State of Delaware

MEMORANDUM OF UNDERSTANDING

Between

Department of Services for Children, Youth, and Their Families

♦

Delaware Children's Advocacy Center

♦

Department of Justice

♦

Delaware Police Departments

PROCEDURAL AGREEMENT FOR THE INVESTIGATION OF AND COLLABORATIVE INTERVENTION ON CHILD ABUSE AND NEGLECT

Prepared by
The Child Protection Accountability Commission's Abuse Intervention Committee

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SECTION ONE - DIVISION OF FAMILY SERVICES

I. Mandate/ Authority of Division of Family Services (DFS) - 29 *Del. C.* § 9003

A. The DFS has the legal responsibility to:

1. Protect children from abuse, neglect, or dependency by ensuring the best interest and safety of the child, including preserving the family unit whenever the safety of the child is not jeopardized.

2. Receive all reports/complaints of known or reasonably suspected child abuse, neglect, or dependency made in compliance with 29 *Del. C.* § 9003.

10 *Del. C.* § 901 defines:

"Abuse" or "abused child" means that a person:

a. Causes or inflicts sexual abuse on a child; or

b. Has care, custody or control of a child, and causes or inflicts:

1. Physical injury through unjustified force. Unjustified force is defined in 11 *Del. C.* § 468 as including, but is not limited to, any of the following: throwing the child, kicking, burning, cutting, striking with a closed fist, interfering with breathing, use of or threatened use of a deadly weapon, prolonged deprivation of sustenance or medication, or doing any other act that is likely to cause or does cause physical injury, disfigurement, mental distress, unnecessary degradation or substantial risk of serious physical injury or death;

2. Emotional abuse;

3. Torture;

4. Exploitation; or

5. Maltreatment or mistreatment.

Dependency" or "dependent child" means that a person:

a. Is responsible for the care, custody, and/or control of the child; and

b. Does not have the ability and/or financial means to provide for the care of the child; and

1. Fails to provide necessary care with regard to: food, clothing, shelter, education, health care, medical care or other care necessary for the child's emotional, physical or mental health, or safety and general well-being; or

2. The child is living in a non-related home on an extended basis without the consent and approval of the DSCYF or any agency or court licensed or authorized to place children in a non-related home; or

3. The child has been placed with a licensed agency which

certifies it cannot complete a suitable adoption plan.

"Emotional abuse" means threats to inflict undue physical or emotional harm, and/or chronic or recurring incidents of ridiculing, demeaning, making derogatory remarks or cursing.

"Exploitation" means taking advantage of a child for unlawful or unjustifiable personal or sexual gain.

"Neglect" or "neglected child" means that a person:

a. Is responsible for the care, custody, and/or control of the child; and

b. Has the ability and financial means to provide for the care of the child; and

1. Fails to provide necessary care with regard to: food, clothing, shelter, education, health, medical or other care necessary for the child's emotional, physical, or mental health, or safety and general well-being; or

2. Chronically and severely abuses alcohol or a controlled substance, is not active in treatment for such abuse, and the abuse threatens the child's ability to receive care necessary for that child's safety and general well-being, or

3. Fails to provide necessary supervision appropriate for a child when the child is unable to care for that child's own basic needs or safety, after considering such factors as the child's age, mental ability, physical condition, the length of the caretaker's absence, and the context of the child's environment.

3. Investigate all reports that meet the criteria established by the Division. The Division shall contact the appropriate law enforcement agency. This contact will occur upon receipt of any report requiring an investigation, which if true, would constitute violations against a child by those responsible for the care, custody, and control of the child. This contact will occur pursuant to any of the following provisions of 11 *Del. C.*:**§603, §604, §611, §612, §613, §621, §625, §626, §627, §631, §632, §633, §634, §635, §636, §645, §763, §765, §766, §767, §768, §769, §770, §771, §772, §773, §774, §775, §776, §777, §778, §779, §780, §782, §783, §783A, §791, §1100, §1101, §1102, §1106, §1107, §1108, §1109, §1110, §1111, and §1259.**

This list of offenses includes but is not limited to terroristic threatening, endangering the welfare of a child, all assaults, manslaughter, murder, any sexual offense, and kidnapping. For a complete listing with description, see Appendix A.

4. Investigate allegations of child abuse and or neglect in out-of-home settings that are licensed, approved, contracted or operated by DSCYF.

5. Determine if abuse, neglect, or a condition of dependency has occurred or is likely to occur.

6. Determine who abused or neglected the child.

7. Determine to what extent the child is at risk.

8. Determine what services can best meet the needs of the child/family.

II. The Role of the Division of Family Services to Receive Reports and Respond

A. The Division receives reports in the following manner:

1. Telephone - In-state and Out-of-state
24 hours a day, 7 days a week through the toll-free Report Line number (1-800-292-9582)

2. In person to County Division Offices

3. Written report

B. Response to reports of **extra-familial** abuse:

1. The DFS Caseworker will assist the reporting person by determining the immediate risk to the alleged victim.

2. The DFS Caseworker will request that the reporting person call the Police Emergency 911 number or the non-emergency number for the police if appropriate.

3. The DFS Caseworker will follow up with police in a timely fashion to ensure that the reporter made a report to police. If a report was not made, the DFS Caseworker will make the report. If the report meets the definition of a sexual predator, the DFS Caseworker will contact 911. (See Appendix C)

C. In accordance with the Child Abuse Prevention Act of 1997, 16 *Del. C.* Ch 9:

1. DFS shall contact the police when any of the following violations of 11 *Del. C.* is alleged: §603, §604, §611, §612, §613, §621, §625, §626, §627, §631, §632, §633, §634, §635, §636, §645, §763, §765, §766, §767, §768, §769, §770, §771, §772, §773, §774, §775, §776, §777, §778, §779, §780, §782, §783, §783A, §791, §1100, §1101, §1102, §1106, §1107, §1108, §1109, §1110, §1111, and §1259.

2. DFS will contact the police by calling 911 or the appropriate department as listed in the Appendix B.

D. To ensure the safety of the child and the preservation of evidence, any of the following cases must be reported to the police **immediately** upon receipt:

1. If the child has died or may die as a result of suspected or substantiated abuse or neglect

2. During an emergency in progress. This includes children under the age of 12 left without adult supervision

3. If the injury or risk of injury is serious

4. If medical/hospital personnel report that a child has been hospitalized with a life-threatening condition and physical abuse, neglect, or sexual abuse is suspected

5. If medical/hospital personnel report that a child has been hospitalized or treated and physical abuse, bizarre discipline, or sexual abuse is suspected

6. If any physical injury sustained by a child involved the use of a weapon or dangerous instrument

7. Neglect, which may include but is not limited to malnutrition, serious medical neglect, or abandonment

8. Abduction or parental abduction of any child who is in the temporary or permanent custody of the Division

9. During an emergency situation or immediate risk to the child

10. If intercourse or attempted intercourse has occurred within the past 72 hours

E. Cases that must be reported to police **prior** to DFS response:

1. All misdemeanor physical abuse or neglect cases.(see Appendix A)

2. All other intra-familial sexual abuse which if true would constitute a crime.

3. In any situation in which the offender may still have access to the child or would be at risk of harm. (i.e. scheduled visitation)

