

**COPY**

**Benton County Protocol**

**For**

**Child Sexual and Physical Abuse,  
Fatalities and Neglect**

**Investigations**

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## **I. MISSION STATEMENT**

Coordinate an objective, timely and compassionate investigation of child abuse/neglect in order to seek the truth, minimize trauma, protect the child and hold offenders accountable.

## I. ROLES AND RESPONSIBILITIES

### A. MANDATORY REPORTERS

When any mandatory reporter has reasonable cause to believe that a child under 18 has been abused or neglected, the reporter shall make a report to Child Protective Services (CPS) or law enforcement via telephone followed up by a written report within forty-eight hours of the initial disclosure and should make it at the first opportunity.

Each report should include:

- (a) Name, address and date of birth of child.
- (b) Name, address, date of birth and phone number of parent or person having physical custody of the child.
- (c) Information indicating the alleged abuse/neglect.
- (d) Any evidence of previous injuries or abuse.
- (e) Other information such as alleged perpetrator, cause of child's injury, etc.

A sample report form is included as an appendix.

#### 1. SCHOOL

Any professional school personnel with reasonable cause to believe that a child has suffered abuse **shall** report it to CPS via telephone followed up by the school's mandatory report form and may also report to law enforcement. Prosecutor/law enforcement/CPS will offer coordinated training every other year to the area school districts to familiarize their employees with mandated reporting and protocol.

School personnel may also notify school administration, but that notification does not relieve the duty to report to CPS.

School personnel should not question a child about abuse. While there is a need to be supportive, the details and facts regarding the abuse should come from an interview by a trained child abuse interviewer.

CPS and law enforcement shall coordinate as to interviewing the child. The interview may be conducted at school. If so, CPS or law enforcement shall determine if the child wishes a third party to be present for the interview. Based on the child's preference, CPS/law enforcement will decide if a third person, including any school personnel or advocate, should be present for the interview. If school personnel or advocate is present, the role is to support the child, not participate in the interview. If there are concerns about the interview, school personnel or advocate should suggest a break and discuss the concerns outside the child's presence.

All interviews at school shall be recorded with the assent of the child. If the child objects to the recording, or assent is not obtained, the interviewer will take near verbatim notes of the interview.

School personnel or advocate should not take any notes during the interview.

CPS/law enforcement shall determine when parental notification of the interview is made. It shall occur at the earliest possible point in

the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. School personnel should not discuss the report of abuse, the interview, or investigation with the parents unless approved by CPS/law enforcement.

After the school report is made, CPS/law enforcement shall provide necessary information to the school about the investigation. This shall include whether a child is placed into protective custody and if any adult is prohibited from contacting the child. It may include whether parents know of the investigation, and whether or when the child is to be interviewed.

CPS/law enforcement may want additional information from the school to assist in the investigation. This may include interviews of the school personnel, attendance records, and any relevant reports. School personnel shall cooperate with such requests.

## **2. COUNSELORS**

If a therapist or mental health professional receives information that a child may have been abused or neglected, a report shall be made to CPS or law enforcement.

When the child is a minor, the accompanying parent or care giver should be informed that any disclosure of abuse has to be reported. Following a child's disclosure, the therapist should use discretion in how to tell the child and parent/care giver about the required report and the possible outcomes.

The therapist should finish the session before making a report.

The therapist shall decide what, if any, follow-up questioning should be done at the time of the disclosure, based on the best interests of the child. The therapist shall not ask any questions for any non-therapeutic reason such as developing information for an investigation.

The therapist should write down the relevant portions of the disclosure, including questions by the therapist, as near verbatim as possible.

Law enforcement and CPS should not ask the therapist to obtain further information concerning the disclosure.

The therapist shall provide all information concerning the disclosure including notes, reports and the record to CPS or law enforcement without the need for consent, subpoena or court order.

The therapist should inform CPS or law enforcement of the next scheduled session with the child. CPS/law enforcement should contact the therapist prior to that session to update the therapist on the investigation and provide guidance as to what the therapist should discuss with the family concerning the investigation.

### 3. **HEALTH CARE PROVIDERS**

If a child is brought to a hospital for a medical exam concerning possible abuse, the hospital shall:

Examine the child - If the examining nurse or physician sees

signs that it is not a normal exam or is unsure if there are such sign, the examiner should decide whether to take pictures of the exam. A complete written description of the exam should be done, as pictures alone are not sufficient for a later review.

Interview the child for medical diagnosis and treatment

Contact law enforcement - The hospital may also call CPS, but it is law enforcement's responsibility to contact CPS and SARC if needed.

Contact the Sexual Assault Response Center (SARC) - for an on-call advocate regarding sexual or physical abuse.

Release medical information - to CPS, law enforcement or the prosecutor's office without the need for consent or subpoena. The hospital shall also release medical information to a physician who will be conducting a medical exam or review at the request of law enforcement, CPS or the prosecutor's office. The hospital may require signature.

**4. EMS**

Emergency Medical Services (EMS) responding to suspected child abuse or neglect should follow CPOD guidelines for Emergency Medical Professionals. EMS should notify law enforcement as soon as possible. EMS personnel shall report scene observations to law enforcement and/or CPS, to include written documentation without requirement of a court order or subpoena. Training should be provided to EMS personnel regarding investigation awareness including CPOD guidelines.



**5. FOSTER CARE**

A foster parent or licensor with information that a child may have been abused/neglected shall report to CPS.

CPS intake shall forward the report to law enforcement and the Division of Licensing Resources (DLR)/CPS. DLR/CPS should coordinate with law enforcement for investigation purposes.

DLR/CPS shall inform the foster care licensor or DCFS of the report and keep that agency informed of the investigation process. The licensor/DCFS shall not interview any witnesses or conduct any investigation.

Foster parents and licensor shall comply with law enforcement requests for information without need for release, subpoena or court order.

