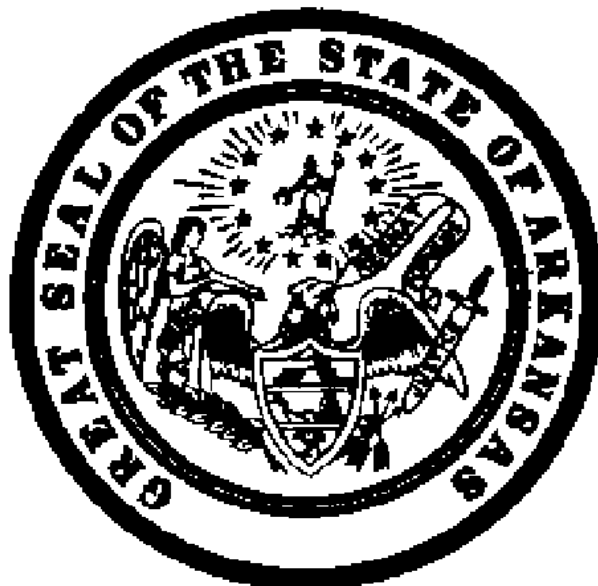


**ARKANSAS DEPARTMENT OF
HUMAN SERVICES**

**DIVISION OF CHILDREN AND
FAMILY SERVICES**

Child Maltreatment Assessment Protocol



INTRODUCTION:

The following is a protocol to be used when a DCFS Family Service Worker (FSW) or the Arkansas State Police Crimes Against Children Division (CACD) Investigator conducts a Child Maltreatment Assessment. The protocol was developed under the authority of ACA 12-12-502(a), which authorizes the director to promulgate regulations to carry out the Child Maltreatment Act. It identifies and defines the various types of child maltreatment a FSW/CACD Investigator may encounter during an assessment. The protocol also identifies when and from whom an allegation of child maltreatment may be taken. Finally, it identifies those conditions, which must be met before an allegation of abuse or neglect can be founded (determined to be true). Now, the FSW/CACD Investigator must show that a “preponderance of the evidence” supports the allegation of child maltreatment. This is a higher standard of evidence and should be understood to mean it is “more likely than not” that abuse or neglect occurred.

The Arkansas Child Maltreatment Hotline must accept reports of alleged maltreatment if the child or the child’s family is present in Arkansas OR the incident occurred in Arkansas. If the child or its family live in another state, the Hotline shall: (1) screen out the report, (2) transfer the report to the other state’s hotline and (3) send a copy to the appropriate investigating agency to initiate courtesy interviews. If the incident occurred in Arkansas, but the victim, parents or offender no longer reside in Arkansas the Hotline will accept the report and the Arkansas investigating agency will contact the other state to request a courtesy interview with the out-of-state subject of the report.

No school, Head Start Program, or day care facility shall:

- Prohibit an employee or volunteer from directly reporting child maltreatment to the child abuse hotline.
- Require an employee or volunteer to obtain permission or notify any person, including an employee or supervisor, before reporting child maltreatment to the child abuse hotline.

If the nature of a child maltreatment report (Priority I or II) suggests that a child is in immediate risk begin the investigation immediately or as soon as possible.

For additional information regarding all types of child maltreatment and investigative powers and responsibilities, see the Arkansas Child Maltreatment Act.

CHILD MALTREATMENT ASSESSMENT PROTOCOL

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CHILD MALTREATMENT ASSESSMENT PROTOCOL

DEFINITIONS

I. GENERAL:

- A. **ABUSE** - Any of the following acts or omissions by a parent, guardian, custodian, foster parent, person eighteen (18) years of age or older living in the home with a child whether related or unrelated to the child, or any person who is entrusted with the juvenile's care by a parent, guardian, custodian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible for the juvenile's welfare but excluding the spouse of a minor:
- Extreme or repeated cruelty to a juvenile;
 - Engaging in conduct creating a realistic and serious threat of death, permanent or temporary disfigurement, or impairment of any bodily organ.
 - Injury to a juvenile's intellectual, emotional or psychological development as evidenced by observable and substantial impairment of the juvenile's ability to function within the juvenile's normal range of performance and behavior.
 - Any history that is at variance with the history given.
 - Any non-accidental physical injury.
 - Any of the following intentional or knowing acts, with physical injury and without justifiable cause:
 1. Throwing, kicking, burning, biting or cutting a child;
 2. Striking a child with a closed fist;
 3. Shaking a child; or
 4. Striking a child age seven or older on the face or head.
 - Any of the following intentional or knowing acts, with or without injury:
 1. Striking a child age six or younger on the face or head;
 2. Shaking a child age three or younger;
 3. Interfering with a child's breathing;
 4. Pinching, biting, or striking a child in the genital area;
 5. Tying a child to a fixed or heavy object or binding or tying a child's limbs together;
 6. Giving a child or permitting a child to consume or inhale a poisonous or noxious substance not prescribed by a physician that has the capacity to interfere with normal physiological functions;

DEFINITIONS

7. Giving a child or permitting a child to consume or inhale a substance not prescribed by a physician that has the capacity to alter the mood of the child, including, but not limited to, the following:
 - Marijuana;
 - Alcohol (excluding alcohol given to a child during a recognized and established religious ceremony or service);
 - Narcotics; or
 - Over-the-counter drugs (if a person purposely administers an overdose to a child or purposely administers an inappropriate over-the-counter drug to a child and the child is detrimentally impacted by the overdose or the over-the-counter drug;
8. Exposing the child to chemicals that have the capacity to interfere with normal physiological functions, including, but not limited to , chemicals used or generated during the manufacture of methamphetamine; or
9. Subjecting a child to Munchausen’s Syndrome by Proxy or a Factitious Illness by Proxy if the incident is reported and confirmed by medical personnel or a medical facility.

NOTE: The prior list of unreasonable actions is considered illustrative and not exclusive.

- No unreasonable action shall be construed to permit a finding of abuse without having established the elements of abuse.
- “Abuse” shall not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes or restraining or correcting the child.
- Abuse shall not include when a child suffers transient pain or minor temporary marks as the result of a reasonable restraint if:
 1. The person exercising the restraint is an employee of an agency licensed or exempted from licensure under the Child Welfare Agency Licensing Act;
 2. The agency has policy and procedures regarding restraints;
 3. No other alternative exists to control the child except for a restraint;
 4. The child is in danger of hurting himself or others;
 5. The person exercising the restraint has been trained in properly restraining children, de-escalation, and conflict resolution techniques; and

DEFINITIONS

6. The restraint is for a reasonable period of time.
 - Reasonable and moderate physical discipline inflicted by a parent or guardian shall not include any act that is likely to cause and which does cause injury more serious than transient pain or minor temporary marks.
 - The age, size and condition of the child and the location of the injury and the frequency of recurrence of injuries shall be considered when determining whether the physical discipline is reasonable or moderate.

- B. **DEATH** – The permanent cessation of all vital, bodily functions. Death is not a type of child maltreatment. However, it may be the result of child maltreatment. Death can result from any type of child maltreatment. When a child dies as the result of maltreatment, document in CHRIS the type of child maltreatment that resulted in the death and specify “death” as the injury characteristic.