F. Division of Family Services should provide, to the extent possible, the following information to the police:

- The date of incident
- The time of incident
- The location of incident
- The date the information was received by DFS
- The name of victim
- The age and address of victim
- The name and address of hospital
- Any weapons in the home or involved in the incident
- The nature of the allegations or injury
- The identity of the alleged perpetrator
- Any prior involvement by DFS
- The name, address, and telephone number of the reporting person
- The telephone numbers of all persons involved with the family

III. Consultation and Information Sharing

There may be circumstances when the DFS Caseworker will want to contact the police, the Department of Justice (DOJ), or the Children's Advocacy Center (CAC):

1. To determine whether a crime has been committed
2. To discuss and/or determine if a pattern of abuse, neglect, or dependency exists
3. To determine if police involvement is necessary (see police or Family Division DAG assigned in your county)
4. For consultation in physical or neglect cases (see Family Division DAG or Victim Service Social Worker in your county)
5. For consultation in sexual abuse (see Sex Crimes Unit Head or Victim Service Social Worker in your county)
6. With questions concerning civil litigation (see Family Division DAG assigned in your county)
7. If the DFS Caseworker thinks that there is a safety issue for either the child or the DFS Caseworker, he/she may call 911 and ask for police assistance. The 911 Centers will assign these calls as high priority.
8. If the DFS Caseworker thinks that there may be resistance of removal of children despite judicial approval, he/she may call 911.
9. If the DFS Caseworker has been denied access to the home and there is reason to believe that the child is in immediate danger, he/she may call 911.
10. In consultation with the CAC, determine whether a case would be appropriate for a forensic interview and/or medical examination at the CAC.

SECTION TWO - LAW ENFORCEMENT

I. Mandate/Authority of Law Enforcement:

A. Uphold all federal and state laws and municipal and local ordinances

B. Respond to calls for service

C. Conduct criminal investigations based on departmental policies

D. Assess probable cause and effect an arrest where appropriate

E. Report cases of suspected child abuse, neglect, and dependency (16 *Del. C.* §903 & 29 *Del. C.* § 9003)

F. Assist DFS in the investigation of reports of abuse or neglect or provide the Division, within a reasonable time, an explanation detailing the reasons why it is unable to assist, 16 *Del. C.* §906(b)(3)

G. Take into custody a child that is believed to be dependent or neglected, and shall notify the child's custodian and the Division of Family Services (10 *Del. C.* §1004)

H. Take a child that is suspected of being in imminent danger of serious physical harm or a threat to life as a result of abuse or neglect into temporary emergency protective custody for up to 4 hours and shall immediately notify the child's custodian and DFS (16 *Del. C.* §907)

II. Police Contact with the DFS Report Line

A. Police are considered mandated reporters. If abuse or neglect is suspected, members of the Department are required to report it to the DFS.

B. An officer must call the Division **immediately** in cases where:

1. A child's death in which abuse or neglect is suspected, where the cause of death is under investigation, or where the death has occurred in a child care home or facility.

2. Intra-familial sexual abuse is suspected

3. Physical injury to a child in which abuse or neglect is suspected, including reckless injury

4. Physical injury or threat thereof to a child that occurs during a domestic

violence situation

5. Abandonment or serious neglect

6. The child's primary caretaker is under the influence of legal or illegal substance(s) and is unable to care for the child

7. The child's primary caretaker dies as a result of a domestic violence homicide and or suicide.

8. The child's primary caretaker dies (murder, suicide, or unexplained death) unless there is an appropriate parent or relative present and available to care for the child.

9. A child is a runaway or is dependant and is at the police facility after the police have exhausted efforts to locate the parents/custodian. The police will advise the parents that the parents are responsible for the care of the child. The police will then notify DFS if the parents are unavailable, unable, or unwilling to take custody of the child. The Division is to respond to these reports as urgent (2 hour response, maximum).

C. Police must call the Division **as soon as possible** in cases where:

1. Neglect has been reported directly to the police

2. A child is a witness to a domestic violence incident and Endangering the Welfare of a Child has been charged as per 11 *Del. C.* § 1102 (4)

3. A child is exposed to chronic misdemeanor-level domestic violence incidents that are known to law enforcement

4. A child is being transported by a parent or caretaker who is under the influence of alcohol or a legal or illegal substance and Endangering the Welfare of a Child has been charged as per 11 *Del. C.* § 1102 (5) when:
   a. Enforcement action has been taken, and
   b. Safe care for the child has been secured.

D. Police should provide DFS, to the extent possible, the following information:

- Identifying information including:
  - Name, age and address of the child.
  - Name, age and address of the parent, guardian, or custodian
  - Names and ages of other children in the home and/or the family.
- Nature and extent of the abuse, neglect, or dependency to the child or the risk of abuse/neglect by the child's parents, guardian, custodian, or other person

responsible for his care.

- Any known information of possible previous abuse or neglect.
- Information that might aid in establishing the cause and seriousness of the injury.
- Information about the person or persons responsible for the abuse and/or neglect, including mental illness, pending criminal charges, use of illegal or legal substances and/or abuse, history of violent behavior
- When and where the alleged abuse, neglect, or dependency occurred.
- The reporting person's perception of the danger/risk of the situation or in the residence. This includes whether weapons, dangerous animals or other threats may be present.

SECTION THREE - DEPARTMENT OF JUSTICE

I. Authority/ Responsibility of the Department of Justice (DOJ) -29 *Del. C.* Ch. 25

A. Provide legal counsel, advice, and services to offices, agencies, departments, boards, commissions and officers of the state government

B. Represent such bodies in all proceedings or actions in any court

C. Investigate matters involving public peace, safety, or justice

D. To have charge of all criminal proceedings

E. To recommend revisions to the Constitution and statutes of the State

II. Responsibility to Report Child Abuse and Neglect

A. Employees and other representatives of the Department are considered mandated reporters. If abuse or neglect is suspected, members of the Department are required to report it to either the DFS or the proper police jurisdiction.

B. DOJ employees should provide DFS, to the extent possible, the following information:

- Identifying information including:
  - Name, age and address of the child.
  - Name, age and address of the parent, guardian, or custodian
  - Names and ages of other children in the home and/or the family.
- Nature and extent of the abuse, neglect, or dependency to the child or the risk of abuse/neglect by the child's parents, guardian, custodian, or other person responsible for his care.
- Any known information of possible previous abuse or neglect.
- Information that might aid in establishing the cause and seriousness of the injury.
- Information about the person or persons responsible for the abuse and/or neglect, including mental illness, pending criminal charges, use of illegal or legal substances and/or abuse, history of violent behavior
- When and where the alleged abuse, neglect, or dependency occurred.
- The reporting person's perception of the danger/risk of the situation or in the residence. This includes whether weapons, dangerous animals or other threats may be present.

III. Coordination Amongst Divisions

When 2 or more Divisions (typically Family & Criminal) within the Department are involved with a particular case, the Deputy Attorneys General (DAG) will coordinate with each other to ensure the most appropriate legal outcome is achieved. The DAG prosecuting the criminal matter will take the lead in this process.

Section Four – Children's Advocacy Center of Delaware, Inc.