**B. CPS/LAW ENFORCEMENT PROCESS**

1. When CPS Is Initially Notified/Non-Emergent Cases

Non-emergent cases require a 72 hour response time and appraisal of safety factors for the alleged victim(s).

(a) After the CPS intake supervisor has reviewed the intake and determined if it will be assigned to a worker, the CPS intake supervisor will assess the allegations and determine whether law enforcement needs to be notified of the concerns.

(b) The CPS intake supervisor will e-mail the intake, along with the assigned worker's name and phone number, if assigned, to the appropriate law enforcement agency as soon as the intake is reviewed.

(c) Upon receipt of abuse intakes from CPS, designated law enforcement command staff will review and assign those intakes deemed appropriate. The CPS worker will then be given the name of the investigating law enforcement officer/detective, if assigned. Advice of the law enforcement assignment can be made by telephone or e-mail.

(d) CPS will furnish law enforcement with a current listing of CPS investigators, phone numbers and e-mail addresses.

(e) Each law enforcement agency will provide CPS and DLR/CPS with the name, phone number and e-mail address of the command staff and of backup who will review/assign CPS and DLR/CPS intakes as well as a current listing of detectives, phone numbers and e-mail addresses.

## 2. When CPS Is Initially Notified/Emergent Cases

Emergent cases require timely response within 24 hours. They include the following:

(a) The child is in medical distress due to abuse;

(b) The child's circumstances are about to change and there is a hazard that no effective investigation could be accomplished unless it is immediately initiated.

(c) The child is at imminent risk of harm.

The agency receiving the report will use the most rapid and effective communication available (normally telephone, including mobile phones) to notify other agencies who should be involved and arrange for their timely response.

The immediate focus of information gathering, including interviews of the child, will be focused on determining what needs to be done to provide safety for the child. Information as to other children who may be at risk will also be gathered and assessed.

Once the initial safety issues have been identified and addressed, the investigators from each agency will agree to a plan for conducting the remainder of the investigation.

3. When the Initial Report Is to Law Enforcement

When law enforcement receives a report of child abuse/neglect, it shall notify CPS intake.

4. DLR (Department of Licensed Resources)/CPS Cases

Allegations of abuse involving foster children, day care or a state licensed facility may also involve investigation by DLR/CPS. CPS intake shall notify DLR/CPS when appropriate. DLR/CPS shall notify law enforcement in the same manner as CPS notifies law enforcement.

5. Disagreements

If there is a disagreement between law enforcement investigators and CPS investigators as to how an investigation should proceed, or if scheduling or other barriers to joint investigation are encountered, the matter will be drawn to the attention of law enforcement command staff and CPS supervisory staff. First line supervisors for each agency will communicate and attempt to resolve

the matter. Resolution will always be sought at the lowest possible organizational levels but the matter will be taken up the chain of command as necessary.

Disagreements concerning interviews are addressed in IV B of this document.

### C. VICTIM RIGHTS/CHILD ADVOCATES

Upon receiving a report of child sexual abuse, law enforcement shall inform the child/guardian of his/her rights under RCW 70.125.060 and provide information about SARC. RCW 70.125.060 provides that personal representative of the victim's choice may accompany during treatment or proceedings.

"If the victim of a sexual assault so desires, a personal representative of the victim's choice may accompany the victim to the hospital or other health care facility, and to proceedings concerning the alleged assault, including police and prosecution interviews and court proceedings."

The Prosecutor's Victim/Witness coordinator will contact the victim and provide information about victim's rights, CVC forms, investigation progress, and options for no contact, protection, and anti-harassment orders.

The crime victim advocate provides emotional support to the child victim. The advocate never interviews a child or participates in the investigation other than as a support person to the victim. The advocate may also:

- (a) Accompany the victim to the hospital, police/prosecution interviews, and court proceedings.

(b) Help prepare the victim for court proceedings and assist in the preparation of a victim impact statement.

(c) Provide information regarding violence, therapy referrals, crime victim's rights, protection orders, local services appropriate to the needs of the victim (such as housing, public assistance, domestic violence intervention and transportation), crime victim's compensation and provide crisis intervention and support on a 24-hour/day basis.

(d) Make recommendations to the prosecuting attorney about the ability of the child to cooperate with prosecution and the potential effect of the proceedings on the child.

(e) Inform the court of child's ability to understand the nature of the proceedings.

(f) Assist the child and non-offending family members in tracking their cases and requesting information.

(g) Provide periodic follow-up contact with the child and/or non-offending caregiver(s) including on-going information about civil and criminal legal proceedings.

**D. GUARDIAN AD LITEMS (GAL) AND  
COURT APPOINTED SPECIAL ADVOCATES (CASA)**

GAL/CASAs are often appointed to independently investigate all issues alleged in a pending case and to represent the best interests of children in court proceedings.

If, during a GAL/CASA investigation, the GAL discovers evidence

of abuse/neglect, the GAL shall report it to CPS and/or law enforcement.

The GAL/CASA shall not interview the child about the alleged abuse.

If the GAL/CASA has reported abuse to CPS and law enforcement and CPS and law enforcement do not open an investigation and interview the child, the GAL may ask for a Kids Haven interview or petitioning the court for an order for a Kids Haven interview.

### III. INTERVIEW OF SUSPECT AND WITNESSES

Law enforcement shall always attempt to interview all suspects.

In cases where CPS is involved and required to interview a parent or guardian who is also a suspect, or anyone who is the subject of an investigation, CPS and law enforcement will coordinate to avoid interference with the criminal investigation and allow both agencies to meet their statutory and policy requirements.

If the suspect is in custody on the abuse allegation, law enforcement should do the interview.

Law enforcement should interview all alibi witnesses.

Law enforcement shall always interview the person to whom the initial report of abuse was made. They should attempt to interview other people who have talked to the child about the alleged abuse.

