will conduct an in-depth interview.
3. It remains the responsibility of the person to whom the child disclosed to make the report (or cause it to be made) to CPS or law enforcement if he or she has reason to believe that abuse has occurred. Questions about what constitutes abuse or how to make a report may be answered by CPS @ 1-800-SOS-CHILD.
4. A written report must be completed and sent to the appropriate agency (CPS or law enforcement) within 72 hours. In cases where a child is in imminent danger, law enforcement should be contacted immediately. (See attached Child Abuse Reporting Form.)
5. Upon receiving the information, CPS and law enforcement may send an investigator to the school site in order to interview the child. School personnel are not to conduct or sit in on the interview; school personnel may only be present during the investigative interview if the child makes a request for their attendance. School's personnel role is not to document information but to support the child during this process. If the child volunteers additional disclosures after the initial interview, school personnel will document the information and contact CPS or law enforcement.
6. Once a report has been made, CPS or law enforcement has the primary responsibility for making further contacts with the family. No other parties, including parents, guardians, or family members, should be contacted by school personnel without the approval of CPS or law enforcement. If parents already have knowledge of a report, school personnel should direct the parent(s) to CPS or law enforcement. School personnel should continue to provide reassurance to the child, but further questions about the abuse should not be asked.

7. Insofar as possible, minimize trauma to victim's family through contact with the Victim Witness and Victim Compensation Programs within the County Attorney's Office in addition to referrals to other appropriate services.
8. Procedures for notifying school administration may be established locally.

JUVENILE COURT PROTOCOL

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

For the purposes of this protocol, only two areas of the Juvenile Court will be discussed--dependency and delinquency--as they affect the child abuse victim. For definitions of dependency and delinquency see §ARS-8-201 (Appendix F). The following guidelines are proposed in order to reduce system-induced trauma and minimize the number of times the child victim is interviewed.

I. Juvenile Court Dependency

A. The Court Process

The Juvenile Court adjudicates matters involving the protection of minors who have been abused or neglected or have no parent or guardian willing or able to care for them. When a child is taken into protective custody a petition must be filed within 48 hours, excluding weekends and holidays, or a child custody hearing must be held within 21 days; however, a parent may request a temporary custody hearing which must be held within 5 days. At either hearing, the parents or guardians enter an admission or denial to the allegations made.

A hearing will be held at a later date at which time the court will make a decision with input from the parents, the child's attorney, and Child Protective Services to determine dependency. Child Protective Services prepares a report to the court presenting the facts and making recommendations. The court may follow the recommendations or may modify them, or the parties may challenge them at a hearing. It is Child Protective Services' mission to reunify the family, and when reunification is not possible, to develop a permanent plan of guardianship, severance of parental rights, adoption, or long-term foster care. (See Flow Chart, Appendix A)

B. Child Victim's Testimony

Attorneys appear for parents, children, and Child Protective Services. Child victims seldom have to testify in dependency matters. However, the child victim's testimony may be required in delinquency proceedings.

C. Appointment of Attorneys

The court automatically appoints an attorney for the child victim in cases of sexual abuse or extreme physical abuse upon initially reading the dependency petition.

Representation of clients in dependency and severance cases involves an expertise not usually acquired in the general practice of law. Attorneys are expected to

establish and maintain a level of expertise and training which will enable them to competently represent their child clients. Seeking additional training/advice from an experienced attorney/guardian ad litem mentor is highly recommended. Sensitivity, understanding, patience and knowledge of the criminal justice system are also needed to handle these specialized cases.