I. Mission/Vision and Services Provided

A. The mission of CAC is to reduce the devastating long-term effects that child abuse has on children, their families and society through coordinated, child focused services, education, and advocacy.

B. Our vision is "A World without Child Abuse".

C. The CAC provides the following services in a child friendly setting in order to expedite the investigation and prosecution of child abuse cases while ensuring the victims receive immediate, effective and sensitive support.

- Forensic Interviews of child victims and witnesses
- Forensic Interviews of adults and children with disabilities
- Extended Forensic Evaluations
- Mental Health evaluation, crisis intervention and referral
- Medical exams and evaluations provided by Pediatricians and Pediatric Nurse Practitioners
- Case review and tracking
- Facilitation and coordination of multidisciplinary team activities, meetings and interviews
- Expert court testimony
- Technical assistance and training
- Community Outreach
- Victim Advocacy
- Prevention

II. Referrals to the CAC

A. Cases Appropriate for Referral - The CAC provides services for children up to the age of 18 years, who may have been victims of or witnesses to:

- Sexual Abuse
- Physical Abuse
- Neglect
- Domestic Violence
- Homicide
- Other Serious Crimes

The CAC will also conduct forensic interviews of adults with cognitive disabilities.

B. Forensic Interviews - The CAC accepts direct referrals for forensic interviews from the Department of Justice, law enforcement agencies and the DSCYF, including Dover Air Force Base Law Enforcement/Family Advocacy Center and Courts (when court ordered).

No disclosure of abuse is necessary prior to a referral for a forensic interview at the CAC. If at all possible, full forensic interviews should not be conducted prior to referral to the CAC. Rather, the full forensic interview should be conducted at the CAC where all members of the multidisciplinary team are present; the interview is conducted by a trained and experienced forensic interviewer; and the interview is recorded as a permanent record for later reference as necessary.

C. Forensic Evaluations - The CAC will accept referrals for forensic evaluations from the multidisciplinary team.

D. Medical Examinations - The CAC will accept referrals for medical examinations from the Department of Justice, law enforcement agencies, the DSCYF and from the medical community in accordance with the guidelines set forth in Appendix D of the MOU. The CAC will also accept referrals from the non-offending parents or caregivers of children who have been interviewed at the CAC.

E. Mental Health Services - The CAC provides state-wide, full-time mental health services to victims and their families referred to the CAC. A licensed clinical social worker (LCSW) will: contact the victim's family prior to their scheduled appointment; assess the need for crisis mental health services; meet with the victim and his/her family while they are at the CAC; provide immediate intervention as needed; make arrangements for referral to other mental health providers; serve as a member of the multidisciplinary team; conduct "forensic evaluations" as referred by the multidisciplinary team; and follow up with the victim, their family and service providers in order to ensure that recommended services are being provided/received.

III. Scheduling

The CAC provides services statewide and operates centers in all three counties.

A. Hours of Operation
- 8:00 am – 4:30 pm
- For after hour emergencies the forensic interviewers are on call 24/7 and may be reached at the "emergency contact numbers" listed below for each county.
- Late afternoon, early evening interviews can be scheduled when necessary by calling the CAC in each of the three counties.

B. Required Information at time of scheduling:

- Victim's name, address, telephone number, race, and DOB
- Suspect name, address, race, DOB
- Relationship of the parties involved
- Location of the incident
- Brief summary of the allegation(s)
- Other agencies involved

C. Scheduling Time Frames

1. Urgent - No later than 24 hours from date of referral.

2. Non-Urgent - No later than 5 business days from date of referral.

3. Other – The CAC will do everything possible to accommodate requests for special scheduling (i.e. immediate, after hours, etc.) on a case-by-case basis.

SECTION FIVE - COLLABORATIVE INTERVENTION

16 *Del. C.* § 903(b)(3) directs DFS to contact the appropriate law enforcement agency. This contact will occur upon receipt of any report, which if true would constitute violations against a child by those responsible for the care, custody, and control of the child. This contact will occur pursuant to any of the following provisions of Title 11 of the Delaware Code:**§603, §604, §611, §612, §613, §621, §625, §626, §627, §631, §632, §633, §634, §635, §636, §645, §763, §765, §766, §767, §768, §769, §770, §771, §772, §773, §774, §775, §776, §777, §778, §779, §780, §782, §783, §783A, §791, §1100, §1101, §1102, §1106, §1107, §1108, §1109, §1110, §1111, and §1259.** 16 *Del. C.* § 906(4) further directs the assisting law enforcement agency to promptly conduct its own criminal investigation. The following protocol is meant to ensure compliance with this chapter.

I. Suspected/Substantiated Child Abuse/Neglect Deaths

A. Information received by either the police or the DFS which indicates that a child has died or may die as the result of suspected or substantiated abuse and/or neglect or an unexplained and/or suspicious child death must be given priority status and requires an immediate response by both departments.

B. Neither department should assume that the other department has been notified. Therefore, an immediate report should be made to each other.

C. If the cause of death is suspicious, the Investigating Officer must page the On-Call Deputy Attorney General for that county.

II. Joint Investigation Procedures

A. The focus of the intervention is to work collaboratively to ensure the safety of the child(ren) and other family members while also ensuring that each agency's mandates are fulfilled throughout the investigation.

B. When any department has received a report of physical abuse, sexual abuse, child witnessing of domestic violence homicide and or suicide, or other serious types of domestic violence, and or neglect, communication between the departments should begin as quickly as possible to ensure collaboration.

C. Whenever appropriate, cases should be referred to the CAC for interview and or case review services.

D. The following tasks need to be accomplished throughout an investigation:

1. A social assessment of the family, which involves interviews of the identified child(ren) and other family members, home visits, and collateral interviews,

needs to be done to fulfill the DFS mandate. The family's past child welfare and criminal history should be taken into account when assessing the family's current status. A mental health assessment of the child should also be considered.

2. A criminal investigation, which will involve victim, witness and suspect interviews and evidence collection, need to be done to fulfill the law enforcement mandate. The defendant's past child welfare and criminal history should be taken into account when assessing the current case.

3. The DFS Caseworker must approve a safe living arrangement for the child. The Investigating Officer should be informed of the DFS Safety Plan, if developed.

4. A medical assessment should be done if the offense involves a possible physical injury to the child or if child sexual abuse is suspected.

Medical examinations should be conducted at hospitals or at the CAC with forensically trained medical professionals. Medical examinations should follow the guidelines established in Appendix D.

5. 31 *Del. C.* § 323(e) directs the DOJ, DSCYF, and any other state or local agency with the responsibility of investigating child deaths or near deaths due to abuse and/or neglect to report the death or near death to the Child Death, Near Death, Stillbirth Commission (CDNDSC). This report shall be made within 14 days of the determination that the death or near death is a result of abuse and/or neglect. This report can be made to the CDNDSC office at (302) 255-1760.

E. Role of the Division of Family Services:

1. A DFS Caseworker will be assigned and, based on the risk to the child and recency of occurrence, a response time will be assigned.

2. Upon initial disclosure by the victim and/or reporting person, the assigned DFS Caseworker will notify the police of the allegation that, if true, would constitute a crime against a child by those responsible for the care, custody, and control of that child. DFS may contact the police by either calling 911 or the appropriate department as listed in Appendix B.