- C. **NEGLECT** - Acts or omissions of a parent, guardian, custodian, foster parent, or any person who is entrusted with the juvenile’s care by a parent, custodian, guardian, or foster parent, including, but not limited to, an agent or employee of a public or private residential home, child care facility, public or private school, or any person legally responsible under state law for the juvenile’s welfare, but excluding the spouse of a minor and the parents of a married minor, which constitute:
 - Failure or refusal to prevent the abuse of the juvenile when the person knows or has reasonable cause to know the juvenile is or has been abused;
 - Failure or refusal to provide the necessary food, clothing, or shelter, and education required by law, or medical treatment necessary for the juvenile’s well-being, except when the failure or refusal is caused primarily by the financial inability of the person legally responsible and no services for relief have been offered;
 - Failure to take reasonable action to protect the juvenile from abandonment, abuse, sexual abuse, sexual exploitation, neglect, or parental unfitness where the existence of such condition was known or should have been known;
 - Failure or irremediable inability to provide for the essential and necessary physical, mental, or emotional, needs of the juvenile including the failure to provide a shelter that does not pose a risk to the health or safety of the juvenile;
 - Failure to provide for the juvenile’s care and maintenance, proper or necessary support, or medical, surgical, or other necessary care;

DEFINITIONS

- Failure, although able, to assume responsibility for the care and custody of the juvenile or participate in a plan to assume such responsibility; or
- Failure to appropriately supervise the juvenile that result's in the juvenile's being left alone at an inappropriate age or in inappropriate circumstances creating a dangerous situation or a situation that puts the child at risk of harm..

D. **SEXUAL ABUSE** –

- By a person ten (10) years of age or older to a person younger than eighteen (18) years of age:
 1. Actual or attempted sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion;
 2. Indecent exposure, or forcing, the watching of pornography or live sexual activity
- By a person eighteen (18) years of age or older to a person not his or her spouse who is younger than sixteen (16) years of age:
 1. Actual or attempted sexual intercourse, deviate sexual activity, or sexual contact or solicitation;
- By a sibling or caretaker to a person younger than eighteen (18) years of age:
 1. Actual or attempted sexual intercourse, deviate sexual activity, or sexual contact or solicitation;
- By a caretaker to a person younger than eighteen (18) years of age:
 1. Forcing or encouraging the watching of pornography;
 2. Forcing, permitting, or encouraging the watching of live sexual activity;
 3. Forcing listening to a phone sex line; or
 4. Committing an act of voyeurism as defined by A.C.A. §5-16-02
- By a person younger than ten (10) years of age to a person younger than eighteen (18) years of age:
 1. Actual or attempted sexual intercourse, deviate sexual activity, or sexual contact by forcible compulsion.

II. **MALTREATMENT TYPES:**

- A. Most of the types of child maltreatment defined in the Child Maltreatment Assessment Protocol (PUB 357) were taken directly from the Arkansas Child Maltreatment Act (e.g., Kicking a Child and Educational Neglect).
- B. Those types of child maltreatment not defined directly by the Arkansas Child Maltreatment Act are clearly implied by content in the Act. For example, “Brain Damage/Skull Fracture” in PUB

357 is implied by “bone fracture, internal injuries” in the Act. Additionally, “Substantial Risk of Death” in the Act implies “Threat of Harm” in PUB 357.

III. ACCEPTING CHILD ABUSE HOTLINE REPORTS OF CHILD MALTREATMENT NAMING AN ADULT AS THE VICTIM:

The Child Abuse Hotline shall only accept reports of child maltreatment naming an adult as the victim if:

- A. The alleged offender is a caretaker of any child; and
- B. The person making the report is one of the following:
 - 1. The adult victim (who was a child at the time of the maltreatment);
 - 2. A law enforcement officer;
 - 3. The victim’s counselor or therapist; or
 - 4. The offender’s counselor or therapist.

CHILD MALTREATMENT ASSESSMENT PROTOCOL

ABANDONMENT (Priority I)

I. Definition

Ark. Code Annotated 12-12-503(1): "Abandonment" means the failure of the parent to provide reasonable support and to maintain regular contact with the juvenile through statement or contact, when the failure is accompanied by an intention on the part of the parent to permit the condition to continue for an indefinite period in the future, and failure to support or maintain regular contact with the juvenile without just cause or an articulated intent to forego parental responsibility.

NOTE: Abandonment is parental conduct, which demonstrates intent to relinquish all parental or custodial rights and claims to the child. Abandonment is also defined as any parental or caretaker conduct which evinces a settled purpose to forego parental duties and relinquish parental claims to the child. Abandonment does not apply to the parents of a married minor, ACA 12-12-503(1)(B).

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child was abandoned.

B. Usage

The reporter has reason to believe that a child has been abandoned due to the parent or caretaker's disregard of his or her responsibilities to the child.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that a child has been abandoned; and
- Secured a preponderance of evidence that the parent's or guardian identity and/or whereabouts are unknown or that the parent or guardian is no longer demonstrating an interest in retaining custody or caring for the child.

ABUSE WITH A DEADLY WEAPON (Priority I)

- I. Definition - The assault or attempt to assault an individual by inflicting a wound, or conduct that reasonably could be expected to result in a wound, or the infliction of a wound, as the direct, non-accidental action of a parent or caretaker by any object which under the circumstances in which it is used creates a realistic and serious threat of causing death or serious injury. This may also include using a weapon to threaten a child:

A gunshot, stabbing injury, other injuries, or the attempt to inflict such injury using any deadly weapon.

A deadly weapon is any weapon or object that, under the circumstances in which it is used, is readily capable of causing death or serious physical injury.

Assault is conduct, which creates a substantial risk of death or physical injury.

- II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child has received an injury as a result of abuse with a deadly weapon.

- B. Usage

The reporter has reason to believe that abuse with a deadly weapon resulted from one of the following:

- A direct, non-accidental action of the parent or caretaker (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person, which resulted in abuse with a deadly weapon (failure to protect).

- III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the parent or caretaker attempted to injure the child; or
- Verified that the child currently has a wound caused by a deadly weapon or that the child has received such a wound in the past (verification of past wounds must come from a physician, a law enforcement officer, an equally credible witness or by a direct admission from the alleged offender); and
- Secured a preponderance of evidence that the wound was sustained as the result of abuse or neglect as defined in Section I.
- Verified that a weapon was used to threaten bodily harm.

BONE FRACTURES (Priority I)

I. Definition

A fracture is a broken bone. There are ten types of fractures, the most common being:

- Chip fracture: A small piece of bone is flaked from the major part of the bone
- Simple fracture: The bone is broken, but there is no external wound.
- Compound fracture: The bone is broken, and there is an external wound leading down to the site of fracture or fragments of bone protrude through the skin.
- Comminuted fracture: The bone is broken or splintered into pieces.
- Spiral fracture: Twisting causes the line of the fracture to encircle the bone in the form of a spiral.
- Coroner fracture (metaphysical): Caused by a pulling or jerking of an extremity.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child sustained a bone fracture as a result of maltreatment.

B. Usage

The reporter has reason to believe that the bone fracture resulted from one of the following:

- A direct, non-accidental action of the parent, caretaker, or other person responsible for the child's welfare (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person, which resulted in a bone fracture (failure to protect).

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child currently has a bone fracture or has sustained a bone fracture in the past (such verification must come from a physician); and
- Secured a preponderance of evidence that the bone fracture was sustained as the result of the abuse or neglect as defined in Section I.

BRAIN DAMAGE/SKULL FRACTURE (Priority I)

I. Definition

Brain damage is an injury to the large, soft mass of nerve tissue contained within the cranium/skull.

