

Child Abuse

313.1 PURPOSE AND SCOPE

Best Practice

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Auburn Police Department members are required to notify the New York State Office of Children and Family Services (OCFS), Child Protective Services (CPS) division of suspected child abuse.

313.1.1 DEFINITIONS

Best Practice MODIFIED

Definitions related to this policy include:

Child - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

Child abuse - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency.

Child Advocacy Center (CAC) - Community-based, child-friendly, multidisciplinary services for children and families affected by sexual abuse or severe physical abuse. CACs bring together, in one location, child protective services investigators, law enforcement, prosecutors, and medical and mental health professionals to provide a coordinated, comprehensive response to victims and their caregivers.

Maltreatment - New York State's Social Services Law, Section 412, defines a maltreated child as a child less than 18 years of age who is defined as a neglected child by the Family Court Act or who has had serious physical injury inflicted upon him or her by other than accidental means. Maltreatment means that a child's physical, mental, or emotional condition has been impaired, or placed in imminent danger of impairment, by the failure of the child's parent or other person legally responsible to exercise a minimum degree of care by failing to provide sufficient food, clothing, shelter, education; or failing to provide proper supervision, guardianship, or medical care (including dental, optometric, or surgical care); or inflicting excessive corporal punishment, abandoning the child, or misusing alcohol or other drugs to the extent that the child was placed in imminent danger. poverty or other financial inability to provide the above is not maltreatment (NYS OCFS, 2012).

Neglect - Section 1012(f) of New York State's Family Court Act defines a neglected child as a child less than 18 years of age whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired, or his or her parent or other person legally responsible for his or her care failed to exercise a minimum degree of care in supplying adequate food, clothing, shelter, education, medical or dental care, though financially able to do so, or the parent failed to provide proper supervision or guardianship, inflicted excessive corporal punishment, or misused drugs or alcohol, and there is a causal connection between the child's condition and the

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subject's failure to exercise a minimum degree of care, or the parent has abandoned the child by demonstrating an intent to forgo his or her parental rights.

TYPES OF NEGLECT

1. **PHYSICAL** - the failure to provide a child with adequate food, shelter, clothing, education, hygiene, medical care, and/or supervision needed for normal growth and development.
2. **EMOTIONAL** - includes parent or other caretaker behaviors that cause or have the potential to cause serious cognitive, affective, or other behavioral health problems. These behaviors may include chronic use of verbally abusive language, harsh criticism, denigration, confinement, or torture. The resulting emotional impairment must be clearly attributable to the unwillingness or inability of the parent or other person legally responsible for the child to exercise a minimum degree of care toward the child.

313.2 POLICY

Best Practice **MODIFIED**

It shall be the policy of the Auburn Police Department to conduct a complete and thorough investigation of any incident which may involve endangering the welfare of a child, child abuse, child neglect, or maltreatment and to cooperate with the Cayuga County District Attorney's Office and the Cayuga County Department of Social Services to protect the child or children from further abuse, neglect or maltreatment. Arrests will be made when there is reasonable cause to believe that an offense has been committed. The Auburn Police Department will ensure the local CPS division and the New York State Child Abuse and Maltreatment Register are notified as required by law.

313.3 MANDATORY NOTIFICATION

State

Members of the Auburn Police Department shall notify CPS when there is reasonable cause to suspect that a child has been abused or maltreated (Social Services Law § 413).

If there is reasonable cause to suspect that a child has died as a result of abuse or maltreatment, the appropriate Coroner shall also be notified (Social Services Law § 418).

For purposes of notification, abuse includes, but is not limited to, the infliction of physical injury by a parent or other person legally responsible for a child, by other than accidental means, which causes or creates a substantial risk of death, serious or protracted disfigurement, or impairment, as well as sexual conduct or abuse, and sex trafficking or other severe forms of trafficking. Maltreatment includes neglect of a child or inflicting serious physical injury on a child by other than accidental means (Social Services Law § 412; Family Court Act § 1012).

313.3.1 NOTIFICATION PROCEDURE

State **MODIFIED**

Notification should occur as follows (Social Services Law § 415):

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- (a) Immediately contact the appropriate CPS division (1-800-635-1522) and complete NYS OCFS report of suspected child abuse or maltreatment.
- (b) Notification shall include the following information, if known:
 - (a) Names and addresses of the child and his/her parents or other person responsible for the child's care, and the family composition, where appropriate.
 - (b) If the child is receiving care from an authorized agency or OCFS, the name and address of the program in which the child is receiving care.
 - (c) The child's age, sex, race and the nature and extent of the child's injuries, abuse or maltreatment, including any evidence of prior injuries, abuse or maltreatment to the child or any sibling.
 - (d) The name of the person alleged to be responsible for the injury, abuse or maltreatment.
 - (e) The source of the report or the person making the report, and where that source or person may be contacted.
 - (f) The actions taken by the reporting source, including photographs taken, X-rays or notification to the Coroner.
 - (g) Any other information that may be helpful in the investigation of the incident or that may be required by OCFS.
 - (h) The name, title and contact information for the investigating officer (Social Services Law § 413).

313.4 QUALIFIED DETECTIVES

Best Practice **MODIFIED**

Qualified detectives should be available, when needed, for child abuse investigations. These detectives should:

- (a) Conduct interviews in child-appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.
- (d) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.
- (e) Participate in or coordinate with multidisciplinary investigative teams as applicable.