3. The DFS Caseworker and Investigating Officer will determine whether the case would be appropriate for an interview and medical exam at the Children's Advocacy Center.

4. The DFS Caseworker shall not confront or interview the offender regarding the allegations prior to discussing this with the Investigating Officer. It is understood that the federal Child Abuse Prevention and Treatment Act (CAPTA)

requires the DFS Caseworker to notify the offender of the allegation. Coordination of this notification with the Investigating Officer should maintain the integrity of the investigation.

5. The DFS Caseworker's initial role is to determine whether a non-offending parent or other caretaker is capable of protecting the child (i.e. keeping the offender away) and is capable of providing support for the child. If safety cannot be established, the DFS Caseworker will file for emergency custody.

6. Whenever possible, the DFS Caseworker should attend the intake appointment at the DOJ. The DFS Caseworker should call the Investigating Officer or the DOJ Criminal or Family Division for the date and time.

7. The DFS Caseworker is responsible for notifying the Investigating Officer and the assigned DAG or Victim/Witness social worker of any changes in the family situation that are pertinent to the case, including:

- Worker assignment
- Child's whereabouts and caretaker information
- Case disposition and case transfers
- Change in living arrangements
- Suspect's return to the home
- Intimidation/harassment of the victim or witnesses

F. Role of the appropriate Police Department

1. The Police Department will immediately assign an Investigating Officer to the report. Upon assignment, the Investigating Officer will determine whether the case needs to be reported to DFS so that a collaborative investigation can be initiated.

2. The Investigating Officer will develop a plan on how to proceed with the investigation in conjunction with the DFS Caseworker. Part of the plan should include whether the case would be appropriate for an interview and medical exam at the CAC. All efforts should be made for the Investigating Officer and DFS Caseworker to conduct a joint interview of the child victim.

3. The Investigating Officer's role is to obtain sufficient information to determine whether a crime has been committed. This would include but is not limited to:

- Location of the incident
- Description of the suspect
- Availability and collection of physical evidence, such as photos, clothing, weapons, rape kits
- Names and interviews of witnesses
- Interviews of the suspect

4. The Investigating Officer will report pertinent information to the DFS Caseworker. This includes progress with the criminal investigation, disclosures by witnesses or the suspect, charging decisions. The DFS Caseworker will not record details about the criminal investigation in the Family & Child Tracking System (FACTS).

5. The investigating officer will schedule an intake for any case if the allegation involves:

- Any felony
- Any sex offense
- The death of a child if a police investigation is being conducted, if the death is suspicious, or appears to have been caused by S.I.D.S. or suffocation
- Any misdemeanor involving a child age 12 or younger if the child suffered any kind of physical injury that required any kind of medical treatment and if the injury was allegedly caused by an act of abuse or neglect committed by a parent, relative or any temporary or permanent caregiver or custodian; or
- Endangering the Welfare pursuant to 11 *Del. C.* §1102(a)(1) involving a child age 12 or younger, regardless of whether the child was injured, if the child was exposed to a risk of injury or death.

Cases that meet one or more of the criteria outlined above should be intaked within five days of any arrest or before the case is cleared without an arrest. If possible, the Investigating Officer shall inform the DFS Caseworker of the date, time, and location of the intake appointment.

6. If the offender is arrested, the Investigating Officer shall request a no contact with the victim or any child, as per 11 *Del. C.* §2108(a) & (b), as a specific condition of bail, or no contact during commitment, and/or any other conditions that may be necessary to protect the victim and any other members of the community.

G. Role of the Department of Justice

1. If a case is scheduled for a CAC interview during regular business hours, a DAG responsible for the prosecution of case will, when available attend the interview. If not present for the interview, a DAG will evaluate the intaked cases.

2. Cases will be intaked within 5 days of referral.

3. A DOJ Victim Witness Services Social Worker will be assigned to the case

and will schedule any necessary appointments for the victim to meet with the DAG.

4. The DOJ shall keep the DFS Caseworker, the Investigating Officer, and the CAC, if involved, informed of the case status and all major case decisions, including outcome of the intake meeting, disposition of criminal charges and the specifics of any sentencing order that is rendered.

SECTON SIX - INFORMATION SHARING

I. Authority to Share Confidential Information

CAPTA requires that confidential information be disclosed to any Federal, State, local government entity, or any agent of such entity, that has a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect.

II. Policies and Procedures Regarding Information Sharing

A. The DFS, the police, the CAC, and the DOJ agree to exchange information on families and children when this information is needed to assist an investigation involving a shared client.

B. A subpoena is <u>not</u> needed to share investigative information unless the information requested is protected by a specific statute. Status of alcohol/drug treatment, STD, and HIV are protected and require a court order for release.

C. The requesting department should contact the individual with direct case knowledge to obtain needed information.

D. Original records and reports are not permitted to be mailed from one office to another.

E. The DFS Caseworker shall not provide copies of, or disclose the contents of, any police reports, except to the Family Division Deputy Attorney General assigned to represent DFS.

F. The DFS Caseworker shall immediately refer subpoenas or any other requests for information to the Family Division DAG assigned to DFS who in turn will notify the prosecuting DAG assigned to the case.

G. The CAC shall not provide copies of, or disclose the contents of, any case or interview without prior consent of the multidisciplinary team. The CAC will immediately notify the assigned prosecuting DAG immediately should the CAC receive a subpoena for such information.

SECTION SEVEN - DISPUTE RESOLUTION

The parties shall make every effort to resolve disputes arising out of or relating to this MOU through discussion and negotiation at the lowest levels of agency management. Should discussion and negotiation fail to resolve a dispute arising under this MOU, the parties shall select a dispute resolution team to resolve the dispute. If the dispute cannot be resolved in this fashion, any party may request assistance from the Chair of the Child Protection Accountability Commission or the Chair of the CPAC Abuse Intervention Committee.

SECTION EIGHT – MOU ADMINISTRATION

I. Training

A. It is recognized that, in order for this Memorandum of Understanding to be effective, training by representatives of each department is crucial. Each department is committed to providing cross-departmental training and to the provision of knowledgeable instructors in their respective fields.

B. Training is to be conducted at least once a year, and can be provided as often as may be necessary.

II. Administration and Review

A. The Child Protection Accountability Commission's Abuse Intervention Committee, being the originators of this memorandum, shall assume all responsibilities in properly implementing this memorandum.

B. This memorandum shall become effective upon the signature of all parties and may be modified or terminated by notifying the Chair of the CPAC Abuse Intervention Committee. Modifications or termination may only occur with written agreement by all parties.

APPENDIX A

SPECIFIC OFFENSES FROM 11 *Del. C.* THAT REQUIRE
JOINT DFS POLICE INVESTIGATIONS

A complete description of the offense can be found at http://delcode.delaware.gov.

§ 603. Reckless endangering in the second degree; class A misdemeanor.

§ 604. Reckless endangering in the first degree; class E felony.

§ 611. Assault in the third degree; class A misdemeanor.

§ 612. Assault in the second degree; class D felony.

§ 613. Assault in the first degree; class B felony.

§ 621. Terroristic threatening.