Skull fracture is a broken bone in the skull.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child sustained brain damage or a skull fracture as the result of maltreatment.

B. Usage

The reporter has reason to believe that the brain damage or skull fracture resulted from one of the following:

- A direct, non-accidental action of the parent, caretaker or other person responsible for the child's welfare (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person which resulted in the child sustaining brain damage or a skull fracture (failure to protect).

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child is currently brain damaged or has a fractured skull or has been brain damaged or sustained a skull fracture in the past (such verification must come from a physician); and
- Secured a preponderance of evidence that the brain damage or skull fracture was sustained as the result of maltreatment as defined in Section I.

BURNS / SCALDING (Priority I)

I. Definition

Burns are any tissue injury resulting from excessive exposure to thermal, chemical, electrical, or radioactive agents. The effects vary according to the type, duration, and intensity of the agent and the part of the body involved. Burns are usually classified as:

- First degree: Superficial burns, with damage being limited to the outer layer of skin, which displays scorching or painful redness.
- Second degree or partial thickness burn: The damage extends through the outer layer of the skin into the inner layers. Blistering will be present within 24 hours.
- Third degree or full thickness burn: Burns in which the skin is destroyed with damage extending into underlying tissues, which may be charred or coagulated. Skin grafting may be required.
- Scalding is a burn to the skin or flesh caused by moist heat and hot vapors, such as steam.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child sustained a burn or was scalded as the result of maltreatment.

B. Usage

The reporter has reason to believe that the burn or scalding resulted from one of the following:

- A direct, non-accidental action of the parent or caretaker (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person which resulted in the burn or scalding (failure to protect).

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that a child has been burned or scalded. Severe burns, burns of an unknown origin, or burns where the injury is not consistent with the explanation provided for a physician or registered nurse should examine it. This includes cigarette burns, or a burn in which it appears a hot instrument was applied to the skin. All immersion burns (scalds) must be confirmed by a physician unless the alleged offender has admitted to scalding the child; and
- Secured a preponderance of evidence that the burn or scalding was sustained as a result of maltreatment as defined in Section I.

CUTS, BRUISES, & WELTS (Priority I, referred to Crimes Against Children Division if the child is age 3 or under and the injury is reported by medical personnel, a medical facility, or law enforcement and involves injury to the head, face, neck, or torso excluding buttocks. All other reports are to be referred to DCFS.)

I. Definition

- Cut (laceration): An opening, incision, or break in the skin made by some external agent.
- Bruise (ecchymosis): An injury, which results in bleeding within the skin, where the skin is discolored but not broken.
- Welt An elevation on the skin produced by a lash, blow, or allergic stimulus. The skin is not broken and the mark is reversible.

NOTE: Regardless of the child's age, depending on the location, severity and multiplicity of the injuries (cuts, bruises and/or welts), the case may be a Priority I.

The investigation of bruises cuts or welts in or on any portion of the head, face, neck or abdomen that are a direct act against the child by a parent or caretaker. This does not include an injury that is the result of a failure on the part of the parent or caretaker to safeguard the child from environmental situations that resulted in those injuries.

II. Taking a report

- A. An acceptable reporter is any person with reasonable cause to suspect that a child sustained a cut, bruise, or welt as a result of maltreatment. For the allegation to be directed to the CACD, the report must come from medical personnel, a medical facility or law enforcement and involve injuries to the head, neck, face or torso excluding buttocks of a child age 3 or under.
- B. Usage

The reporter has reason to believe that the cut, bruise, or welt resulted from one of the following:

- A direct, non-accidental action of the parent or caretaker (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person that resulted in a cut, bruise, welt (failure to protect).

NOTE: The hotline shall accept a report of physical abuse involving a bruise to a child even if at the time of the report the bruise is not visible, but the bruising occurred – (a) within the past 14 days and (b) as a result of physical abuse as defined in the law.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child currently has a cut, bruise, or welt or has sustained one in the past (such verification may come from a physician, registered nurse, law enforcement officer, observation by the Family Service Worker or by a direct admission from the alleged offender); and any injury must involve more than transient pain or minor temporary marks;
- If the bruise was not visible at the time of the report, the existence of the bruise must be corroborated (the corroboration must be independent i.e. a neighbor, teacher, counselor, someone other than the child must have seen the bruise or photographed it) for the finding to be true.
- Secured a preponderance of evidence that the cut, bruise, or welt was sustained as a result of maltreatment as defined in Section I.

Abuse does not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes of restraining or correcting the child. Reasonable and moderate physical discipline should cause no more than transient pain or minor temporary marks.

The age, size and condition of the child and the location of the injury and the frequency of recurrence of injuries shall be considered when determining whether the physical discipline is reasonable and moderate.

EDUCATIONAL NEGLECT (Priority II)

I. Definition

Any child who is not meeting compulsory school attendance requirements because his or her parent or custodian is failing or refusing to enforce these attendance requirements is educationally neglected. A parent or custodian is failing or refusing to enforce the state's compulsory attendance requirements if:

- The parent or guardian having custody or charge of any child between the ages of five through seventeen years (by September 15 of the school year), both inclusive, fails to enroll and send the child to a public, private, or parochial school, or provide a home school for the child, or
- The parent or guardian having custody or charge of a child of the above-referenced age disregards his or her responsibility to ensure that a child attends school, or actively prevents such child from attending school.

Examples of educational neglect include:

- The parent or custodian who does not enroll the child in school; or,
- The parent or custodian who prevents a child from attending school; or,
- The parent or custodian who does not take reasonable action to ensure that the child regularly attends school; or,
- The parent or custodian who has not made arrangements to home school the child.

NOTE: Failure to follow an Individualized Educational Program (IEP) does not constitute educational neglect.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child is educationally neglected.

B. Usage

The reporter has reason to believe that a child is not home schooled and is not attending school because:

- The parent or custodian did not enroll the child in the school program; or
- The parent or custodian disregards the responsibility to ensure that the child is attending school or the parent or custodian actively prevents the child from attending school; or,
- The parent or custodian has not taken the necessary steps to provide home schooling.

C. Factors to be considered in taking and/or founding a report

- The child's physical condition, particularly as it relates to the child's ability to get ready for school, and
- The child's mental abilities, particularly concerning the child's ability to get ready for school, and
- The number of days missed, and
- The parent's or custodian's attempts to ensure that the child attends school, and
- The parent or custodian has hand-delivered to the superintendent written notice of the parent or custodian's intent to home school the child.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child is not or was not meeting mandated educational requirements; and
- Secured a preponderance of evidence that the child is/has been educationally neglected as defined in Section I; and
- Verified the parent or custodian has failed to provide written notice to the superintendent of the intent to home school the child.
- Applied the factors in Section II, C, above and determined that the child is/was educationally neglected.

ENVIRONMENTAL NEGLECT (Priority II)

I. Definition

The child's person, clothing, or living conditions are unsanitary to the point that the child's health is in danger. . This may include infestations of rodents, spiders, insects, snakes, lice, etc., human or animal feces, and rotten or spoiled food and/or garbage that the child can reach.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child is living in the conditions noted above and that the conditions are a significant threat to the child's health.

B. Usage

The reporter has reason to believe that the child is living in conditions defined above as the result of disregard of duty or negligence on the part of the child's parent or caretaker responsible for the child's welfare.

C. Factors to be considered

Special attention should be paid to the age of the child, the child's physical condition, and the living conditions in the home in order to determine whether the report constitutes an allegation of harm.