D. Responsibilities of the Attorney/Guardian Ad Litem

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

II. Juvenile Court Delinquency

A. The Court Process

1. When the police apprehend a juvenile for an offense, the police officer completes a "Juvenile Referral," listing the charges and describing the offense. The police officer may release the juvenile to his parents and mail the referral to the Juvenile Court for review or bring the juvenile to detention. All felonies, and the third and subsequent delinquent referrals, are submitted to the County Attorney's Office for review and petition filing. If the first and second complaints are misdemeanors, an intake probation officer of the Juvenile Court interviews the juvenile and parents and contacts the victim. After gathering information on the offense, the juvenile and the family, the probation officer may refer the matter to the Yavapai County Attorney's Office for review and possible prosecution, or the charge may be "diverted" without formal Court action. If a charge is diverted, the juvenile offender is assigned to a diversion program, and required to pay restitution or perform unpaid community service.
2. The police officer may choose to either release the juvenile or transport him/her to Yavapai County Juvenile Court Detention. A juvenile probation staff person on duty will, based on law and circumstances, either detain or release the juvenile to a parent.
3. A referral is sent to the County Attorney's Office by the intake probation officer as either an "in-custody" referral or an "out-of-custody" referral. All in-custody referrals must be reviewed, have a petition filed within 24 hours, and have a hearing held within 24 hours of the filing of the petition, or the juvenile will be released. If the juvenile is released, the referral will then be handled as an out-of-custody referral.
4. All out-of-custody referrals must be reviewed and a petition filed within 30 days, or a petition may not be filed for that offense. If a referral is returned to the investigating agency for further investigation, an additional 30 days is allowed for the filing of a petition.

5. After a petition has been filed, an advisory hearing (initial appearance/arraignment) is the first court appearance in the process. This occurs within 24 hours for in-custody matters, and within 30 days of filing the petition for out-of-custody matters.
6. An adjudication hearing (trial) is scheduled 30 to 60 days after the advisory hearing for those denying the charges. For those admitting, a disposition hearing (sentencing) is scheduled 30 days after advisory.
7. For those adjudicated delinquent (found guilty) at the adjudication hearing (trial), a disposition hearing (sentencing) is scheduled 30 days after the adjudication.

B. The Child Victim's Testimony

In the majority of cases, the alleged child victim will have to testify in the presence of the accused in a juvenile delinquency proceeding. A Victim Witness Advocate is assigned to accompany the child to interviews and court proceedings. The advocate also helps explain legal procedures and familiarizes the child with the settings in which the legal proceedings will take place. (See Victim Witness Protocol, page 6.)

C. Appointment of Attorneys

In matters where the child victim's interest may not be protected, it is recommended that the court appoint an attorney/guardian ad litem for the child victim.

D. Responsibilities of the Attorney/Guardian Ad Litem

It is recommended that the court order appointing the attorney/guardian ad litem completely state the authority and responsibilities to be carried out by those attorneys.

E. Pre-Sentence/Transfer Investigation and Restitution

Child victims should not be interviewed by court personnel regarding the details of the alleged abuse or be made to feel that their input is the determining factor in decisions regarding sanctions imposed upon a juvenile delinquent.

The appointed attorney/guardian ad litem, and/or Victim Witness Advocate with whom the child has developed a sense of trust, can advise the court or provide input as to the child's feelings in these matters if need be.

ADULT PROBATION PROTOCOL
REFERENCE: SEX OFFENDER CASES

The Adult Probation Department interacts with victims in two ways: 1) in the preparation of a presentence investigation for the Court before sentencing, and 2) in the supervision of sentenced sex offenders in which any contact with children, and particularly the victims, is either expressly prohibited or carefully supervised, and in which any family 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.

I. Presentence Investigation

A. Preparing the Report

In the preparation of a presentence report, the probation officer's assignment is to summarize the case for the sentencing judge. They give their impressions of the defendant and the crime with a recommendation as to appropriateness for probation with possible specific conditions. This evaluation is supported by the information gathered. The police reports of the case are summarized, detailing the ages and relationships of the victim and offender as well as a complete description of assault and grooming behaviors; that is, the method by which the defendant coerced or manipulated the victim to submit. The report also indicates any weapons which might have been used, the duration of the assault, the manner in which it was disclosed, and any information in the police report about trauma to the victim and the response by others to the disclosure. Much of the report requires information about the defendant including his/her social history, prior criminal history, substance abuse, mental health problems, financial status, and his/her interpretation of the offense and the level of remorse, accountability or denial.

B. Taking the Victim's Statement

An important part of the report involves the victim's statement. 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.

1. 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, although if it seems that they would like to do so, they should be accommodated. The main objective is to try to determine the degree of trauma to the victim(s), whether they have received counseling, the cost involved, and how they presently view the offender with regard to sentencing.
2. When the victim is a child, every effort should be made to decrease any additional trauma or discomfort, and make this interview as easy as possible.

If time permits, the officer can offer to go to the victim's home, where the child may feel more comfortable and secure. Many interviews with children occur in the presence of a parent, but the officer should encourage the child to express his or her own feelings. However, many parents do not wish their children to be re-interviewed and choose to speak on the child's behalf.

