

Fennimore Police Department Child Abuse Reporting		
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PURPOSE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse or neglect. This policy also addresses when Fennimore Police Department members are required to notify the appropriate county department or licensed child welfare agency of suspected child abuse.

POLICY

The Fennimore Police Department will investigate all reported incidents of alleged criminal child abuse or neglect and ensure the appropriate county department or licensed child welfare agency is notified as required by law.

Immediate investigations will occur if the person reporting abuse or neglect requests an immediate investigation due to the fact that the person has reason to suspect the health or safety of a child or unborn child is in immediate danger, (Wis. Stat. § 48.981(3)(b)1).

DEFINITIONS

- **Child:** When used without further qualification, means a person who is less than 18 years of age, except that for purposes of investigating or prosecuting a person who is alleged to have violated a state or federal criminal law or any civil law or municipal ordinance, "child" does not include a person who has attained 17 years of age. Wis. Stat. § 48.02(2)
- **Child abuse:** Any offense or attempted offense described in Wis. Stat. § 48.02(1) 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 or law enforcement under Wis. Stat. § 48.981(3)(a).
- **Care Giver:** shall have the same meaning as defined by Wis. Stat. § 48.981(1)(am)

- **Probable Cause** – Facts or circumstances sufficiently strong to justify a prudent and cautious persons to believe an event probably occurred, is occurring or will occur. This standard is stronger than Reasonable Suspicion, but less than Proof Beyond a Reasonable Doubt.
- **Reason to Suspect** – shall have the same meaning as Reasonable Suspicion (2016 WI DOJ Safe Schools Legal Resource Manual pp. 17 & 35).
- **Reasonable Cause** – shall have the same meaning as Reasonable Suspicion (2016 WI DOJ Safe Schools Legal Resource Manual pp. 15, 16 & 35).
- **Reasonable Ground** – shall have the same meaning as Probable Cause (2016 WI DOJ Safe Schools Legal Resource Manual pp. 16 & 17).
- **Reasonable Suspicion** – specific and articulable facts which would lead a reasonable officer to believe an event may have occurred, may be occurring or may occur in the future. This standard is less than Probable Cause, but more than an unsupported suspicion or a hunch.

PROCEDURE

Mandatory Notification

Members of the Fennimore Police Department shall notify the appropriate county department or licensed child welfare agency when, during the course of their duties, they have reasonable cause; *ie.*, reasonable suspicion to suspect that a child has been abused or neglected; when they have reason to believe that a child has been threatened with abuse or neglect that will occur; or when they receive a report of such abuse or neglect. This applies in circumstances that include (Wis. Stat. § 48.02; Wis. Stat. § 48.981):

- Cases in which a caregiver is suspected of abuse or neglect or of threatened abuse or neglect of a child.
- Cases in which a caregiver is suspected of facilitating or failing to take action to prevent the suspected or threatened abuse or neglect of a child.
- Cases in which a person who is not a caregiver is suspected of abuse as defined by Wis. Stats. § 48.02(1)(cm) or (d).
 - Trafficking of a child, Wis. Stat. § 948.051
 - Permitting, allowing or encouraging a child to violate Wis. Stat. § 944.30(1m) (Prostitution)
- Cases in which it cannot be determined who abused or neglected or threatened to abuse or neglect a child.

- Cases in which there is reason to suspect that an unborn child has been abused or there is reason to believe that an unborn child is at substantial risk of abuse.
- For purposes of notification, abuse includes, but is not limited to, non-accidental physical injuries, sexual offenses, emotional damage and any other act as described in Wis. Stat. § 48.02(1). Neglect includes, but is not limited to, failure, refusal or inability on the part of a caregiver, for reasons other than poverty, to provide necessary care, food, clothing, medical or dental care or shelter so as to seriously endanger the physical health of the child, Wis. Stat. § 48.02(12g).

Notification should occur as follows (Wis. Stat. § 48.981):

The handling officer should immediately make the notification to the appropriate county department or licensed child welfare agency by telephone or in person but in all cases before completing his/her shift and no later than 12 hours, exclusive of Saturdays, Sundays or legal holidays.

Notification, when possible, shall contain at a minimum:

- The name, address, age, sex and race of the child.
- The nature and extent of the child's injuries, including any evidence of previous cases if known or suspected abuse or neglect of the child or the child's siblings.
- The names and addresses of the persons responsible for the suspected abuse or neglect, if known.
- The family composition.
- The source of the report and the name and, address of the person making the report.
- Any action taken by the reporting source.
- Any other information that the person making the report believes may be helpful in establishing the cause of the child abuse, physical injury or neglect.

If there is reasonable cause; *ie.*, reasonable suspicion to suspect that a child died as a result of abuse or neglect, the appropriate Coroner shall also be notified (Wis. Stat. § 48.981(5)).