In addition, the following incident factors should be considered:

- Severity of the conditions,
- Frequency of the conditions,
- Duration of the conditions, and
- Chronicity or pattern of similar conditions.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the conditions described exist or had existed; and
- Secured a preponderance of evidence that the unhealthful/unsanitary conditions are/were the result of neglect as defined in Section I; and
- Applied the factors in Section II, C, above, and determined that the conditions represent a threat to the child's health.
- Secured a preponderance of evidence that a child was maltreated as in Section I.

EXTREME OR REPEATED CRUELTY TO A JUVENILE (Priority II)

I. Definition

The offender engages in activity that results in pain, suffering or grief. Examples of extreme cruelty include such things as forcing a child to observe the killing of his pet, forcing a child to eat vomit, locking a child in a closet or tying a child into a child seat for an extended period with its head covered. Milder forms of cruelty may still be identified as child maltreatment if there have been repeated acts by the offender.

II. Taking a Report

A. An acceptable reporter is any person who has reasonable cause to suspect that a juvenile has been deliberately subjected to extreme or repeated cruelty.

B. Usage

The reporter has reason to believe that a juvenile has been deliberately subjected to extreme or repeated cruelty.

III. Founding a Report

This allegation may be founded only after the Worker has:

- Verified that a juvenile has been subjected to extreme (excessive or severe) cruelty and/or there is evidence that the cruelty was repeated.
- Secured a preponderance of evidence that a juvenile was subjected to extreme or repeated cruelty.
- Documented that all other types of child maltreatment have been ruled out to ensure that extreme or repeated cruelty is the correct child maltreatment type. However, extreme or repeated cruelty can be used in conjunction with other child maltreatment types.

FAILURE TO PROTECT (Priority I or II)

I. Definition

Failure of an individual responsible for the care of a child to take reasonable action to protect that child from maltreatment when that individual had reasonable cause to believe that the child was in significant danger of being maltreated.

This allegation may include situations in which a person with a documented history as an offender of child sexual abuse is allowed to be an unsupervised caretaker of a child.

NOTE: The type of maltreatment from which the caregiver failed to protect the child, determines the Priority Level (I or II). This is a sub-issue when considering sexual abuse, physical abuse, neglect, etc.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child was endangered and that an individual responsible for the care of the child failed to take reasonable action to protect the child.

B. Usage

The reporter has reason to believe that failure to protect resulted from one of the following:

- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person, which resulted in maltreatment to the child.
- A blatant disregard by the parent or caretaker of his or her responsibilities for the child's welfare.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has concluded that:

- An individual responsible for the care of a child had or should have had reasonable cause to believe that the child was in significant danger of maltreatment and failed to take action to protect the child from that danger.

NOTE: A finding of failure to protect should not be made against a caretaker who was in significant fear of his or her own safety.

- Secured a preponderance of evidence that failure to protect occurred as a result of maltreatment as defined in Section I.

FAILURE TO THRIVE (Priority I)

I. Definition

A clinical term used by pediatric clinicians to describe infants and young children, generally 3 years of age and younger, who fail to grow as expected based on established growth standards for age and gender. A central cause of failure-to-thrive is under-nutrition, whether or not an associated organic disease is present. Pediatric under-nutrition, or Failure-To-Thrive triggers an array of health problems in children and may be associated with long-term impairments in growth, physical and cognitive development, academic performance, and behavior. The majority of children who demonstrate Failure-To-Thrive do not have a physical disease. Most such situations are associated with problems in the child's environment.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child suffers from failure to thrive.

B. Usage

The reporter has reason to believe that the child has failure to thrive syndrome as a result of the parent's or caretaker's neglect.

C. Factors to be considered

- Central to the definition of Failure-To-Thrive is abnormal growth compared to children of similar age and sex, using typical national growth standards.
- The child's symptoms, i.e. weight and/or velocity of growth and/or clinical signs of deprivation improve when the child is properly nurtured.
- There appears to be significant environmental or psychosocial disruption in the child's family.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child has or had failure to thrive (such verification must come from a physician); and
- Secured a preponderance of evidence that the failure to thrive was at least partially a result of the parent or caretaker's failure to provide for or meet the needs of the child.

HUMAN BITES (Priority II)

I. Definition

A bruise or cut in the skin caused by human teeth.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child sustained a human bite as a result of maltreatment.

B. Usage

The reporter has reason to believe that the human bite resulted from one of the following:

- A direct, non-accidental action of the parent, caretaker, or other person responsible for the child's welfare (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another, which resulted in a human bite (failure to protect).
- The failure of the parent or caretaker to appropriately supervise the child resulted in human bites (inadequate supervision).

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child currently has a human bite or has sustained a human bite in the past (such verification may come from a physician, dentist, registered nurse, law enforcement officer, observation by the Family Service Worker, or by a direct admission from the alleged offender); and
- Secured a preponderance of evidence that the human bite was sustained as a result of maltreatment as defined in Section I.

IMMERSION (Priority I)

I. Definition

Interference with a child's ability to breathe by holding the child's nose and mouth under water or other liquid.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child has been immersed as a result of maltreatment.

B. Usage

The reporter has reason to believe immersion resulted from one of the following:

- A direct, non-accidental action of the parent or caretaker (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another that resulted in immersion (failure to protect).

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that a child has been immersed and restricted breathing.
- Secured a preponderance of evidence that the immersion occurred as a result of maltreatment as defined in Section I.

INADEQUATE CLOTHING (Priority II)

I. Definition

Lack of adequate clothing to protect the child from the elements.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child is inadequately clothed.

B. Usage

The reporter has reason to believe that a child is or recently has been inadequately clothed due to the parent or caretaker's disregard of his or her responsibilities.

C. Incident factors to be considered

- Frequency of the incident,
- Duration of the incident,
- Chronicity or pattern of similar incidents,
- Weather conditions such as extreme heat or extreme cold.

NOTE: Evidence of physical harm to the child such as frostbite, hypothermia, severe sunburn, or heat exhaustion is not required in order to indicate this allegation. Lack of clothing in the home is not sufficient to indicate a report of inadequate clothing unless other factors substantiate that the child is not being clothed. Other factors must be considered.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the incident or circumstances occurred; and
- Secured a preponderance of evidence that the child is/has been inadequately clothed in accordance with Section II,B, above; and
- Applied the factors in Section II, C, above and determined that the clothing was not appropriate to protect the child from the elements.
- The mere availability of clothing is not sufficient to unfound a report of inadequate clothing.

INADEQUATE FOOD (Priority II)

I. Definition

Inadequate food is a lack of food adequate to sustain normal functioning. It is not as severe as malnutrition or failure to thrive, both of which require a medical diagnosis for a finding of “True”.

Examples include:

- The child who frequently and repeatedly misses meals or who is frequently and repeatedly fed insufficient amounts of food.
- The child who frequently and repeatedly asks a neighbor for food and other information substantiates that the child is not being fed.
- The child who is frequently and repeatedly fed unwholesome foods when his age, developmental stage, and physical condition are considered.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child has received/is receiving inadequate food.

B. Usage

The reporter has reason to believe that the child has not received/is not receiving adequate food due to the parent or caretaker's disregard of his responsibilities.