These interviews should include:

- (a) The circumstances under which the report occurred.
- (b) What precipitated the report or child's statement.
- (c) What each party said including any questions of the child.
- (d) The demeanor of the child during the report statement.
- (e) Who was present during the report.

All other persons who might have information pertinent to the investigation should be interviewed, including non-offending household members, siblings, and collateral witnesses such as neighbors. The lead agency will determine who and when to interview such persons, after consultation with the other agencies. All

participating agencies will make reasonable efforts to assist in conducting interviews.

Law enforcement should ask appropriate witnesses if they have noticed anything unusual in the child's behavior.

The investigative process should be sensitive to a person's abilities to understand his or her rights and to effectively communicate and will include providing interpreters when necessary.

Law enforcement will be responsible for obtaining search warrants, processing crime scenes and other evidence to help facilitate the investigation.

Offenders under sentence for a sex offense often are required to obtain sex offender treatment and supervision. Such treatment and supervision may include disclosure of other victims and sex offenses that had been committed prior to that offense.

Such admissions are not automatically granted immunity. However, it is understood that most sex offenders have other such offenses that are not corroborated and often admission of additional offenses will not result in the filing of new charges.

New treatment admissions will be forwarded to law enforcement and the prosecutor's office. Efforts will be made to contact the additional victims. The prosecutor shall also write the treatment provider and probation officer. The prosecutor will ask whether the issues raised in the additional disclosure can be successfully addressed within the existing sentence and supervision or



if new charges and new sentences are needed to address the issues.

The Prosecutor shall consider the recommendations of the treatment provider and probation officer as well as victim input and impact in deciding whether to file additional charges.

#### **IV. CHILD INTERVIEWS**

##### **A. SUBSTANCE OF INTERVIEWS**

The child interview should be a thorough, neutral, open-minded, and legally sound interview that enhances free recall. This is accomplished maximizing the use of techniques that will elicit reliable information while minimizing the use of highly leading or coercive questions that could change or contaminate the child's memory of the event(s).

Persons who conduct investigative interviews shall be aware of a child's developmental level with regard to language and cognition. A child with special needs or cultural differences may require additional considerations when being interviewed.

Interviews of children under 10 years of age, and older children with obvious and significant developmental delays, pose additional challenges for an investigative interviewer and therefore should be conducted by persons with the training required in RCW 43.101.224 and 74.14B.010.

There may be situations where it is appropriate to interview the child at an alternative location such as a school, daycare, hospital or police station. If it is determined that it is necessary to conduct the child interview at an alternate location, all interviews shall be recorded with the assent of the child. If the child objects to the recording, or assent is not obtained, the interviewer will take near verbatim notes of the interview.

Documentation of interviews shall be accurate and detailed.

**B. PROCEDURE FOR DETERMINING INTERVIEW**

CPS/law enforcement may initially assess the child's safety and other related issues such as safety of other children. This may include interviewing the child. That decision by the worker/officer may result in no interview, a limited interview, forensic interview by the worker/officer or a Kids Haven interview. Nothing in this protocol prevents or affects a first responder from taking a history for medical treatment.

If it is a joint investigation, a consensus concerning the interview should be sought but the officer has the ultimate decision. However, at no time should CPS delay an interview past Children's Administration guidelines. If there is disagreement between a law enforcement request and Children's Administration guidelines, a CPS supervisor shall decide if an extension is appropriate.

Situations where a worker or officer who has received the statutory training may interview:

- (a) If the worker and/or officer believe it is appropriate.
- (b) If Kids Haven cannot do a timely interview.
- (c) If other children may be in immediate risk.

The worker/officer may interview the child at Kids Haven. Kids Haven shall provide 24-hour access to CPS and law enforcement for this purpose.

There may be a situation where it is appropriate to interview the

child at school. See section II-A-1 of this document.

There may be circumstances when CPS/law enforcement believes an immediate interview is needed for the child's safety or to avoid contamination of the investigation and no trained child interviewer-is available. There, the interview will be done by someone who does not have the statutory training. Interviews conducted in these circumstances may be reliable. Therefore, the interviewer's training should not preclude use of an interview. The focus on the reliability of the interview should be based on the interview and the evidence as a whole.

Due to the varying and complex nature of child abuse investigations and the circumstances faced by investigators, interviews and other aspects of the investigation may need to occur in a field setting or other circumstances that are less than optimal. These interviews should consider the child's emotional comfort. The officer/worker may request the Kids Haven child interviewer come to a field setting to interview.

### **C. KIDS HAVEN PROCEDURE**

1. If the worker/officer decides that there is a need for a Kids Haven interview, s/he will schedule the interview and determine transportation arrangements.

Kids Haven shall schedule the interview within 3 business days of the request, unless prevented by scheduling issues. If Kids Haven cannot conduct the interview in a timely manner, the worker/officer should consider doing the interview.

2. Kids Haven will schedule interviews only if referred by CPS, law enforcement or a prosecutor. If Kids Haven receives a referral from another source it shall make a report to CPS or law enforcement. When scheduling an interview, the law enforcement officer or CPS will request an interpreter if necessary. The interviewer will arrange to have a court certified interpreter available at the time of the interview.

3. The worker/officer assigned to the case should observe the interview if possible. The worker/officer observing the interview shall decide whether to prepare a report on the interview.

4. The worker/officer shall attempt to meet with the non-offending parent/guardian prior to the interview and explain the interview process.

5. The worker/officer shall meet with the interviewer prior to the interview to give background on the case, including prior contacts and interviews of the child.

6. Attendance in the observation room shall be determined by the worker/officer. If there is no worker/officer present, attendance shall be determined by the child interviewer. Attendance in the interview room shall be determined by the interviewer.

7. At the beginning of the interview, the child shall be told that there will be a break during the interview. During that break, the interviewer shall consult with the worker/officer who may suggest additional questioning.