§ 625. Unlawfully administering drugs; class A misdemeanor.

§ 631. Criminally negligent homicide; class E felony.

§ 632. Manslaughter; class B felony.

§ 633. Murder by abuse or neglect in the second degree; class B felony.

§ 634. Murder by abuse or neglect in the first degree; class A felony.

§ 635. Murder in the second degree; class A felony.

§ 636. Murder in the first degree; class A felony.

§ 645. Promoting suicide; class F felony.

§ 763. Sexual harassment; unclassified misdemeanor.

§ 764. Indecent exposure in the second degree; unclassified misdemeanor.

§ 765. Indecent exposure in the first degree; class A misdemeanor.

§ 766. Incest; class A misdemeanor.

§ 767. Unlawful sexual contact in the third degree; class A misdemeanor.

§ 768. Unlawful sexual contact in the second degree; class F felony.

§ 769. Unlawful sexual contact in the first degree; class D felony.

§ 770. Rape in the fourth degree; class C felony.

§ 771. Rape in the third degree; class B felony.

§ 772. Rape in the second degree; class B felony.

§ 773. Rape in the first degree; class A felony.

§ 776. Sexual extortion; class E felony.

§ 777. Bestiality.

§ 778. Continuous sexual abuse of a child; class B felony.

§ 779. Dangerous crime against a child, definitions, sentences.

§ 780. Female genital mutilation.

§ 781. Unlawful imprisonment in the second degree; class A misdemeanor.

§ 782. Unlawful imprisonment in the first degree; class G felony.

§ 783. Kidnapping in the second degree; class C felony.

§ 783A. Kidnapping in the first degree; class B felony.

§ 791. Acts constituting coercion; class A misdemeanor.

§ 1100. Dealing in children; class E felony.

§ 1101. Abandonment of child; class A misdemeanor.

§ 1102. Endangering the welfare of a child; class E or G felony.

§ 1106. Unlawfully dealing with a child; class B misdemeanor.

§ 1107. Endangering children; unclassified misdemeanor.

§ 1108. Sexual exploitation of a child; class B felony.

§ 1109. Unlawfully dealing in child pornography; class D felony.

§ 1110. Subsequent convictions of § 1108 or § 1109 of this title.

§ 1111. Possession of child pornography; class F felony.

§ 1259. Sexual relations in detention facility; class G felony.

APPENDIX B

DESIGNATED PHONE NUMBERS AND CONTACT INSTRUCTIONS

THE DEPARTMENT OF JUSTICE

New Castle County Criminal & Family Division-

Criminal Prosecution (302) 577-8500

- For consultation on sexual abuse cases ask for a Deputy in the Sex Crimes Unit. If a Deputy is not available, ask for the social worker or paralegal in the Sex Crimes Unit.
- For a consultation on physical abuse or neglect cases ask for the Child Abuse and Neglect Deputy in the Domestic Violence Unit. If that person is unavailable ask for any other Domestic Violence Deputy or social worker.
- If the above named personnel are not available for consultation ask for the Director of Victim/Witness Services.

Civil Litigation (302) 577-8400

- For consultation on civil litigation ask for the Deputy assigned to represent the Division of Family Services.

Kent County (Family and Criminal Divisions) (302) 739-4211

- For consultation on sexual abuse cases ask for a Deputy in the Sex Crimes Unit. If a Deputy is not available, ask for the Felony Screening Deputy or paralegal.
- For a consultation on physical abuse or neglect cases ask for the Unit Head for either the Felony or Misdemeanor Units of the Kent County office.
- If the Unit Head is not available, ask for the Assistant Unit Head or the Felony Screening Deputy.
- For consultation on civil litigation ask for the Deputy assigned to represent the Division of Family Services.

Sussex County (Family and Criminal Divisions) (302) 856-5352

- For consultation on sexual abuse cases ask for a Deputy in the Sex Crimes Unit. If a Deputy is not available, ask for the Felony Screening Deputy or paralegal.
- For a consultation on physical abuse or neglect cases ask for the Unit Head for either the Felony or Misdemeanor Units of the Sussex County office.
- If the Unit Head is not available, ask for the Assistant Unit Head or the Felony Screening Deputy.
- For consultation on civil litigation ask for the Deputy assigned to represent the Division of Family Services.

LAW ENFORCEMENT

The Memorandum indicated when to contact the police through 911. Whenever the Memorandum specifies contacting the "appropriate police department", the following non-emergency phone numbers are to be used:

NEW CASTLE COUNTY

Delaware City Police Department – (302) 836-6344

Delaware State Police – (302) 573-2800

Elsmere Police Department – (302) 998-1173

Middletown Police Department - (302) 378-5670

Newark Police Department – (302) 366-7111

New Castle City Police Department – (302) 322-9800

New Castle County Police Department – 573-2800. Calls to detectives can be made at (302) 395-8110.

Newport Police Department – (302) 995-1411

Wilmington Police Department – (302) 654-5151. Calls to detectives can be made at (302) 576-3620.

KENT COUNTY

Camden Police Department – (302) 697-2881

Capitol Police Department – (302) 739-3200

Clayton Police Department – (302) 653-8186

Delaware State Police – (302) 739-4525

Dover Police Department – (302) 736-7111. Calls to detectives can be made at (302) 736-7133

Dover Air Force Base – Office of Special Investigations at (302) 677-2852

Felton Police Department- (302) 284-9365

Frederica Police Department – (302) 335-5417

Harrington Police Department – (302) 398-4495

Milford Police Department – (302) 422-8081

Smyrna Police Department - (302) 653-9217

Wyoming Police Department – (302) 697-7960

SUSSEX COUNTY

Bethany Beach Police Department – (302) 539-1000

Blades Police Department – (302) 629-7329

Bethel Police Department – (302) 875-0454

Bridgeville Police Department – (302) 337-8302

Dagsboro Police Depatment – (302) 732-3777

Delaware State Police – (302) 855-2980

Delmar Police Department – (410) 896-3132

Dewey Beach Police Department – (302) 227-1110

Ellendale Police Department – (302) 422-3584

Fenwick Island Police Department – (302) 539-2000

Frankford Police Department – (302) 335-5417

Georgetown Police Department – (302) 856-6613

Greenwood Police Department – (302) 349-4822

Laurel Police Department – (302) 875-2244

Lewes Police Department – (302) 875-2244

Milford Police Department – (302) 422-8081

Millsboro Police Department – (302) 934-8174

Milton Police Department (302) 684-8547

Ocean View Police Department - (302) 539-9797

Rehoboth Beach Police Department – (302) 227-2577

Seaford Police Department – (302) 629-6644

Selbyville Police Department – (302) 436-5085

South Bethany Police Department – (302) 539-3653

DELAWARE CHILDREN'S ADVOCACY CENTER

New Castle County
A.I. duPont Hospital for Children
1600 Rockland Road, Wilmington, DE 19803
Office: (302) 651-4566 Fax: (302) 651-4569
After hours emergency contact numbers: (302) 388-0292 or (302) 841-1824

Kent County
611 South DuPont Highway, Suite 201, Dover, DE 19901
Office: (302) 741-2123 Fax: (302) 741-2007
After hours emergency contact numbers: (302) 632-7842 or (302) 841-1824