3. More information about the victim's situation can be gathered from other contacts, such as Child Protective Services, the victim's counselor, attorney or guardian ad litem, significant members of the victim's family, and others who may wish to comment. Since a distressingly large number of victims have still not been in treatment by this time, they or their parents should be encouraged to obtain counseling.

C. Conditions of Probation

1. 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 family contacts, visitation rules and reunification, should the offender be placed on probation and the spouse desires re-contact. The spouse or partner should be aware that the offender will not be allowed to return home until certain treatment objectives have been met, a process which could take one to two years or longer.
2. Specialized sex offender conditions may be added to the defendant's probation. These allow the supervising field officer the ability to further evaluate the case to order any testing for the defendant, and to provide an appropriate degree of safety in the community for present and potential victims.

II. Field Supervision

A. Probation Officers

1. If the offender receives probation, he or she will be assigned to a probation officer. Probation officers have some training to understand the intricate dynamics of sexual deviance, grooming and manipulation tactics, the offender's offense cycle, risk factors for re-offense, victimization issues, and treatment strategies and objectives. The philosophy of the department is to work with treatment providers as closely as possible, in order to provide consistency in messages given to the defendant about treatment goals, contact restrictions, and potential reunification plans.
2. After sentencing, the probation officer is usually the only professional left to intervene and protect the victim against further abuse. The department is able to utilize the services of Intensive Probation Supervision (IPS) surveillance officers to assist in field work, particularly evenings and weekends. Officers work on a continuing basis to assess the risk level of the offenders on their caseloads, determining the frequency of random field contacts. Offenders

must adhere to strict definition of "no contact" with children, a possible curfew, an appropriate residence away from children, and other restrictions.

B. Offenders Treatment

If at all possible, offenders are placed into sex offender specific individual and/or group counseling, in which they can begin to understand their behavior. These treatment groups are with a cognitive-behavioral therapist who specializes in sex offender treatment. They are not allowed re-contact with the family until certain treatment goals have been met. Re-contact with a victimized family member should proceed only after a detailed clarification process supervised by both the offender's and victim's therapist.

1. The process of reunification is slow and structured. It is a major decision to return a child molester to an intimate living situation with his victim, and the officer should not do so until both the officer and the therapist believe that the non-offending spouse is strong enough to protect his/her children from further abuse. Both he/she and the offender need to be totally aware of his pre-offense thoughts, fantasies, and subtle ways of grooming the victim(s), and he/she must present a detailed plan for relapse prevention.
2. Groups are extremely supportive and effective. Many spouses are 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. The attitude and strength of the child victim's support is crucial to his or her healthy recovery from sexual trauma.
 - a) Non-offending parents in sexual abuse cases often have been victims themselves; they carry the double burden of providing a healthy environment and protection for their children while attempting to deal with their own past victimization. The partner must, therefore, be an active member in the reintegration process and be evaluated as an appropriate chaperone before he or she is considered to be an adequate protector of his/her children.

C. Monitoring

Probation officers can randomly attend therapy groups. This can keep them aware of the issues offenders and their families are facing, and keeps communications open and honest. Offenders have spent much of their time and energy fantasizing, and then planning to carry out those fantasies; this is always done in secret, and the secrecy must be replaced by openness, honesty, and disclosure.

1. Officers monitor the offender's employment, determining his/her access and risk to children. They try to monitor his/her free time, community service work and other areas of their environment. Substance abuse has proven to be a major factor in re-offending, and can obviously lower an offender's inhibitions; it is watched carefully. Much detailed information is obtained

from the defendant about his/her family members and children with whom he/she may come in contact. Adult chaperones must be fully informed about the defendant's criminal offense, which is verified by the officer and/or therapist, and sign a written form of consent and chaperone contract before any contact with their children can occur.

2. Routine polygraphs can take place throughout the defendant's term of probation. Probation officers will often ask to see homework assigned in group, increase office visits to once a week rather than once a month, and attempt to verify with other family members that the offender is being accountable and he/she is learning to change their behavior. If appropriate, contact is made with school and school counselors to determine if victims are progressing satisfactorily. Every attempt within the officer's power is made to assess the victim's emotional well-being and provide for their safety and recovery.

The appendices are unavailable at this time.