8. All child abuse interviews conducted at Kids Haven shall be video recorded.

9. The interviewer shall inform the child that the interview is being video recorded. The interviewer will use his or her discretion in how to explain that the interview will be video recorded, taking into account the child's age, developmental level and other circumstances of the interview. The interview will not be video recorded if the child objects. Express permission from the child is not required. The interviewer will use his or her discretion to determine if assent has been obtained.

10. The parents/guardians will be notified of the video recording at the discretion of the law enforcement officer. Permission may be obtained from the parent, but is not necessary to video record the interview if the child has assented.

11. If the child objects to the video recording, or assent is not obtained and permission is not obtained from the parent or guardian, the Kids Haven interviewer will take near verbatim notes of the interview.

12. Two video copies will be made of each interview. One copy will be given to the law enforcement agency handling the case with that copy being placed into evidence and maintained according to the specific law enforcement rules and regulations governing evidence. One copy will be maintained by Kids Haven which may be forwarded to the appropriate prosecutor. Copies of the

recording should not be otherwise disseminated without a court order, other than to other law enforcement agencies pursuant to a criminal investigation.

13. (a) The Kids Haven interviewer will email the Prosecutor's office when an interview is scheduled.

i. The email will include the name of the officer/detective who requested the interview. It should also indicate whether the suspect is a juvenile or adult (if known).

ii. The email will go to all deputy prosecutors handling sex cases, support staff that accepts the kids haven DVDs and the victim/witness coordinators.

iii. A deputy prosecutor will attend the interview if his or her schedule permits.

(b) Kids Haven will deliver a copy of the DVD to the prosecutor's office within three working days of the prosecutor's office receiving a referral from the law enforcement agency. The prosecutor's office will email Kids Haven when a referral with a Kids Haven interview is received. If a copy of the DVD is not received within three working days, a second request will be emailed with a copy to the Prosecutor.

14. A recording of the interview shall only be given to criminal defense attorneys or experts pursuant to court order. All requests shall be forwarded to the appropriate prosecutor. If a copy is made, the prosecutor will request a protective order in that situation. The Prosecutor's Office shall retrieve the recording once the case is completed.

15. An advocate will be available at the time of the interview to meet with the non-offending care-giver (s) in order to provide support, advocacy, crisis intervention and appropriate referrals. Advocates will also discuss counseling options for the child and non-offending family members. Advocates will be available to provide all services. The advocate will continue to provide follow up services to the family throughout the investigation and prosecution. If the victim and/or non-offending caregiver(s) are non-English speaking and there is not a Kids Haven/SARC advocate able to speak the needed language, the advocate will arrange for an interpreter through the AT&T Language Line.

16. The interviewer will be responsible for requesting a multi-disciplinary team meeting if a child has been interviewed multiple times regarding similar allegations and additional interviews are requested.



## V. MEDICAL

A. During a sexual assault investigation, the officer/worker should decide whether a medical examination is needed. A medical exam should be strongly considered if there is evidence that there has been direct: touching of the genital or anal area. An exam may also be appropriate if there is a possibility that there has not been a complete Disclosure by the victim. The need for an exam may be reconsidered if there is additional information such as more disclosure from the victim.

Non-acute medical exams should be done through a medical provider with specialized training in child sexual assault examinations.

Any medical exam conducted with a medical provider who has signed a Memorandum of Understanding with Kids Haven shall be scheduled by law enforcement or CPS. Law enforcement shall not schedule the exam if it appears that the alleged abuse occurred outside of Benton or Franklin Counties except in exceptional circumstances and then only with prior agreement by the physician.

Law enforcement/CPS should provide a summary of the investigation reports or investigation to the physician prior to the exam.

Law enforcement/CPS should determine if there has been a prior medical exam of the child. If there has been, a physician who conducts a medical exam pursuant to this section shall be provided with any prior medical exam of the child related to the alleged abuse or be provided with identification

information of such exam so that the physician can request such report prior to the exam.

If the physician conducting the medical exam obtains copies of other medical reports, they shall be forwarded to the law enforcement officer or CPS worker who requested the exam. The physician does not retain copies of those reports.

The physician shall prepare a report of the exam and forward it to the agency that requested the exam and may also release the report to the Prosecutor. The physician shall not release the report to any other agency or the victim's family. Requests for the report should be referred by the physician to the agency that requested the exam.

B. The Child Abuse Consultation Network (see page 49 for contact information) may be consulted with when injuries are incurred by the child.

C. In any medical treatment of suspected child abuse, medical reports shall be provided to law enforcement and CPS pursuant to RCW 26.44.

D. An advocate from SARC is available to go to the hospital during any treatment of suspected sexual or physical child abuse.

## VI. COMPLEX CASES

A complex case includes cases where:

- (a) Multiple jurisdictions may be involved.
- (b) There may be multiple victims outside perpetrator's immediate family.
- (c) There may be multiple abusers of the same victim.
- (d) The allegations occurred in day care, detention, schools, group homes, or foster care and the alleged abuser is over 12. Complex cases may require a team from law enforcement, CPS, Attorney General, Prosecutor and other agencies.

The team can be convened by any agency immediately upon receipt of any complex case. Issues to be decided are:

- (a) Which agency takes responsibility as the lead agency.
- (b) When to initiate the investigation. The safety of the child is paramount and the investigation should not be delayed where there is a risk to the child. The team should review the risk factors, availability of necessary resources, whether there is a need for secrecy and the impact of administrative and court procedures.
- (c) An initial plan of the investigation. This includes the order of each step of the investigation, when it should be performed, which agency will perform each action and what additional resources should be used.
- (d) Identification of persons to be interviewed, the order of the interviews, who will conduct the interviews, and where the

interviews should occur.

(e) Procedures to minimize contamination of victims and witnesses. This may include multiple interviewers and providing interviewers with limited case information.