Sussex County
Children's and Families First Building
410 South Bedford Street, Georgetown, DE 19947
Office: 302-854-0323 Fax: 302-854-0335
After hours emergency contact numbers: (302) 841-1648, (302) 856-7069, or (302) 841-1824

DIVISION OF FAMILY SERVICES

Local and Out of State Report Line – 1-800-292-9582

New Castle County

Wilmington Office: 119 Lower Beech St., Third Floor
Wilmington, Delaware 19805
577-3824 577-7792 FAX

Newark Office: University Plaza – Cambridge Building
263 Chapman Road
Newark, Delaware 19702
451-2800 451-2821 FAX

NCC Police Headquarters: 3601 N. Dupont Highway
New Castle, Delaware 19720
577-5509 577-5515 FAX

Kent County

Barratt Building
821 Silver Lake Boulevard
Dover, DE 19904
739-4800 739-6236 FAX

Sussex County

Georgetown: 546 South Bedford Street
Georgetown, Delaware 19947
856-5450 856-5062 FAX

Pyle: Rt. 2
P. O. Box 281-1
Frankford, DE 19945
732-9510 732-5486 FAX

Seaford: 350 Virginia Avenue
Seaford, Delaware 19973
628-2024 628-2041 FAX

Milford: 11-13 Church Avenue
Milford, Delaware 19963
422-1400 422-1519 FAX

APPENDIX C

DELAWARE STATE SENATE

138TH GENERAL ASSEMBLY

SENATE BILL NO. 346

AS AMENDED BY

SENATE AMENDMENT NO. 1

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO UNLAWFUL SEXUAL INTERCOURSE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

WHEREAS, illicit sexual activity between adult males and teenage girls is contributing to the high teenage pregnancy rates in Delaware and the nation; and

WHEREAS, roughly 12 percent of all babies born in this state are born by teenage girls; and

WHEREAS, from 1991-1993 there were 609 babies in Delaware by girls 16 1/2 years old or less; and

WHEREAS, nationally, 39 percent of 15-year-old mothers report the fathers of their babies are 20 years old or older; and

WHEREAS, many of these adult males are repeat offenders who have fathered more than one child by different teenage mothers, yet accepted little or no responsibility for their actions of for the support of their children; and

WHEREAS, in the United States, one in every 16 girls between the ages of 15 and 19 years has a child. In Delaware, approximately one in every eight children are born to a teenage mother; and

WHEREAS, $ 69 million was spent on the consequences of teen pregnancy in Delaware in 1993; and

WHEREAS, society can no longer ignore or disregard statutory rape and the consequent increase in teenage pregnancies. The laws prohibiting adults from having sexual relations with persons under the age of 16 years must be more vigorously

enforced; and

WHEREAS, adult males who have sexual intercourse with minor girls must be held more accountable for their conduct and must be required to accept responsibility under current law for their actions; and

WHEREAS, the State should impose more severe sanctions when the adult male *is* significantly older than the victim; and

WHEREAS, our state agencies and schools must recognize these cases *as* child abuse cases and make appropriate referrals to law enforcement; and

WHEREAS, it is the intent of the General Assembly to enhance the penalty for statutory rape when an adult is 10 years or older than the victim or when the victim is under the age of 14 and to make certain our current law prohibiting sexual intercourse with minor children by adults is rigorously enforced.

NOW THEREFORE:

BE IT ENACTED BY THE GENERAL ASSEMBLY:

Section 1. This Act shall be referred to *as* the "Sexual Predator Act of 1996."

Section 3. Amend § 773, Title 11, Delaware Code, by deleting "." in subsection 2 and inserting "; or" and by inserting as new subsection (3) the following:

"(3) The victim *is* less than 16 years of age and the person is 10 years or older than the victim or the victim is less than 14 years old and the person is 19 years of age or older and is not otherwise subject to prosecution under § 775."

Section 4. Amend § 773, Title 11, Delaware Code by inserting after the words "Class C Felony" as found in the Title of said section the words "; Class B Felony" and by inserting in the section after the words "Class C Felony" and before the "." the words "unless the person is guilty pursuant to subsection (3) of this section in which case Unlawful Sexual Intercourse in the third degree is a Class B Felony. Notwithstanding any provisions to the contrary, in cases where acts in violation of this section have resulted in the birth of a child who is in the custody and care of the victim or the victim's legal guardians, the court shall order that the Defendant, as a condition of any probation imposed pursuant to a conviction under this section, timely pay any child support ordered by the Family Court for such child."

Section 5. %The Attorney General's Office, the Department of Health and Social Services, the Department of Services to Children Youth and Their Families, the Department of Public Instruction and law enforcement agencies statewide will establish a cooperative agreement, specifying the various roles each agency will play in making certain our laws governing unlawful sexual intercourse with minors are rigorously enforced. The Department of Public Safety, with cooperation from the above referenced agencies, shall report to the Governor and the General Assembly on enforcement efforts pursuant to this Act by June 1, 1998.

MEMORANDUM OF UNDERSTANDING FOR THE STATE OF DELAWARE

between

DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DEPARTMENT OF PUBLIC INSTRUCTION

DEPARTMENT OF PUBLIC SAFETY

DEPARTMENT OF JUSTICE

Blades Police Department
Bridgeville Police Department
Camden-Wyoming Police Department
Capitol Police Depairtment
Dagsboro Police Department

D.N.R.E.C. Div. of Parks & Recreation
Delaware River and Bay Authority
Delaware State Police
Delmar Police Department
Dover Air Force Base Dover
Police Department Elsmere
Police Department Felton
Police Department Fenwick
Island Police Department Georgetown
Police Department Greenwood Police
Department

Harrington Police Department
Laurel Police Department
Lewes Police Department
Milford Police Department
Millsboro Police Department
Milton Police Department

New Castle City Police Department
New Castle County Police Department
Newark Police Department
Newport Police Department
Rehoboth Police Department
Seaford Police Department
Smyrna Police Department South
Bethany Police Department
University of Delaware
Wilmington Department of Police

PROCEDURAL AGREEMENT FOR THE REPORTING AND INVESTIGATION OF VIOLA
TIONS

December, 1996

OF THE SEXUAL PREDATOR ACT OF 1996

MEMORANDUM OF UNDERSTANDING

DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DEPARTMENT OF PUBLIC INSTRUCTION

DEPARTMENT OF JUSTICE

DELAWARE POLICE DEPARTMENTS

The Department of Services for Children, Youth and Their Families, the Department of Health and Social Services, the Department of Public Instruction, the Department of Justice and the undersigned Delaware Police Departments, wish to improve the services which they provide to children and their families. We are committed to interagency cooperation in an effort to protect children, reduce intervention trauma for the child and the family, and assist the child and family during the investigation, prosecution and treatment.

This memorandum seeks to define and clarify the roles and expectations of each department, to set standards for interagency cooperation and to establish guidelines for collaborative intervention, cross reporting, information sharing, training and problem resolution.

We further agree to distribute a complete copy of the Memorandum of Understanding to our respective employees. This Memorandum of Understanding shall be effective from the date of signature of all parties.