C. Incident factors to be considered:

- Frequency of the occurrence,
- Duration of the occurrence,
- Pattern or chronicity of occurrence,
- Previous history of occurrences,
- Availability of adequate food.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the incident or circumstances occurred; and
- Secured a preponderance of evidence that the child received/is receiving inadequate food as the result of maltreatment as defined in Section I; and
- Applied the factors in Section II, C, above and determined that the amount of food received is not adequate to sustain normal functioning.

NOTE: Lack of food in the home is not sufficient to indicate a report of inadequate food unless other factors substantiate that the child is not being fed. On the other hand, the mere availability of food in the home is not sufficient to unfound a report of inadequate food. Other factors must also be considered. Do not found a report if the parents are making alternative arrangements to provide adequate food.

INADEQUATE SHELTER (Priority II)

I. Definition

Lack of shelter which is safe and which protects from the elements.

Examples of inadequate shelter include, but are not limited to:

- No housing or shelter.
- Exposed, frayed electrical wiring.
- Housing with structural defects that endanger the health or safety of the child.
- Housing with indoor temperatures consistently below 50 degrees Fahrenheit.
- Housing which is a significant fire hazard obvious to the reasonable person.
- Housing with an unsafe heat source, which poses a significant fire hazard or threat of asphyxiation.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child is being inadequately sheltered.

B. Usage

The reporter has reason to believe that the child is being inadequately sheltered due to the parent or caretaker's disregard of his or her responsibilities.

C. Shelter factors to be considered include:

- Seriousness of the problem.
- Frequency of the problem
- Duration of the problem.
- Pattern or chronicity of the problem.
- Previous history of shelter-related problems.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the incident or circumstances occurred; and
- Secured a preponderance of evidence that the child is being or has been inadequately sheltered as the results of maltreatment as defined in Section I; and
- Applied the factors in Section II, C, above and determined that the shelter is inadequate.

INADEQUATE SUPERVISION (Priority II)

I. Definition

The parent or caretaker has failed to appropriately supervise the juvenile resulting in the juvenile being left alone at an inappropriate age or in inappropriate circumstances that creates a dangerous situation or a situation that puts the child at risk of harm.

Examples include, but are not limited to:

- Leaving the juvenile alone when the juvenile is too young to care for him or for other children.
- Leaving a juvenile alone when the juvenile has a condition that requires close supervision. Such conditions may include medical conditions, behavioral, mental, or emotional problems, developmental disabilities, or physical handicaps.
- Leaving a juvenile in the care of an inadequate or inappropriate caretaker, as indicated by the caretaker factors in Section II, C, below.
- Being present but unable to supervise because of the caretaker's condition. This includes the parent or caretaker who uses drugs or alcohol to the extent that it has the effect of producing a substantial state of stupor, unconsciousness, intoxication, or irrationality. This also includes the parent or caretaker who cannot adequately supervise the juvenile because of the parent's or caretaker's medical condition, behavioral, mental, or emotional problems, developmental disability, or physical handicap.
- Leaving a juvenile unattended in a place that is unsafe considering their maturity, physical condition, and mental abilities.

NOTE: The mere occurrence of a parent or caretaker being arrested does NOT of self constitute “inadequate supervision” unless the arrest was due to child maltreatment (e.g. DWI).

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a juvenile has been/is being inadequately supervised as a result of maltreatment.

B. Usage

The reporter has reason to believe that the juvenile has been/is being inadequately supervised due to the disregard of responsibilities by the parent or caretaker.

C. Factors to be considered

Caretaker factors include:

- How long does it take the caretaker to reach the juvenile?
- Can the caretaker see and hear the juvenile?
- Is the caretaker accessible by telephone or pager?
- Is the caretaker mature enough to assume responsibility for the situation?
- Is the caretaker physically, mentally, and emotionally able to care for the juvenile?
- Is the caretaker able to make appropriate judgments on the juvenile's behalf?

Incident factors include:

- Frequency of the occurrence.
- Duration of the occurrence.
- Time of day or night when the incident occurs.
- Juvenile's location.
- Other supporting persons who have agreed to assist in supervising the juvenile.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified/secured a preponderance of evidence that inadequate supervision occurred; and
- Secured a preponderance of evidence that the inadequate supervision is/was due to the parent or caretaker's neglect as defined in Section I; and
- Applied the factors in Section II, C, above and determined that the supervision was inadequate.

INDECENT EXPOSURE (Priority I)

I. Definition

The exposure by a person aged 10 years or older of the person's sexual organs for the purpose of arousing or gratifying the sexual desire of the person, or any other person, under circumstances in which the person knows the conduct is likely to cause affront or alarm.

II. Taking a Report

A. An acceptable reporter is any person who has reasonable cause to suspect that a person age 10 years or older exposed his/her sexual organs for the purpose of arousing or gratifying the sexual desire of the person, or any other person, under circumstances in which the person knows the conduct is likely to cause affront or alarm.

B. Usage

The reporter has reason to believe that a person exposed his sexual organs for the purpose of arousing or gratifying the sexual desire of the person, or any other person, under circumstances in which the person knows the conduct is likely to cause affront or alarm.

III. Founding a Report

This allegation may be founded only after the Worker has:

Secured a preponderance of evidence that a person aged 10 years or older, exposed his/her sexual organs for the purpose of arousing or gratifying the sexual desire of the person, or any other person, under circumstances in which the person knows the conduct is likely to cause affront or alarm.

INTERFERING WITH A CHILD'S BREATHING (Priority I)

This category of child maltreatment is contained within another category. See the category, "Suffocation".

INTERNAL INJURIES (Priority I)

I. Definition

Internal injury is an injury, which is not visible from the outside, e.g. an injury to the organs occupying the thoracic or abdominal cavities. Such injury may result from a direct blow. A person so injured may be pale, cold, perspiring freely, have an anxious expression, or may seem semi-comatose. Pain is usually intense at first, and may continue or gradually diminish, as patient grows worse.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child sustained internal injuries as the result of maltreatment.

B. Usage

The reporter has reason to believe that the internal injuries resulted from one of the following:

- A direct, non-accidental action of the parent or caretaker (abuse).
- The failure of the parent or caretaker to stop an action by another person that resulted in internal injuries (failure to protect).

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child currently has internal injuries or has sustained internal injuries in the past (such verification must come from a physician); and
- Secured a preponderance of evidence that the internal injury was sustained as a result of maltreatment as defined in Section I.

KICKING A CHILD (Priority II)

I. Definition

The parent or caretaker has used a foot to deliver a non-accidental sudden and forceful blow to any portion of the child's body.

II. Taking a Report

A. An acceptable reporter is any person with reasonable cause to suspect that a child has sustained a sudden, forceful and non-accidental blow from the parent or caretaker's foot.

B. Usage

The reporter has reason to believe that the child has sustained a sudden and forceful non-accidental blow from the parent's or caretaker's foot.

III. Founding a Report

This allegation of maltreatment may be founded only after the Worker has:

- Secured a preponderance of evidence that the child sustained a sudden and forceful non-accidental blow from the parent's or caretaker's foot.
- Abuse does not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes of restraining or correcting the child. Reasonable and moderate physical discipline should cause no more than transient pain or minor temporary marks.

NOTE: The age, size and condition of the child and the location of the injury and the frequency of recurrence of injuries shall be considered when determining whether the physical discipline is reasonable and moderate.

LOCKOUT (Priority II)

I. Definition

The parent or caretaker has denied the child access to the home necessary to the safety and health of the child.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child has been locked out of the home.