The Kids Haven interviewer will be responsible for identifying all interviews conducted that meet the specific criteria for the appropriate county(ies). The interviewer will provide the Kids Haven Executive Director or Program Director with the agencies involved in each case. The Executive Director and/or Program Director will be responsible for notifying each agency of the date and time of the scheduled meeting in addition to needed case information.

Representation from law enforcement, prosecution, child protective services, medical, mental health, victim advocacy, child interviewer, and Kids Haven will be present at each case review. If the cases to be reviewed did not include specific individuals from each discipline a representative from such discipline will participate in the review to provide perspective and expertise. All participants must agree to not disclose the contents of the meeting by signing the victim privacy/confidentiality agreement. Team discussion and information sharing regarding the investigation, case status and services needed by the child and family is to occur at these reviews. The Executive Director and/or Program Director are-responsible for communicating all recommendations from case review to appropriate parties for implementation.

(f) The team shall decide what should be disclosed to the media and who will be the single media contact person.

The team or designee should inform parents and guardians of possible victims of how the "system" works, how the case will be investigated, and anticipated timeliness. They shall also discuss:

(a) Therapy/counseling for children.

(b) Group support network with ground rules regarding interaction between group members. A team member will attend to ensure that there is no discussion that could jeopardize the investigation or prosecution.

(c) Parents and guardians should not initiate discussion of the abuse or conduct any investigation of the abuse.

(d) Parents and guardians should document and notify law enforcement of any case related information.

(e) Whether SARC should be notified.

At the end of the investigation, the team should meet to discuss the procedures and the quality of the investigation.

## VII. INFORMATION SHARING

Mandatory Reporters including schools, counselors, and health care providers shall release all reports concerning an investigation without the need for subpoena, release, or court order.

A law enforcement agency that has not completed its investigation may be concerned that a release of its file during dependency discovery would jeopardize the law enforcement investigation. In that situation, the law enforcement officer should advise the CPS worker. They should decide whether the officer should withhold part or its entire file to CPS or if CPS should receive the entire file and notify law enforcement before any release of law enforcement documents is made to allow law enforcement the opportunity to obtain a protective order. The Prosecutor's Office will help obtain such a protective order.

CPS may be concerned that some of its investigation materials should not be released to defense counsel pursuant to criminal discovery. In that situation, CPS should identify those materials to law enforcement. The prosecutor shall notify CPS prior to releasing the identified materials so that CPS has the opportunity to obtain a protective order.

The Kids Haven child interviewer and Sexual Assault Response Center (SARC) Program Director/Executive Director are a criminal justice agency under RCW 10.97. Kids Haven shall only disseminate interviews to the requesting agency. Child interview reports may be disseminated under

The same rules as police reports by the agency that requested the interview.

The interviewer is able to share all case related information with law enforcement, child protective services and the prosecuting attorney's office. The interviewer may discuss specific information with the Kids Haven Executive Director, Program Director or Office Administrator when needed. The interviewer may not share interview outcomes or specific case information with the remainder of the Kids Haven/SARC staff; except when participating in case reviews or other multi-disciplinary team meetings.

SARC staff are considered members of a rape crisis center under RCW 70.125. Their records are confidential and may be released only-pursuant to provisions of RCW 70.125. The only Kids Haven/SARC staff that shall have access to any records maintained by the Kids Haven interviewer are the Executive Director, Program Director and Office Administrator. This is necessary to assist with scheduling interviews, providing copies of interviews to law enforcement, prosecutors and/or CPS, and assisting such agencies with information when needed. Other SARC staff shall not have access to any records maintained by the Kids Haven interviewer or Sexual Assault Response Center (SARC) Program Director/Executive Director.

Law enforcement may share investigation information pursuant to a multi-disciplinary team meeting. Representation from law enforcement, child protective services, Prosecution, Attorney, General's Office,

mental health, medical, victim advocacy, and the interviewer will be invited to attend the team meeting. All participants must agree to not disclose the contents of the meeting by signing the victim privacy/confidentiality agreement. Attendance at a multi-disciplinary team meeting in addition to law enforcement and CPS shall be limited to those who agree not to disclose the contents of the meeting and whose participation will assist the investigation of the child abuse allegation. Any issues concerning participation shall be resolved by the prosecutor's office. Clients must have signed a "release of confidentiality" form for the advocates to be able to share case specific information with team members. A separate release form is required for the therapist to provide case specific information.

All previously stated rules of confidentiality apply throughout the investigative and criminal process, in addition to the on-going advocacy and support separate from criminal and/or civil proceedings.



### VIII. METHODS OF PROTECTING CHILDREN DURING INVESTIGATION

If there is a concern about a child's safety during an investigation, law enforcement and CPS shall coordinate steps to protect the child.

Every attempt should be made to remove a suspect from a home instead of the child. That may not be possible if:

- (a) The suspect is not arrested and does not leave the home.
- (b) The family is unwilling or unable to protect the child.
- (c) The child may suffer from retaliation or efforts to influence statements or testimony.

Law enforcement may place a child into protective custody. If CPS disagrees with a decision by law enforcement to not place the child in protective custody, CPS may ask for a court order.

If law enforcement places a child in protective custody, CPS shall notify law enforcement of any return of the child to the home if:

- (1) a current law enforcement investigation is pending;
- (2) there is a screening in the Prosecutor's Office; or
- (3) a criminal charge has been filed and a case is pending.

If a suspect is arrested, law enforcement and the prosecutor's office shall obtain a no contact order.

If a suspect has not been arrested, law enforcement may advise

Of the possibility of obtaining the order. The Prosecutor's Office or SARC may assist in obtaining the order.

If a child is subject to retaliation or effort to influence testimony, law enforcement should be immediately notified. Law enforcement and prosecutors will give high priority to these cases.