MEMORANDUM OF UNDERSTANDING

The Sexual Predator Act of 1996, Senate Bill 346, was signed into law by Governor Thomas R. Carper on August 1, 1996. In recognition of the fact that illicit sexual activity between adult males and teenage girls is contributing to the high teenage pregnancy rates in Delaware and the nation, this legislation is intended to combat teen pregnancy by imposing more severe criminal sanctions on adult males who are significantly older than their victims and holding them financially accountable when children are born as a result of violations of this law.

This legislation and the cooperative agreement required by it are part of a multi-faceted effort to combat teenage pregnancy and reform welfare in Delaware. All too often, older men prey on young, vulnerable girls. Nationally, two-thirds of the births to teenage mothers are fathered by men 20 and older. In three recent years, over 600 babies were born in Delaware to girls under 16 1/2 years of age. As they are encouraged to postpone sexual activity, the State has an obligation to do all it can to prevent young girls from being exploited by adults. By creating a cooperative effort among schools, social service agencies and law enforcement to target this crime, Delaware has one more weapon in the fight against teenage pregnancy.

The Sexual Predator Act of 1996 requires the Attorney General's Office, the Department of Health and Social Services, the Department of Services to Children, Youth and Their Families, the Department of Public Instruction and law enforcement agencies statewide to establish a cooperative agreement, specifying the various roles each agency will play in making certain our laws governing unlawful sexual intercourse with minors are rigorously enforced. Senate Bill 346 also requires the Department of Public Safety, with cooperation from the above referenced agencies, to report to the Governor and the General Assembly on enforcement efforts pursuant to this Act by June 1, 1998.

SPECIFIC PROVISIONS OF THE LAW

This law increases penalties for adults who have sexual relations with a minor 10 or more years younger, as well as persons who have sexual intercourse with minors under the age of 14. Specifically, the Sexual Predator Act of 1996 doubles the penalty for this class of statutory rape by elevating it from a Class C felony, with a penalty of 0-10 years, to a Class B felony, with a penalty of 2-20 years, if:

- the victim is younger than 16 years of age and the predator is 10 or more years older than the victim; or
- the victim is younger than 14 years of age and the predator is 19 years of age or older.

The Sexual Predator Act of 1996 also requires that in the case of any conviction of a violation of this law which results in the birth of a child who is in the custody and care of the victim or the victim's legal guardians, the court shall order, as a condition of any probation imposed, that the defendant timely pay any child support ordered by Family Court.

ROLES AND RESPONSIBILITIES

I. Division of Family Services, Department of Children, Youth and Their Families

The Division of Family Services shall:

- expand its role to accept reports of sexual predators, regardless of their relationship to the victim;
- when reports are made to DFS which meet the definitions of sexual predator, regardless of whether it is intra-familial or extra-familial, immediately report the situation, along with all information collected in the intake process, to the police by the 911 system;
- participate in joint investigations with law enforcement on all intra-familial sexual predator reports;
- maintain statistics for all sexual predator reports received and reported to the police;
- assist in developing an education document(s) about the legislation; and
- work in partnership with other signatories to this Memorandum of Understanding to ensure appropriate practice of this law.

II. Department of Health and Social Services

The Department of Health and Social Service shall:

- publish, through the Bureau of Vital Statistics, a monthly report of all births to young women under 16 years of age, to be distributed to the Division of Family Services and the Division of Child Support Enforcement for informational,

investigative and/or child support enforcement purposes;

- assume responsibility for the collection of child support payments from the non-custodial parent;
- provide relevant information concerning cases involving sexual predators to the Division of Family Services, however, the use of such information shall be limited to the purpose of prevention, investigation and prosecution of violations under the Sexual Predator Act of 1996;
- collaborate with other signatories to this Memorandum of Understanding to identify and target at-risk clients;
- assist in developing an education document(s) about the legislation; and
- work in partnership with other signatories to this Memorandum of Understanding to ensure appropriate practice of this law.

III. Department of Public Instruction

The Department of Public Instruction shall:

- assist in developing an education document(s) about the legislation;
- assist in the dissemination of information about the legislation to parents and Center personnel regarding their responsibility for reporting; and
- work in partnership with other signatories to this Memorandum of Understanding to ensure appropriate practice of this law.

IV. Law Enforcement/Department of Justice

Law Enforcement Agencies statewide and the Department of Justice will vigorously enforce the Sexual Predator Act of 1996 as follows:

- Law Enforcement Agencies shall receive reports of a sexual assault pertaining to the new sexual predator legislation. This information can be brought to their attention via several sources, such as schools, uniform personnel, relatives of alleged victims, or the 911 emergency communication system.
- In all cases, the agency conducting the investigation shall contact the Division of Family Services if they have not already been contacted and provide them with key information.
- All incidents shall be investigated by an assigned investigator and then referred to the Attorney General's Office by means of a scheduled intake for further processing and data collection.
- The Attorney General's Office will periodically provide any available data on reports of these incidents to the Division of Family Services and shall work in partnership with other signatories to this Memorandum of Understanding to ensure appropriate practice of this law.

V. Department of Public Safety

In addition to its law enforcement role and responsibilities, the Department of Public Safety shall:

- report to the Governor and the General Assembly on enforcement efforts pursuant to the Sexual Predator Act of 1996 by June 1, 1998, with the cooperation of the other signatories to this Memorandum of Understanding; and
- work in partnership with other signatories to this Memorandum of Understanding to ensure appropriate practice of this law.

KEY INFORMATION TO BE PROVIDED TO THE DIVISION OF FAMILY SERVICES

All sexual predator reports made to the Division of Family Services from the community and from employees of law enforcement agencies, school districts, the Department of Public Instruction, and the Department of Health and Social Services shall include the following key information:

- name, age, and home address of child;
- name, approximate age, and home address of the predator;
- name and home address of the parent, guardian, or custodian;
- time and location of reported abuse; and
- as much of the following as is known by or available to the reporter:
    - nature and extent of situation; and
    - other information about the predator, such as mental illness, pending criminal charges, substance abuse.

The monthly report of the Bureau of Vital Statistics shall include such official birth information as it regularly records.

APPENDIX D

Medical Protocol for Acute Child Physical Abuse and Sexual Abuse Cases

I. PURPOSE

The purpose of this protocol is to improve the efficiency and effectiveness of medical intervention into child abuse cases, to minimize the stress created for the child during an examination and investigation, and ultimately improve outcomes for children.

It is recognized that in more than 90% of child sexual abuse cases, no specific medical findings will exist. This is in contrast to physical abuse cases where a physical injury will always be present. However the examination may provide reassurance to the victim and the family regarding the child's well being.

Information leading to a reasonable suspicion of acute physical abuse or sexual abuse may be provided by the child, their parent, or a third party. An acute medical examination is warranted for a child that is thought to be a victim of child abuse and has any of the following:

- History of genital or rectal bleeding, pain or discharge in the setting of possible sexual abuse.
- Child sexual abuse is suspected and the abuse occurred within the previous 72 hours
- Active bleeding; deformity; moderate or severe pain; altered mental status; difficulty breathing in the setting of possible acute physical abuse.
- Any time a DFS worker, police officer, or other provider is concerned for the acute, physical well-being of the child and feels that any delay in medical treatment would put the child at risk in any way.