313.5 INVESTIGATIONS AND REPORTING

Best Practice

In all reported or suspected cases of child abuse, officers shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

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- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

313.6 PROTECTIVE CUSTODY

State **MODIFIED**

Before taking any child into protective custody, the officer should make reasonable attempts to contact CPS. Generally, removal of a child from his/her family, guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

Generally, members of this department should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to CPS.

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Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian:

- (a) With a court order.
- (b) With the written consent of the parent, guardian or other legally responsible person if the officer reasonably suspects that the child is being abused or neglected (Family Court Act § 1021).
 1. The removing officer shall provide a written notice to the parent, guardian or other legally responsible person of his/her right to apply to Family Court for the return of the child, of the right to be represented by counsel and the procedures for those who are indigent to obtain counsel.
 2. The notice shall also include the officer's name, title, agency, address and telephone number; the name, address and telephone number of the authorized agency to which the child will be taken, if available; and the telephone number of the person to be contacted to coordinate visits with the child.
- (c) Without the consent of the parent or other legally responsible person for the child if the officer has reasonable cause to believe that the circumstances or condition of the child are such that continuing in his/her place of residence or in the care and custody of the parent or other person responsible for the child's care presents an imminent danger to the child's life or health, and there is not enough time to apply for a court order (Social Services Law § 417; Family Court Act § 1024).

[NYS Social Services Law Section 417 - Taking a Child into Protective Custody](#)

313.6.1 ABANDONED INFANT PROTECTION ACT

State

A person may relinquish an infant if the child is 30 days old or less, and is safe from physical injury and cared for in an appropriate manner if the person leaves the child with an appropriate person, or if the person leaves the child in a suitable location and promptly notifies the appropriate person of the child's location (Penal Law § 260.00).

313.7 INTERVIEWS

Best Practice

313.7.1 PRELIMINARY INTERVIEWS

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Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred. Interviews should be at the child advocacy center whenever possible.

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313.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

Best Practice

An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
 - 1. A reasonable belief that medical issues of the child need to be addressed immediately.
 - 2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
 - 3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.
- (b) A court order or warrant has been issued.

313.7.3 PRIVATE SETTING FOR THE INTERVIEW REQUIRED

State **MODIFIED** NYSLEAP - 8.4 - 29.5

All victims of sex offenses and/or incest should be interviewed in a private setting that provides for sight and sound separation from outside of the room. Only those persons relevant to the investigation should be allowed in the room, as provided by law (Executive Law § 642(2-a)). Interviews should be at the child advocacy center whenever possible.

313.8 MEDICAL EXAMINATIONS

State **MODIFIED**

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility (Social Services Law § 416).

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination. Examinations should be coordinated through the child advocacy center whenever possible.

313.9 DRUG-ENDANGERED CHILDREN

Best Practice

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

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313.9.1 SUPERVISOR RESPONSIBILITIES

Best Practice **MODIFIED**

The Detective Bureau supervisor should:

- (a) Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors, to develop community-specific procedures for responding to situations where there are children endangered by their exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the drug task force supervisor that the officer has responded to a drug lab or other narcotics crime scene where a child is present or where evidence indicates that a child lives at the scene.

313.9.2 OFFICER RESPONSIBILITIES

Best Practice **MODIFIED**

Officers responding to a drug lab or other narcotics crime scene where a child is present or where there is evidence that a child lives should:

- (a) Document the environmental, medical, social and other conditions of the child using photography as appropriate and the checklist or form developed for this purpose.
- (b) Notify the shift supervisor and the drug task force supervisor so an interagency response can begin.

313.10 STATE MANDATES AND OTHER RELEVANT LAWS

State

New York requires or permits the following:

313.10.1 PROCESSING REPORTS AND RECORDS

State

A written report, on a form proscribed by the OCFS Commissioner, shall be processed and forwarded to the local CPS division within 48 hours after the initial report (Social Services Law § 415).

313.10.2 RELEASE OF REPORTS

State

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Social Services Law § 422).

The Department shall release applicable information to a parent, guardian or custodian who was not present when the child was taken into custody by CPS (Social Services Law § 417).

313.10.3 CHILD FATALITY REVIEW TEAMS

State

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Upon request, a local or regional fatality review team shall have access to all records, except those protected by statutory privilege, within 21 days (Social Services Law § 422-b).

313.10.4 CHILD PROTECTIVE SERVICES ASSISTANCE

State

The CPS investigator assigned to check on a child's welfare may request assistance when the parents or custodians refuse to allow access to the home or child. The responding officer shall stand by at the scene to prevent the child from being removed while the CPS investigator secures an immediate court order for access (Social Services Law § 424(6-a)).

313.11 TRAINING

State MODIFIED

The Department should provide training on best practices in child abuse investigations. The training should include:

- (a) For members tasked with investigating these cases:
 1. Participating in multidisciplinary investigations, as appropriate.
 2. Conducting forensic interviews.
 3. Availability of therapy services for children and families.
 4. Availability of specialized forensic medical exams.
 5. Cultural competence (including interpretive services) related to child abuse investigations.
 6. Availability of victim advocate or guardian ad litem support.
 7. Recognizing abuse that requires mandatory notification to another agency.