B. Usage

The reporter has reason to believe that the child has been denied access to his home.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child was denied access to the home by the parent or caretaker; and
- Secured a preponderance of evidence that the lockout occurred as a result of maltreatment as defined in Section I.

MALNUTRITION (Priority I)

I. Definition

Lack of necessary or proper food substances in the body caused by inadequate food, lack of food, or insufficient amounts of vitamins or minerals results in malnutrition.

The child with malnutrition is not simply a diminutive version of a well-nourished child. There are various physical signs of malnutrition, including the following:

- A decrease in lean body mass or fat; very prominent ribs; the child may often be referred to as "skin and bones."
- The hair is often sparse, thin, dry, and is easily pulled out or falls out spontaneously.
- The child is often pale and suffers from anemia.

- Excessive perspiration, especially about the head.
- The face appears lined and aged, often with a pinched and sharp appearance.
- The skin has an old, wrinkled look with poor turgor. Classically, skin folds hang loose on the inner thigh and buttock.
- The abdomen is often protuberant.
- There are abnormal pulses, blood pressure, stool patterns, inter-current infections, abnormal sleep patterns, and a decreased level of physical and mental activity.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child was malnourished as a result of maltreatment.

B. Usage

The reporter has reason to believe that the child was malnourished due to the parent or caretaker's disregard of his or her responsibilities. The malnourish must be non-organic in nature.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child is/was malnourished (such verification must come from a physician); and
- Secured a preponderance of evidence that the child was malnourished as a result of the parent or caretaker's disregard of his or her responsibilities.

MEDICAL NEGLECT (Priority II)

I. Definition

Lack of medical or mental treatment for a health problem or condition which, if untreated, could become severe enough to constitute a serious or long-term harm to the child; lack of follow-through on a prescribed treatment plan for a condition which could become serious enough to constitute serious or long-term harm to the child if the plan is unimplemented.

II. Taking a report

A. Acceptable reporter is any person with reasonable cause to suspect that a child has been/is being medically neglected.

B. Usage

The reporter has reason to believe that the child has not or is not receiving proper and necessary medical care due to the parent's or caretaker's disregard of his or her responsibilities.

C Factors to be considered

- Seriousness of the current health problem,
- Probable outcome if the current health problem is not treated and the seriousness of that outcome,
- Generally accepted medical benefits of the prescribed treatment, and
- Generally recognized side effects/harm associated with the prescribed treatment.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child has/had an untreated health problem, or that a prescribed treatment plan was unimplemented. Such verification must come from a physician, registered nurse, psychologist, dentist, or by a direct admission from the alleged offender, and
- Secured a preponderance of evidence that the child is/was medically neglected as defined above.
- Applied the factors in Section II, C, above and determined that the problem or condition, if untreated, could result in serious or long-term harm to the child. Such verification must come from a physician, registered nurse, or dentist.

NOTE: If the Family Service Worker determines that the parent’s decision to withhold medical treatment was based solely upon a religious belief, choosing instead to furnish the child with prayer and spiritual treatment in accordance with a recognized religious method of healing by an accredited practitioner, the investigative determination will be Exempted From Founded Due to Religious Exemption.

IV. Determining who is the offender

When a person, usually a relative, has assumed full-time responsibility for care of the child but has not been appointed the child’s legal guardian or the guardianship status is unknown when the report is taken, both that caretaker and the child’s legal parents shall be named as alleged offenders. If the legal parents did not make necessary arrangements for securing medical care for the child, the parents shall be indicated as offenders of medical neglect. If the caretaker had attempted to secure medical care, but was unable to do so because the parents did not make the necessary arrangements, the caretaker shall not be indicated as an offender of medical neglect.

MEDICAL NEGLECT OF DISABLED INFANTS (Priority I)

I. Definition

The act of withholding of appropriate nutrition, hydration, medication, or other medically indicated treatment from a disabled infant with a life-threatening condition. Medically indicated treatment includes medical care which is most likely to relieve or correct all life threatening conditions and evaluations or consultations necessary to assure that sufficient information has been gathered to make informed medical decisions. Nutrition, hydration, and medication, as appropriate for the infant’s needs, is medically indicated for all disabled infants.

Other types of treatment are not medically indicated when:

- The infant is chronically and irreversibly comatose,
- The provision of the treatment would be futile and would merely prolong dying, or
- The provision of the treatment would be ineffective in ameliorating or correcting all the life-threatening conditions.

In determining whether treatment will be medically indicated, reasonable medical judgments, such as those made by a prudent physician knowledgeable about the case and its treatment possibilities, will be respected. However, opinions about the infant’s future “quality of life” won’t bear on whether a treatment is judged to be medically indicated.

NOTE: Review FSPP Policy and Procedure Section II-F, Medical Neglect Of a Disabled Infant.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a disabled infant with a life-threatening condition has been/is being medically neglected.

B. Usage

The reporter has reason to believe that the disabled infant has not received / is not receiving medically indicated treatment (including needed nutrition, hydration, medication, and independent evaluations and consultations) due to the parent's or caretaker's disregard of his or her responsibilities.

C. Factors to be considered include:

- Infant's physical condition,
- Seriousness of the current health problem,
- Probable medical outcome if the current health problem is not treated and the seriousness of that outcome.
- Generally accepted medical benefits of the prescribed treatment,
- Generally recognized side effects/harms associated with the prescribed treatment,
- The opinions of the Infant Care Review Committee (ICRC), if the hospital has an ICRC,
- The judgment of the individual designated by contract for the purposes of coordination, consultation, and notification of cases of suspected medical neglect of disabled infants (Refer to FSPP II-F), and
- The parent's knowledge and understanding of the treatment and the probable medical outcome.

D. On acceptance of this type allegation the Hot Line supervisor will be notified immediately. The Hot Line supervisor will immediately notify the designated DCFS Child Protective Services Field Assistance Unit (501) 682-8992.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that medical treatment (including appropriate nutrition, hydration, or medication) is/was withheld from an infant; and
- Secured a preponderance of evidence that the infant is/has been medically neglected due to the parent's or caretaker's disregard of his or her responsibilities; and
- Applied the factors in Section II, C, above and determined that the treatment was medically indicated. Such verification must come from a physician, and may come from experts in the field of neonatal pediatrics. Appropriate nutrition, hydration, and medication is medically indicated for all disabled infants.

MENTAL INJURY (Priority II)

I. Definition

Injury to the intellectual, emotional, or psychological development of a child as evidenced by observable and substantial impairment in the child's ability to function in a normal range of performance and behavior is mental injury.

II. Taking a report

A. Any person with a reasonable cause to suspect that a child has suffered a substantial impairment in his or her ability to function as a result of a specific, non-accidental action or inaction committed by a parent or caretaker.

B. Usage

The reporter has reason to believe that the mental injury resulted from one of the following:

- A direct, non-accidental action of the parent or caretaker (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person that resulted in the mental injury (failure to protect).

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child has been mentally injured. A psychiatrist, registered psychologist, licensed clinical social worker, professional employee of a community mental health center, or licensed psychological examiner must confirm that the child has suffered a mental injury; and
- Secured a preponderance of evidence that the mental injury resulted from maltreatment as defined in Section I.

NOTE: Under some circumstances, such as divorce, a mental injury to a child may be an unavoidable consequence of purposeful parental action. When determining whether to found a report, the Family Service Worker should consider whether the parents or caretakers took reasonable action to minimize the degree of mental injury resulting from a necessary action or uncontrollable event.