II. ROLE AND RESPONSIBILITIES

A. The role of the Attending Emergency Department physician or Forensic Nurse Examiner (FNE) is to provide a comprehensive medical evaluation which, when appropriate, includes an in-depth medical examination of the child, in which the examiner has experience and training in child sexual assault, physical abuse and neglect.

B. The role of a physician, such as Emergency, Family practice or Pediatrician, is to provide a screening evaluation for abuse, knowing that comprehensive medical care is available. Comprehensive medical care is available at Emergency Departments with forensic nurse programs as well as the Child Advocacy Center (CAC).

It is the responsibility of each Emergency Department conducting such exams to have personnel that are properly trained in pediatric forensics and evidence collection and have experience with child sexual and physical abuse examinations. It is also the responsibility of each Emergency Department to acknowledge that comprehensive medical care is available for victims of sexual assault. If experienced staff is not available at a facility the

child may need to be sent to another facility to have a comprehensive medical exam.

C. A physician may take a child that is suspected of being in imminent danger of serious physical harm or a threat to life as a result of abuse or neglect into temporary emergency protective custody for up to 4 hours and shall immediately notify the child's custodian and DFS (16 *Del. C.* §907)

III. REPORTING ALLEGATIONS OF ABUSE

A. The term child abuse and neglect includes the physical injury by other than accidental means, negligent treatment, sexual abuse, maltreatment, mistreatment, torture, emotional abuse, exploitation, or abandonment of a child under the age of 18. (This does not include infants left under the Safe Arms for Babies statute.16 *Del. C.* §907 A.)

B. All reports of suspected child abuse or neglect must be made to the Delaware Division of Family Services Report line (800-292-9582).

C. Complete Mandated Report Form. (See attached)

IV. PROCEDURAL GUIDELINES FOR MEDICAL EVALUATIONS

A. A comprehensive medical evaluation should be performed if there is a physical injury or one is suspected.

   If child sexual abuse is suspected and the abuse occurred within the previous 72 hours, an examination should be done immediately. If beyond the 72 hours, consideration should be given to scheduling a medical evaluation at the CAC.

B. Participating hospitals will provide priority treatment to sexual abuse or serious physical abuse victims in the Emergency Department and privacy will be established for the victim as quickly as possible.

C. The medical examination should be performed by a specially trained and experienced examiner. Hospitals should develop guidelines how to access these individuals in the event they are not on duty.

D. Hospitals will notify the Division of Family Services of possible sexual abuse or physical abuse when medical personnel have reason to suspect or identify abuse.

E. Prior to the medical evaluation of the child, the examiner should gather history from the caretaker, the DFS Caseworker, and or the Investigating Officer. Minimal questioning should occur with the child under 12 and should be limited to that which is needed to care for the patient. Specific questions regarding abuse and whether or not contact occurred should not be asked at this point. Spontaneous statements made by the patient should be recorded in direct quotes. Those present during the evaluation should also be

noted in the medical record.

F. The examination should follow guidelines established by the American Academy of Pediatrics, the American College of Emergency Physicians and the International Association of Forensic Nurses. Examinations should be properly documented to include descriptions and photographs of injuries when possible.

G. Hospitals will provide a copy of the Emergency Department record in sexual abuse cases and physical abuse cases upon written request from one of the participating agencies, if the appropriate release information has been provided.

State of Delaware

The Department of Services for Children, Youth, and Their Families

DIVISION OF FAMILY SERVICES
CHILD ABUSE/NEGLECT MANDATORY REPORTING FORM
(Title 16, Delaware Code, Chapter 9, Subsections 901-914)
Toll Free 24-Hour Report Line 1-800-292-9582

INSTRUCTIONS: Any physician, and any other medical person in the healing arts including any person licensed to render services in medicine, osteopathy, dentistry, any intern, resident, nurse, medical examiner, school employee, social worker, psychologist, or any other person who knows or in good faith suspects child abuse or neglect shall make an oral report to the Report Line using the number at the top of this page in accordance with 16 Del. C. § 903 and 904.

With 72 hours after the oral report, send a completed Child Abuse/Neglect Mandatory Reporting Form to the following address: Please type or print the information and sign the form on the back.

DIVISION OF FAMILY SERVICES – STATE OF DELAWARE
3601 North Dupont Highway
New Castle, DE 19720-6315

IDENTIFYING INFORMATION

Child's Name (Last, First, Initial)	Date of Birth/ Age	Sex	Race	Victim (Yes/No)
1.				
Current Address:				
2.				
Current Address:				
3.				
Current Address:				
4.				
Current Address:				
5.				
Current Address:				

Parents'/Custodians'/Caretakers' Names (Last, First, Initial)	Date of Birth/ Age	Sex	Race	Perpetrator (Yes/No)
Mother 6.				
Current Address:				
Father 7.				
Current Address:				
Custodian/Caretaker (Relationship) 8.				
Current Address:				

Please specify for numbers 1 - 8 above:

Foreign language spoken: #'s_____ Specify type:_____

Disabilities: #'s_____ Specify type:_____

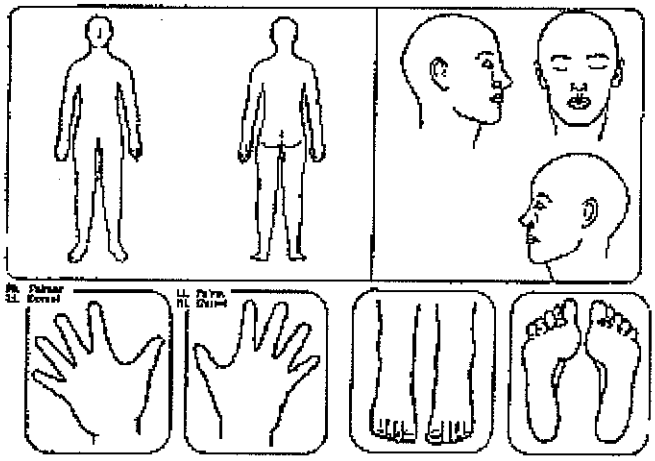
Document No.: 37-20-10-03-05-13
Revised 8-14-07

DESCRIPTION

1. Describe the child's current condition/injuries and the reason you suspect abuse/neglect. Include evidence, if known, of prior abuse and/or neglect to this child or sibling. Add pages or attach further written documentation as needed.

2. If applicable, note the exact location of any injury by placing a number on the model below. Use the lines to the right of the models to describe the corresponding injury that each number represents. Check the category of injuries below.

_____ Physical Abuse _____ Sexual Abuse _____ Physical Neglect



3. Actions taken "T" or pending "P"

_____ Medical Examination
_____ X-Rays
_____ Photographs
_____ Notification of Police
_____ Notification of Medical Examiner
_____ Other: _____

REPORTING SOURCE (CONFIDENTIAL)

Signature *Title or Relationship to Child* *Date of Report*

Facility/Organization *Address* *Telephone No.*

REPORT LINE USE ONLY

Date of Oral Report: _____ Report was: _____ Accepted _____ Rejected

Date Written Report Received: _____

Prior DFS Case Activity/Reports? _____ Yes _____ No If "yes", specify dates: _____