## **IX. TRAINING AND QUALIFICATIONS OF INTERVIEWERS**

The Benton County Prosecutor will be responsible for the appropriate selection and supervision of the Kids Haven interviewer. The Benton County Prosecutor will also be responsible for ensuring that the Kids Haven interviewer has received the training as set forth in RCW 74.14B.010. The Kids Haven interviewer will be available to CPS and all Benton and Franklin County law enforcement agencies. Kids Haven, the Prosecutor's Office and law enforcement will coordinate to advise of other training opportunities for the child interviewers.

## **X. CASE CLOSURES**

A. A law enforcement investigation is closed in three ways:

(1) When law enforcement finds the case "unfounded" and does not refer the case to the prosecutor. This procedure should be approved by a law enforcement supervisor.

(2) When the agency receives a notice from the prosecutor's office that no charges will be filed.

(3) When a case has been filed and there is a dismissal, not guilty verdict, or conviction. The closure date for conviction is sentencing unless there is an appeal. If there is an appeal, closure is upon receipt of the mandate.

If law enforcement closes out the case as unfounded and does not refer it to the prosecutor, law enforcement shall notify the victim and the appropriate agencies such as CPS, SARC and schools.

If a case is referred to the prosecutor, the prosecutor shall notify the victim and other agencies of any decline of charges. It shall also notify the victim and appropriate agencies of closure of cases that are filed.

B. A Child Protective Services investigation is closed in two ways:

(1) When CPS determines the referral for investigation is "unfounded." A determination of "unfounded" means that based upon available information, it is more likely than not that child abuse or neglect did not occur or there is insufficient evidence for the

department to determine whether the alleged child abuse did or did not occur.

(2) When CPS determines the referral for investigation is "founded." A determination of "founded" means that based upon available information, it is more likely than not that child abuse or neglect did occur.

(3) A CPS case may remain open with the Department after the conclusion of the CPS investigation. CPS may refer a case for voluntary services or file a dependency petition with the juvenile court when it determines that court intervention is necessary for protection of the child. In cases where a dependency is filed, the case remains open with the Department until the dependency is dismissed by the juvenile court. CPS attempts to complete investigations within forty-five days. An investigation should not extend beyond 90 days unless a law enforcement agency or prosecuting attorney has determined that a longer investigation is necessary. CPS investigations are confidential. At the conclusion of an investigation, CPS shall notify the subject of the investigation and the appropriate law enforcement agency and prosecuting attorney.

## **XI. Definitions**

**Abuse or neglect** means sexual abuse, sexual exploitation, or injury of a child by any person under circumstances which cause harm to the child's health, welfare, or safety, excluding conduct permitted under RCW 9A.16.100; or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is a child who has been subjected to child abuse or neglect as defined in this section.

**Sexual exploitation** includes: (a) Allowing, permitting, or encouraging a child to engage in prostitution by any person; or (b) allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child by any person.

**Negligent treatment or maltreatment** means an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety, including but not limited to conduct prohibited under RCW 9A.42.100. When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor to negligent treatment or maltreatment shall be given great weight. The fact that siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment. Poverty, homelessness, or exposure to domestic violence as defined in RCW 26.50.010 that is perpetrated against someone other than the child does not constitute negligent treatment or maltreatment in and of itself.

**Dependency court** focuses on protecting the children. The investigations are done by CPS and petitions are filed by the attorney general's office.

**Criminal court** focuses on the offender. The investigations are done by law enforcement and criminal cases are filed by the prosecutor's office.

## XII. RCW Information

### RCW 7.69A.030

#### **Rights of child victims and witnesses.**

In addition to the rights of victims and witnesses provided for in RCW 7.69.030, there shall be every reasonable effort made by law enforcement, agencies, prosecutors, and judges to assure that child victims and witnesses are afforded the rights enumerated in this section. Except as provided in RCW 7.69A.050 regarding child victims or child witnesses of violent crimes, sex crimes, or child abuse, the enumeration of rights shall not be construed to create substantive rights and duties, and the application of an enumerated right in an individual case is subject to the discretion of the law enforcement agency, prosecutor, or judge. Child victims and witnesses have the following rights, which apply to any criminal court and/or juvenile court proceeding:

(1) To have explained in language easily understood by the child, all legal proceedings and/or police investigations in which the child may be involved.

(2) With respect to child victims of sex or violent crimes or child abuse, to have a crime victim advocate from a crime victim/witness program, or any other support person of the victim's choosing, present at any prosecutorial or defense interviews with the child victim. This subsection applies if practical and if the presence of the crime victim advocate or support person does not cause any unnecessary delay in the investigation or prosecution of the case. The role of the crime victim advocate is to provide emotional support to the child victim and to promote the child's feelings of security and safety.

(3) To be provided, whenever possible, a secure waiting area during court proceedings and to have an advocate or support person remain with the child prior to and during any court proceedings.

(4) To not have the names, addresses, nor photographs of the living child victim or witness disclosed by any law enforcement agency, prosecutor's office, or state agency without the permission of the child victim, child witness, parents, or legal guardians to anyone except another law enforcement agency, prosecutor, defense counsel, or private or governmental agency that provides services to the child victim or witness.

(5) To allow an advocate to make recommendations to the prosecuting attorney about the ability of the child to cooperate with

prosecution and the potential effect of the proceedings on the child.

(6) To allow an advocate to provide information to the court concerning the child's ability to understand the nature of the proceedings.

(7) To be provided information or appropriate referrals to social service agencies to assist the child and/or the child's family with the emotional impact of the crime, the subsequent investigation, and judicial proceedings in which the child is involved.

(8) To allow an advocate to be present in court while the child testifies in order to provide emotional support to the child.

(9) To provide information to the court as to the need for the presence of other supportive persons at the court proceedings while the child testifies in order to promote the child's feelings of security and safety.