Investigations and Reporting

In all reported or suspected cases of child abuse, a report will be written. 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:

- 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.
- The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.
- Any relevant statements the child may have made and to whom he/she made the statements.
- If a child was taken into protective custody, the reasons, the name and title of the person making the decision.
- Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- Whether the child victim was transported for medical treatment or a medical examination.
- 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.
- Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.
- Where a child or unborn child is believed to be in immediate danger, the assigned officer shall begin the investigation immediately and take any necessary action to protect the child or unborn child as allowed under Wis. Stat. § 48.981(3)(b).
- Medical records of the victim as necessary (Wis. Stat. § 146.82(2)(a)11). 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).
- Coordination with other enforcement agencies, social service agencies and school administrators as needed.
- Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.

Protective Custody

Before taking any child into protective custody, the officer should make reasonable attempts to contact the appropriate county department or licensed child welfare agency. 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 the appropriate county department or licensed child welfare agency intake worker.

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 in the following situations (Wis. Stat. § 48.19):

- A court has ordered the removal of the child.
- An officer believes on reasonable grounds; *ie.*, probable cause that any of the following conditions exist:
 - A court has ordered the removal of the child.
 - The child is suffering from illness or injury or is in immediate danger from his/her surroundings and removal from those surroundings is necessary.
 - The child is an expectant mother and there is a substantial risk that the physical health of the unborn child, and of the child when born, will be seriously affected or endangered due to the expectant mother's habitual lack of self-control in the use of alcohol, controlled substances or controlled substance analogs, exhibited to a severe degree, unless the expectant mother is taken into custody.

Follow Up Notifications and Placement

An officer who has taken a child into protective custody shall attempt to deliver the child to an intake worker and immediately notify the parent, guardian, legal custodian and Indian custodian of the child by the most practical means. The officer shall continue such attempts until the parent, guardian, legal custodian and Indian custodian of the child is notified or the child is delivered to an intake worker, whichever occurs first (Wis. Stat. § 48.19(2)).

Safe Haven Law

A parent may relinquish a newborn infant less than 72 hours old to an officer when the parent does not express intent to return for the child. The officer shall take any action necessary to protect the health and safety of the child and attempt to deliver the child to the custody of an intake worker under the provisions of Wis. Stat. §48.195(1).

A law enforcement officer who takes a child into custody under Wis. Stat. § 48.195(1) shall make available to the parent who relinquishes custody of the child the Maternal and Child Health toll-free telephone number (800-722-2295) maintained by the department under 42 USC 705 (a)(5)(E). The decision whether to accept the information made available is entirely voluntary on the part of the parent. No person may induce or coerce or attempt to induce or coerce any parent into accepting that information.

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. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

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:

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

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 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.

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. The investigation should:

- Work with professionals from the appropriate agencies, including the Wisconsin Alliance for Drug Endangered Children, appropriate county welfare agency, 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 exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- Activate any available interagency response when an officer notifies a 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 there.

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:

- Document the environmental, medical, social and other conditions of the child using photography as appropriate.
- Notify a supervisor so an interagency response can begin.

STATE MANDATES AND OTHER RELEVANT LAWS

Criminal Prosecution

All cases should be forwarded to the district attorney if probable cause exists that an identified suspect committed a criminal act of abuse as defined by Wis. Stat. § 48.02(1)(b) through (f), Wis. Stat. §48.981(3)(b)3.

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 Department Release of Information Policy, Wis. Stat. § 48.981(7).

Court Orders

Employees may assist or provide information to the child abuse victim's parent, guardian or custodian on how to obtain a restraining order or injunction issued by the court for the protection of the victim. Officers shall arrest for violations of child abuse restraining orders as mandated by Wis. Stat. § 813.122(10).

Mandatory Coordination

An officer investigating a report of child abuse or threatened child abuse should coordinate the planning and execution of the investigation with the appropriate county department or licensed child welfare agency.

Adult Expectant Mothers of an At-Risk Unborn Child

An adult expectant mother of an unborn child may be taken into temporary custody but only as authorized in Wis. Stat. § 48.193 and delivered to an intake worker. The release of the expectant mother shall comply with the procedures of Wis. Stat. § 48.203 and specific terms of a court order.

Training

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

- Participating in multidisciplinary investigations, as appropriate.
- Conducting forensic interviews.
- Availability of therapy services for children and families.
- Availability of specialized forensic medical exams.
- Cultural competence (including interpretive services) related to child abuse investigations.
- Availability of victim advocate or guardian ad litem support.

DISCLAIMER

This policy is for internal use only and does not enlarge an officer's civil or criminal liability in any way. It should not be construed as the creation of a higher standard of safety or care in an evidentiary sense, with respect to third party claims. Violations of this policy may form the basis for departmental administrative action, but it is not intended for use in courts of civil or criminal jurisdiction.

/s/ Christopher J. French

09/21/2020

Christopher J. French
Chief of Police

Date