

Child Abuse

315.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Fargo Police Department members are required to notify the North Dakota Department of Health and Human Services of suspected child abuse.

315.1.1 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 - Includes 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.

315.2 POLICY

The Fargo Police Department will investigate all reported incidents of alleged criminal child abuse and ensure the North Dakota Department of Health and Human Services is notified as required by law.

315.3 MANDATORY NOTIFICATION

Members of the Fargo Police Department shall notify the North Dakota Department of Health and Human Services of where the child is currently residing when there is reasonable cause to believe the child is the victim of abuse or neglect (N.D.C.C. § 50-25.1-03).

For purposes of notification, abuse includes a child 17 years of age or younger who experiences mental or physical injury by a person responsible for the child's welfare. This includes a parent, an adult family member, any member of the child's household, a guardian, a foster parent, or any person providing care for the child at a school or child care setting. Abuse also includes any sexual offense committed against a child 17 years of age or younger by any person, whether or not the person is responsible for the child's welfare (N.D.C.C. § 50-25.1-02).

For purposes of notification, neglect includes failure to provide proper parental care or control, subsistence, education, or other care or control necessary for a child's physical, mental, or emotional health, or morals, not due primarily from the financial inability of a person responsible for the child's welfare. Neglect should be assumed when care of a child is requested by a person who has a physical, mental, emotional, or other illness or disability and is responsible for the child's welfare. Neglect also includes abandonment of a child by a parent, guardian, or custodian; failure of a parent, guardian, or custodian to participate in treatment ordered by the juvenile court; subjecting a child to prenatal exposure to chronic or severe alcohol or drug use; permitting a child to remain in an environment that subjects the child to exposure to a controlled

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or chemical substance or drug paraphernalia; or subjecting a child to human trafficking (N.D.C.C. § 50-25.1-02).

315.3.1 NOTIFICATION PROCEDURE

Notification should occur as follows (N.D.C.C. § 50-25.1-04):

- (a) Incidents of suspected child abuse shall be immediately referred to the North Dakota Department of Health and Human Services of where the child is currently residing. Oral reports must be followed by written reports within 48 hours, if requested.
- (b) A child abuse report, when possible, should include:
 - 1. The name and addresses of the child, the child's parents, or others responsible for the child's care.
 - 2. The age, sex, and race of the child.
 - 3. The nature and extent of the child's injuries, including any evidence of previous cases of known or suspected abuse or neglect of the child or the child's siblings.
 - 4. The names and addresses of the persons responsible for the suspected abuse or neglect, if known.
 - 5. The family composition.
 - 6. The source of the report and the name, address, and occupation of the person making the report.
 - 7. Any action taken by the reporting source.
 - 8. Any other information that the person making the report believes may be helpful.

315.4 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.
- (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 appropriate (N.D.C.C. § 50-25.1-05).

315.5 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.

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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.
- (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 the child made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.
- (k) The Department shall investigate every report of child abuse or neglect if a violation of a criminal statute is alleged. Officers shall coordinate the planning and execution of the investigation and child protection assessment with the North Dakota Department of Health and Human Services and may (N.D.C.C. § 50-25.1-05):
 - 1. Refer the case to a children's advocacy center for a forensic interview, forensic medical examination, or other services.
 - 2. Conduct interviews with any child involved in the investigation without the consent of a person responsible for the child's welfare.
 - 3. Conduct an interview at a school, child care facility, or any other place where any child involved in the investigation is found.

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).

315.6 PROTECTIVE CUSTODY

Before taking any child into protective custody, the officer should make reasonable attempts to contact the North Dakota Department of Health and Human Services. Generally, removal of a child from the child's 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.

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Generally, members of this department should remove a child from the child's 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 North Dakota Department of Health and Human Services.

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 (N.D.C.C. § 27-20.3-04; N.D.C.C. § 27-20.3-06):

- (a) With a court order authorizing the removal of the child.
- (b) Without a court order, by a law enforcement officer or designee if there are reasonable grounds to believe that:
 - 1. The child is suffering from illness or injury, or is in immediate danger from the child's surroundings, and the child's removal is necessary.
 - 2. The child has run away from the child's parents, guardian, or other custodian.
- (c) By order of the director of juvenile court made pursuant to section 27-20.3-04.

The taking of a child into protective custody is not an arrest, except for the purpose of determining the validity of the arrest under the Constitution of North Dakota or the United States Constitution.

A law enforcement officer may transport a child to and from attendant care.

315.7 INTERVIEWS

315.7.1 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.

315.7.2 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.

315.7.3 INTERVIEWING JUVENILES

If the parents or guardians are not the alleged abusers, a parent of the child should, when practicable, be notified prior to the child being interviewed. If the abuse or neglect is alleged to have occurred in a school or childcare facility, the interview should not take place in any school building or child care facility building where the abuse or neglect is alleged to have occurred.

Prior to conducting an interview on school property, the investigating officer shall notify school officials (N.D.C.C. § 50-25.1-05.6). The notification should include the name of the child, the purpose of the interview and a reference to the statutory authority that allows the interview to be conducted on school property. The investigating officer shall determine who may attend the interview, although school officials may set reasonable conditions as to the time, place and manner of the interview. Care should be taken to minimize disruption of the educational program of the child, other students or school staff.

315.8 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 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.

315.9 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.

315.9.1 SUPERVISOR RESPONSIBILITIES

The Criminal Investigations Division (CID) supervisor should:

- (a) Work with professionals from the appropriate agencies, including the North Dakota Department of Health and Human Services, other law enforcement agencies, medical

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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.

- (b) Activate any available interagency response when an officer notifies the Investigation 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 there.
- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social, and other conditions that may affect the child.

315.9.2 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 and the checklist or form developed for this purpose.
- (b) Notify the CID supervisor so an interagency response can begin.

315.10 STATE MANDATES AND OTHER RELEVANT LAWS

North Dakota requires or permits the following:

315.10.1 RELEASE OF REPORTS

Reports of child abuse or neglect shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (N.D.C.C. § 50-25.1-05; N.D.C.C. § 50-25.1-11).

315.10.2 CHILD FATALITY REVIEW PANEL

Child Fatality Review Panels are required to review deaths of children that meet the criteria established by the North Dakota Department of Health and Human Services. This department shall cooperate fully with the panel (N.D.C.C. § 50-25.1-04.3).

315.11 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.

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