(10) To allow law enforcement agencies the opportunity to enlist the assistance of other professional personnel such as child protection services, victim advocates or prosecutorial staff trained in the interviewing of the child victim.

(11) With respect to child victims of violent or sex crimes or child abuse, to receive either directly or through the child's parent or guardian if appropriate, at the time of reporting the crime to law enforcement officials, a written statement of the rights of child victims as provided in this chapter. The written statement shall include the name, address, and telephone number of a county or local crime victim/witness program, if such a crime victim/witness program exists in the county.

**RCW 2 6.44.030**

**Reports – Duty and authority to make – Duty of receiving agency – Duty to notify – Case planning and consultation – Penalty for unauthorized exchange of information – Filing dependency petitions -- Interviews of children – Records -- Risk assessment process.**

(1) (a) When any practitioner, county coroner or medical examiner, law enforcement officer, professional school personnel, registered or licensed nurse, social service counselor, psychologist, pharmacist, employee of the department of early learning, licensed or certified child care providers or their employees, employee of the department, juvenile probation officer, placement and liaison specialist, responsible living skills program staff, HOPE center staff, or state family and children's



ombudsman or any volunteer in the ombudsman's office has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(b) When any person, in his or her official supervisory capacity with a nonprofit or for-profit organization, has reasonable cause to believe that a child has suffered abuse or neglect caused by a person over whom he or she regularly exercises supervisory authority, he or she shall report such incident, or cause a report to be made, to the proper law enforcement agency, provided that the person alleged to have caused the abuse or neglect is employed by, contracted by, or volunteers with the organization and coaches, trains, educates, or counsels a child or children or regularly has unsupervised access to a child or children as part of the employment, contract, or voluntary service. No one shall be required to report under this section when he or she obtains the information solely as a result of a privileged communication as provided in RCW 5.60.060.

Nothing in this subsection (1(b)) shall limit a person's duty to report under (a) of this subsection.

For the purposes of this subsection, the following definitions apply:

(i) "Official supervisory capacity" means a position, status, or role created, recognized, or designated by any nonprofit or for-profit organization, either for financial gain or without financial gain, whose scope includes, but is not limited to, overseeing, directing, or managing another person who is employed by, contracted by, or volunteers with the nonprofit or for-profit organization.

(ii) "Regularly exercises supervisory authority" means to act in his or her official supervisory capacity on an ongoing or continuing basis with regards to a particular person.

(c) The reporting requirement also applies to department of corrections personnel who, in the course of their employment, observe offenders or the children with whom the offenders are in contact. If, as a result of observations or information received in the course of his or her employment, any department of corrections personnel has reasonable cause to believe that a child has suffered abuse or neglect, he or she shall report the incident, or cause a report to be made, to the proper law enforcement agency or to the department as provided in RCW 26.44.040.

(d) The reporting requirement shall also apply to any adult who has reasonable cause to believe that a child who resides with them,

has suffered severe abuse, and is able or capable of making a report. For the purposes of this subsection, "severe abuse" means any of the following: Any single act of abuse that causes physical trauma of sufficient severity that, if left untreated, could cause death; any single act of sexual abuse that causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness.

(e) The report must be made at the first opportunity, but in no case longer than forty-eight hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.

(2) The reporting requirement of subsection (1) of this section does not apply to the discovery of abuse or neglect that occurred during childhood if it is discovered after the child has become an adult. However, if there is reasonable cause to believe other children are or may be at risk of abuse or neglect by the accused, the reporting requirement of subsection (1) of this section does apply.

(3) Any other person who has reasonable cause to believe that a child has suffered abuse or neglect may report such incident to the proper law enforcement agency or to the department of social and health services as provided in RCW 26.44.040.

(4) The department, upon receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means or who has been subjected to alleged sexual abuse, shall report such incident to the proper law enforcement agency. In emergency cases, where the child's welfare is endangered, the department shall notify the proper law enforcement agency within twenty-four hours after a report is received by the department. In all other cases, the department shall notify the law enforcement agency within seventy-two hours after a report is received by the department. If the department makes an oral report, a written report must also be made to the proper law enforcement agency within five days thereafter.

(5) Any law enforcement agency receiving a report of an incident of alleged abuse or neglect pursuant to this chapter, involving a child who has died or has had physical injury or injuries inflicted upon him or her other than by accidental means, or who has been subjected to alleged sexual abuse, shall report such incident in writing as provided in RCW 26.44.040 to the proper county prosecutor

or city attorney for appropriate action whenever the law enforcement agency's investigation reveals that a crime may have been committed. The law enforcement agency shall also notify the department of all reports received and the law enforcement agency's disposition of them. In emergency cases, where the child's welfare is endangered, the law enforcement agency shall notify the department within twenty-four hours. In all other cases, the law enforcement agency shall notify the department within seventy-two hours after a report is received by the law enforcement agency.

(6) Any county prosecutor or city attorney receiving a report under subsection (5) of this section shall notify the victim, any persons the victim requests, and the local office of the department, of the decision to charge or decline to charge a crime, within five days of making the decision.

(7) The department may conduct ongoing case planning and consultation with those persons or agencies required to report under this section, with consultants designated by the department, and with designated representatives of Washington Indian tribes if the client information exchanged is pertinent to cases currently receiving child protective services. Upon request, the department shall conduct such planning and consultation with those persons required to report under this section if the department determines it is in the best interests of the child. Information considered privileged by statute and not directly related to reports required by this section must not be divulged without a valid written waiver of the privilege.

(8) Any case referred to the department by a physician licensed under chapter 18.57 or 18.71 RCW on the basis of an expert medical opinion that child abuse, neglect, or sexual assault has occurred and that the child's safety will be seriously endangered if returned home, the department shall file a dependency petition unless a second licensed physician of the parents' choice believes that such expert medical opinion is incorrect. If the parents fail to designate a second physician, the department may make the selection. If a physician finds that a child has suffered abuse or neglect but that such abuse or neglect does not constitute imminent danger to the child's health or safety, and the department agrees with the physician's assessment, the child may be left in the parents' home while the department proceeds with reasonable efforts to remedy parenting deficiencies.