MUNCHAUSEN SYNDROME BY PROXY OR FACTITIOUS ILLNESS BY PROXY (Priority II)

I. Definition

A form of child maltreatment in which the parent or guardian falsifies a child's medical history or alters a child's laboratory tests or actually causes an illness or injury in a child in order to gain medical attention for the child which may result in innumerable harmful hospital procedures.

II. Taking a report

A. Acceptable reporters include medical personnel or medical facilities with reasonable cause to suspect that a parent or caregiver has fabricated a medical condition in a child.

B. Usage

The reporter has reason to believe that the parent or caregiver is presenting a child to a health care provider for a fabricated medical condition.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child has been presented to a health care provider with a fabricated medical condition. Such verification must come from a physician, registered nurse, dentist, or by a direct admission from the alleged offender; and
- Secured a preponderance of the evidence that the parent or caregiver has presented the child to a health care provider with a fabricated medical condition.

NEWBORN CHILD BORN WITH AN ILLEGAL SUBSTANCE IN ITS SYSTEM OR BORN WITH A HEALTH PROBLEM AS A RESULT OF THE PREGNANT MOTHER’S USE BEFORE BIRTH OF AN ILLEGAL SUBSTANCE (Priority II)

I. Definition

Causing a newborn child to be born with:

An illegal substance present in the newborn’s bodily fluids or bodily substances as a result of the pregnant mother knowingly using an illegal substance before the birth of the newborn; or

A health problem as a result of the mother’s use before birth of an illegal substance.

“Illegal substance” means a drug that is prohibited to be used or possessed without a prescription under the Arkansas Criminal Code, § 5-1-101 et seq.

II. Taking a Report

A. An acceptable reporter is limited to any one of the following mandated reporters, who have reasonable cause to suspect that a newborn has been subjected to an illegal substance before birth: a licensed nurse; an osteopath; a physician; a resident or intern; a surgeon; or any medical personnel who may be engaged in the admission, examination, care or treatment of persons, including medical social workers in hospitals or similar medical settings.

B. Usage

The reporter has reason to believe that the newborn’s condition (having an illegal substance in its body and/or a health problem) is the direct result of prenatal exposure of the newborn to an illegal substance abused by the mother.

If a child is stillborn and the reporter believes the child died as a result of the mother’s prenatal illegal drug use, the hotline will accept a report of neglect. If the mother tests positive for illegal drug use, but the baby tests negative for illegal drug exposure, the hotline will accept the report of neglect if the reporter is not able to assure the child has no health problem.

III. Founding a report

This allegation may be founded only after the Worker has:

- Verified that the newborn has an illegal substance in its body or a health problem caused by prenatal exposure to the illegal substance,

NOTE: The finding is “Not true” if the newborn has no illegal substance in its body and no health problem related to prenatal exposure to illegal substances

NOTE: A test of the newborn’s and/or mother’s bodily fluids and bodily substances may be used as evidence to establish this type of neglect.

NOTE: If the nature of a child maltreatment report (Priority II) suggests that a child is in **immediate risk** begin the investigation immediately or as soon as possible.

NOTE: CAPTA still requires a Plan of Safe Care for all infants born affected by prenatal drug abuse (See Executive Directive SPP 2004-05 issued June 18, 2004, located in CHRISNet under “DCFS Exe Directives”).

ORAL SEX (Priority I)

I. Definition

Any contact, however slight or the attempted contact between the sex organs of one person and the mouth of another person when one of those persons is a child. This includes acts commonly known as cunnilingus and fellatio.

This form of maltreatment does not require that the offender be a caretaker of the child.

II. Taking a Report

A. An acceptable reporter is any person with reasonable cause to suspect that a child has been involved in oral sex.

The Child Abuse Hotline shall only accept reports of child maltreatment naming an adult as the victim if:

1. The alleged offender is a caretaker of any child; and
2. The person making the report is one of the following:
 - The adult victim;
 - A law enforcement officer;
 - The victim's counselor or therapist; or
 - The offender's counselor or therapist.

B. Usage

The reporter has reason to believe that oral sex resulted from one of the following:

- A direct action by a parent or caretaker ten years of age or older (abuse); or
- A direct action by any person under any of the following circumstances:
 - (a) The alleged offender is ten (10) years of age or older and the alleged victim is under the age of eighteen and forcible compulsion was used in the act or attempt; or
 - (b) By one person who is eighteen (18) or older to another who is under sixteen (16) and not the spouse of the alleged offender ; or
 - (c) By one person who is a caretaker or sibling of the other who is less than eighteen (18) years old.
 - (d) By a person younger than ten (10) years of age (underaged juvenile aggressor) to a person younger than eighteen (18) years of age.

NOTE: Forcible Compulsion is defined as physical force or a threat, express or implied, of death or physical injury to or kidnapping of any person.

- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person, which resulted in oral sex (failure to protect).

III. Founding a report

This allegation may be founded only after the Worker has:

- Verified that the child has been involved in oral sex, or the attempt to engage in oral sex; and
- Secured a preponderance of evidence that the oral sex, or the attempt occurred.

PINCHING, BITING OR STRIKING A CHILD IN THE GENITAL AREA: (Priority II)

I. Definition

Any act of pinching, biting or striking, directly or through clothing, a child's genital area or sex organs. The contact can be with by any part of the alleged offender or any object.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child was pinched, bitten or struck in the genital area as the result of maltreatment.

B. Usage

The reporter has reason to believe that the child was pinched, bitten or struck in the genital area as a result of one of the following:

- A direct, non-accidental action of the parent or caretaker (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person, which resulted in the child being pinched, bitten or struck in the genital area (failure to protect.)

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child is/was pinched, bitten or struck in the genital area; and
- Secured a preponderance of evidence that the pinching, biting or striking of the child's genital area was sustained as a result of maltreatment as defined in Section I.

POISON/NOXIOUS SUBSTANCES (Priority I)

I. Definition

Poison is any substance, including mood-altering chemicals taken into the body by ingestion, inhalation, injection, or absorption that interferes with normal physiological functions. This includes, but is not limited to any chemical used in, or generated during, the manufacture of methamphetamine. (Almost any substance, including water, can be poisonous if consumed in sufficient quantity; therefore, the term poison can include an excessive amount of an item rather than a specific group of substances);

Giving a child or permitting a child to consume or inhale a poisonous or noxious substance not prescribed by a physician that has the capacity to interfere with normal physiological functions; or

Exposing a child to chemicals that have the capacity to interfere with normal physiological functions, including, but not limited to, chemicals used or generated during the manufacture of methamphetamine.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child consumed, inhaled or was exposed to poison and/or a noxious substance as the result of maltreatment.

B. Usage

The reporter has reason to believe the child was poisoned or ingested, inhaled or was exposed to a noxious substance as a result of one of the following:

- The parent or caretaker does a direct, non-accidental action (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person that resulted in the child consuming, inhaling or being exposed to poison or a noxious substance (failure to protect).
- The offender blatantly disregards his responsibilities for the child's welfare (neglect).

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child has consumed, inhaled or been exposed to, poison or a noxious substance (as verified by chemical analysis or by a direct admission from the alleged offender); or
- Verified that a child has been physically present, or has been in the location, during any phase of the manufacturing of methamphetamine or other illegal drugs, and
- Secured a preponderance of evidence that the consumption, inhaling, or exposure to the poison or noxious substance was the result of maltreatment as defined in Section

NOTE: See Appendix VIII (Protocol for Family Service Workers) in the DCFS Policy Manual. It explains how to respond to children exposed to methamphetamine or methamphetamine lab related chemicals.

