

Child Abuse

313.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Missoula Police Department members are required to notify Department of Public Health and Human Services (DPHHS) of suspected child abuse.

313.1.1 DEFINITIONS

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.

313.2 POLICY

The Missoula Police Department will investigate all reported incidents of alleged criminal child abuse and ensure DPHHS is notified as required by law.

313.3 MANDATORY NOTIFICATION

Members of the Missoula Police Department shall notify DPHHS when it is known or there is reasonable cause to suspect that a child is abused or neglected by anyone regardless of whether the person is a parent or other person responsible for the child's welfare (§ 41-3-201, MCA).

For purposes of notification, child abuse or neglect includes (§ 41-3-102, MCA):

- (a) Actual physical or psychological harm to a child.
- (b) Substantial risk of physical or psychological harm to a child, including exposure to dangerous drugs.
- (c) Abandonment.
- (d) Any form of child sex trafficking or human trafficking.

If the report of child abuse or neglect includes an allegation of sexual abuse or sexual exploitation where the alleged perpetrator was 12 years of age or older and the allegation involves the county attorney or an employee of the county attorney's office, the Department shall immediately notify the attorney general's office (§ 41-3-202, MCA).

313.3.1 NOTIFICATION PROCEDURE

Notification shall occur promptly by contacting the Child Abuse Hotline. Notification shall include, if known, (§ 41-3-201, MCA):

- (a) The names and addresses of the child, child's parents or other persons responsible for the child's care.

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- (b) The child's age and the nature of the injuries, including any evidence of previous injuries.
 - 1. Photographs may be taken of any visible trauma on the child (§ 41-3-204, MCA).
- (c) Any other information that may be helpful in establishing the cause of the injuries or showing the willful neglect and the identity of the person or persons responsible for the injury or neglect.
 - 1. Visible evidence that the child suffered abuse or neglect shall be documented by a written description and/or photographs and included in the report (§ 41-3-204, MCA).
- (d) Facts that led the reporting member to believe that the child has suffered injury or injuries or willful neglect.

Any written, photographic, or radiological evidence gathered or obtained shall be included with the report or submitted to DPHHS as soon as possible (§ 41-3-204, MCA).

313.4 QUALIFIED INVESTIGATORS

Qualified investigators should be available for child abuse investigations. These investigators should:

- (a) Conduct interviews in child-appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Present all cases of alleged child abuse to the prosecutor for review.
 - 1. All information related to a report of child sexual abuse or sexual exploitation, including all case notes, correspondence, evaluations, interviews, and other investigative materials, shall be forwarded to the prosecutor throughout the investigation (§ 41-3-210, MCA).
- (d) Coordinate with other enforcement agencies, social service agencies, and school administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians, and support for the child and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (§ 41-3-107, MCA).

313.5 INVESTIGATIONS AND REPORTING

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:

- (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.

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- (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, if known.
- (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

Before taking any child into protective custody, the officer should make reasonable attempts to contact DPHHS. 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 DPHHS.

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 when there is reason to believe a child is in immediate or apparent danger of harm (§ 41-3-301, MCA).

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313.6.1 MONTANA SAFE HAVEN NEWBORN PROTECTION ACT

A member may accept a newborn who is 30 days or younger into temporary protective custody when surrendered by a parent. The member shall take necessary action for the newborn's safety and transfer the newborn to a hospital for evaluation (§ 40-6-405, MCA; § 40-6-406, MCA). The member should provide the parent with written material from the DPHHS regarding the safe haven law and make a reasonable effort to do the following (§ 40-6-405, MCA):

- (a) Inform the parent that the newborn will be placed for adoption, which requires the state to attempt to identify the other parent to obtain medical family history, and then ask if the surrendering parent will identify the other parent.
- (b) Inform the parent that the parent has 60 days to petition the court to regain custody of the newborn.
- (c) Ascertain whether the newborn has a tribal affiliation and, if so, obtain information pertaining to any Indian heritage of the newborn.
- (d) Encourage the parent to provide relevant family or medical information.
- (e) Provide the parent with information that the parent may receive counseling or medical attention and that DPHHS can provide confidential services.
- (f) Inform the parent that information provided will not be made public.
- (g) Ask the parent for their name.
- (h) Inform the parent they may remain anonymous.
- (i) Inform the parent that they may sign a relinquishment for the newborn to be used at a hearing to terminate parental rights.

A child abuse investigation should not be initiated when a newborn is surrendered unless there is particularized suspicion of actual abuse or neglect (§ 40-6-417, MCA).

313.7 INTERVIEWS

313.7.1 PRELIMINARY INTERVIEWS

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. 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.

313.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

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:

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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 RECORDED INTERVIEW OF CHILD

If a child's interview is audio or video recorded, the family, upon request, may view an unedited version unless exempted by law (§ 41-3-202, MCA).

313.8 MEDICAL EXAMINATIONS

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.

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,

obtaining a court order should be considered for such an examination.

313.9 DRUG-ENDANGERED CHILDREN

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.

313.9.1 SUPERVISOR RESPONSIBILITIES

The Detective Division supervisor should:

- (a) Work with professionals from the appropriate agencies, including DPHHS, 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 Detective Division 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.

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313.9.2 OFFICER RESPONSIBILITIES

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.
- (b) Notify the Shift Commander so an interagency response can begin.

313.10 STATE MANDATES AND OTHER RELEVANT LAWS

Montana requires or permits the following:

313.10.1 CHILD DEATH INVESTIGATION

A supervisor shall notify the Coroner when there is reasonable cause to believe that a child has died from abuse or neglect (§ 41-3-206, MCA).

313.10.1 RELEASE OF REPORTS

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 (§ 41-3-205, MCA).

313.11 TRAINING

The Department should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.
- (b) Conducting forensic interviews.
- (c) Availability of therapy services for children and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to child abuse investigations.
- (f) Availability of victim advocate or guardian ad litem support.
- (g) Recognizing abuse that requires mandatory notification to another agency.