(9) Persons or agencies exchanging information under subsection (7) of this section shall not further disseminate or release the information except as authorized by state or federal statute. Violation of this subsection is a misdemeanor.

(10) Upon receiving a report of alleged abuse or neglect, the department shall make reasonable efforts to learn the name, address, and telephone number of each person making a report of abuse or neglect under this section. The department shall provide assurances of appropriate confidentiality of the identification of persons reporting under this section. If the department is unable to learn the information required under this subsection, the department shall only investigate cases in which:

(a) The department believes there is a serious threat of substantial harm to the child;

(b) The report indicates conduct involving a criminal offense that has, or is about to occur, in which the child is the victim; or

(c) The department has a prior founded report of abuse or neglect with regard to a member of the household that is within three years of receipt of the referral.

(11) (a) For reports of alleged abuse or neglect that are accepted for investigation by the department, the investigation shall be conducted within time frames established by the department in rule. In no case shall the investigation extend longer than ninety days from the date the report is received, unless the investigation is being conducted under a written protocol pursuant to RCW 26.44.180 and a law enforcement agency or prosecuting attorney has determined that a longer investigation period is necessary. At the completion of the investigation, the department shall make a finding that the report of child abuse or neglect is founded or unfounded.

(b) If a court in a civil or criminal proceeding, considering the same facts or circumstances as are contained in the report being investigated by the department, makes a judicial finding by a preponderance of the evidence or higher that the subject of the pending investigation has abused or neglected the child, the department shall adopt the finding in its investigation.

(12) In conducting an investigation of alleged abuse or neglect, the department or law enforcement agency:

(a) May interview children. The interviews may be conducted on school premises, at day-care facilities, at the child's home, or at other suitable locations outside of the presence of parents. Parental notification of the interview must occur at the earliest possible point in the investigation that will not jeopardize the safety or protection of the child or the course of the investigation. Prior to commencing the interview the department or law enforcement agency shall determine whether the child wishes a third party to be present

for the interview and, if so, shall make reasonable efforts to accommodate the child's wishes. Unless the child objects, the department or law enforcement agency shall make reasonable efforts to include a third party in any interview so long as the presence of the third party will not jeopardize the course of the investigation; and

(b) Shall have access to all relevant records of the child in the possession of mandated reporters and their employees.

(13) if a report of alleged abuse or neglect is founded and constitutes the third founded report received by the department within the last twelve months involving the same child or family, the department shall promptly notify the office of the family and children's ombudsman of the contents of the report. The department shall also notify the ombudsman of the disposition of the report.

(14) In investigating and responding to allegations of child abuse and neglect, the department may conduct background checks as authorized by state and federal law.

(15) The department shall maintain investigation records and conduct timely and periodic reviews of all founded cases of abuse and neglect. The department shall maintain a log of screened-out non-abusive cases.

(16) The department shall use a risk assessment process when investigating alleged child abuse and neglect referrals. The department shall present the risk factors at all hearings in which the placement of a dependent child is an issue. Substance abuse must be a risk factor. The department shall, within funds appropriated for this purpose, offer enhanced community-based services to persons who are determined not to require further state intervention.

(17) Upon receipt of a report of alleged abuse or neglect the law enforcement agency may arrange to interview the person making the report and any collateral sources to determine if any malice is involved in the reporting.

(18) Upon receiving a report of alleged abuse or neglect involving a child under the court's jurisdiction under chapter 13.34 RCW, the department shall promptly notify the child's guardian ad litem of the report's contents. The department shall also notify the guardian ad litem of the disposition of the report. For purposes of this subsection, "guardian ad litem" has the meaning provided in RCW 13.34.030.

**RCW 26.44.040**

**Reports - Oral, written - Contents.**

An immediate oral report must be made by telephone or otherwise to the proper law enforcement agency or the department of social and health services and, upon request, must be followed by a report in writing. Such reports must contain the following information, if known:

- (1) The name, address, and age of the child;
- (2) The name and address of the child's parents, stepparents, guardians, or other persons having custody of the child;
- (3) The nature and extent of the alleged injury or injurie
- (4) The nature and extent of the alleged neglect;
- (5) The nature and extent of the alleged sexual abuse;
- (6) Any evidence of previous injuries, including their nature and extent; and
- (7) Any other information that may be helpful in establishing the cause of the child's death, injury, or injuries and the identity of the alleged perpetrator or perpetrators.

**BENTON COUNTY**  
**MANDATORY CHILD ABUSE/NEGLECT**  
**CPS/LAW ENFORCEMENT REPORT**

All mandatory reporters shall make an immediate verbal report to Child Protective Services (CPS) and/or law enforcement followed by a written report to CPS as soon as possible and at least within 48 hours of the initial disclosure. CPS should be contacted at its Business Office: 737-2800 (24-Hour Line: 734-7400). All Benton County law enforcement agencies can be contacted by the nonemergency dispatch phone number of 628-0333 or by calling 911 in an emergency.

**Mail this completed form to:** Child Protective Services  
 1661 Fowler Street  
 Richland, WA 99352

**\*\*\*If this report alleges physical or sexual abuse, the child's parents or guardian should not be contacted or informed of the report without authorization from law enforcement or a representative from CPS.**

Child's Name:	Date of report:
Birth date:	Male/Female: Child's School/Grade:
Parent ( s)/Guardian:	Phones (home/cell):
Home Address:	City:
Parent(s) place of employment:	Work phone:

Reporting person:	Phones (home/cell):
Employer Name:	Work phone:
Employer Address:	Employer Supervisor:

Reason for report: \_\_\_\_\_  
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