PORNOGRAPHY/LIVE SEX ACT EXPOSURE (Priority I)

I. Definition

The parent, caretaker or person forces, permits or encourages a juvenile to view or observe:

- Pictures, movies or videos that lack serious literary, artistic, political, or scientific value and that, when taken as a whole and applying contemporary community standards, would appear to the average person to appeal to the prurient interest; or
- Material which depicts sexual conduct in a patently offensive manner lacking serious literary, artistic, political or scientific value; or
- Any live human sexual activity.

II. Taking a Report

- A. An acceptable reporter is any person with reasonable cause to suspect that a child has been forced, permitted or encouraged to view or observe obscene, licentious or offensive material or any live human sexual activity.

The Child Abuse Hotline shall only accept reports of child maltreatment naming an adult as the victim if:

1. The alleged offender is a caretaker of any child; and
2. The person making the report is one of the following:
 - The adult victim;
 - A law enforcement officer;
 - The victim's counselor or therapist; or
 - The offender's counselor or therapist.

B. Usage

The reporter has reason to believe that a child has been forced, permitted or encouraged to view or observe obscene, licentious or offensive material or any live human sexual activity.

III. Founding a Report

This allegation may be founded only after the Worker has:

Secured a preponderance of evidence that a child has been forced, permitted or encouraged to view or observe obscene, licentious or offensive material or any live human sexual activity.

SEXUAL CONTACT (Priority I)

I. Definition

Any act of sexual gratification involving the touching, directly or through clothing, of the sex organs, or buttocks, or anus of a person or the breast of a female. This includes encouraging of the child to touch the offender in a sexual manner. This further includes the offender requesting to touch the child in a sexual manner. Normal affectionate hugging will not be construed as sexual contact.

II. Taking a Report

A. An acceptable reporter is any person who has reasonable cause to suspect that a child has been the victim of sexual contact. Evidence of sexual gratification is not necessary when taking or accepting a report.

The Child Abuse Hotline shall only accept reports of child maltreatment naming an adult as the victim if:

1. The alleged offender is a caretaker of any child; and
2. The person making the report is one of the following:
 - The adult victim;
 - A law enforcement officer;
 - The victim's counselor or therapist; or
 - The offender's counselor or therapist.

B. Usage

The reporter has reason to believe that sexual contact resulted from one of the following circumstances:

- (a) The alleged offender is ten (10) years of age or older and the alleged victim is under the age of eighteen and forcible compulsion was used in the act or attempt; or
- (b) By one person who is eighteen (18) or older to another who is under sixteen (16) and not the spouse of the alleged offender ; or
- (c) By one person who is a caretaker or sibling of the other who is less than eighteen (18) years old.
- (d) By a person younger than ten (10) years of age (underaged juvenile aggressor) to a person younger than eighteen (18) years of age.

Forcible Compulsion is physical force or a threat, express or implied, of death or physical injury to or kidnapping of any person.

- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person that resulted in sexual contact (failure to protect).

II. Founding a Report

This allegation may be founded only after the Worker has:

- Secured a preponderance of evidence that a child has been the victim of sexual contact.
- There must be evidence of sexual gratification. Evidence of sexual gratification may be inferred from the attendant circumstances surrounding the specific complaint of child maltreatment.
- Normal affectionate hugging will not be construed as sexual contact.

SEXUAL EXPLOITATION (Priority I)

I. Definition

Allowing, permitting, or encouraging participation or depiction of the child in prostitution, obscene photography, obscene filming, or obscenely depicting, obscenely posing, or obscenely posturing a child for any use or purpose.

This form of maltreatment does not require that the offender be a caretaker of the child.

II. Taking a report

- A. An acceptable reporter is any person with reasonable cause to suspect that a child has been sexually exploited.

The Child Abuse Hotline shall only accept reports of child maltreatment naming an adult as the victim if:

1. The alleged offender is a caretaker of any child; and
2. The person making the report is one of the following:
 - The adult victim;
 - A law enforcement officer;
 - The victim's counselor or therapist; or
 - The offender's counselor or therapist.

B. Usage

The reporter has reason to believe that a child has been sexually exploited.

The failure of the parent or caretaker to make reasonable efforts to stop an action by another person, which resulted in sexual exploitation. (Failure to protect).

III. Founding a report

This allegation may be founded only after the Worker has:

- Verified that the child has been sexually exploited; and
- Secured a preponderance of evidence that the sexual exploitation occurred.

SEXUAL PENETRATION (Priority I)

I. Definition:

Any penetration, however slight, of any part of the body of one person or any animal or object into the sex organ or anus of another person when at least one of the persons involved is a child. This includes acts commonly known as anal penetration, digital penetration, coition, coitus and copulation.

This form of maltreatment does not require that the offender be a caretaker of the child.

II Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child was sexually penetrated as a result of maltreatment.

The Child Abuse Hotline shall only accept reports of child maltreatment naming an adult as the victim if:

1. The alleged offender is a caretaker of any child; and
2. The person making the report is one of the following:
 - The adult victim;
 - A law enforcement officer;
 - The victim's counselor or therapist; or
 - The offender's counselor or therapist.

B. Usage

The reporter has reason to believe that sexual penetration of a child resulted from one of the following:

- A direct action by any person under any of the following circumstances:
 - (a) The alleged offender is ten (10) years of age or older and the alleged victim is under the age of eighteen and forcible compulsion was used in the act or attempt; or
 - (b) By one person who is eighteen (18) or older to another who is under sixteen (16) and not the spouse of the alleged offender; or
 - (c) By one person who is a caretaker or sibling of the other who is less than eighteen (18) years old.
 - (d) By a person younger than ten (10) years of age (underaged juvenile aggressor) to a person younger than eighteen (18) years of age.

Forcible Compulsion – physical force or a threat, express or implied, of death or physical injury to or kidnapping of any person.

- The failure of the parent or caretaker to make reasonable and prudent efforts

to prevent an action by another person, which resulted in sexual penetration (failure to protect).

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child was sexually penetrated; and
- Secured a preponderance of evidence that the sexual penetration or attempted sexual penetration occurred.

SHAKING A CHILD AGE FOUR OR OLDER (Priority II)

I. Definition

The parent or caretaker uses one or both hands to violently and rapidly intentionally or knowingly move the body of a child age four or older in a back and forth, side to side or up and down motion.

II. Taking a Report

A. An acceptable reporter is any person who has reasonable cause to suspect that a child ages four or older has been intentionally or knowingly shaken by a parent or caretaker.

B. Usage

The reporter has reason to believe that a child ages four or older has been shaken by a parent or caretaker.

III. Founding a Report

This allegation may be founded only after the Worker has:

- Secured a preponderance of evidence that a child age four years or older has been intentionally or knowingly shaken by a parent or caretaker causing an injury.

SHAKING A CHILD AGE THREE OR YOUNGER (Priority II)

I. Definition

The parent or caretaker uses one or both hands to violently and rapidly intentionally or knowingly move the body of a child age three or younger in a back and forth or up and down motion.

II. Taking a Report

A. An acceptable reporter is any person who has reasonable cause to suspect that children age three or younger has been intentionally or knowingly shaken by a parent or caretaker.

B. Usage

The reporter has reason to believe that a child ages three or younger has been shaken by a parent or caretaker.

III. Founding a Report

This allegation may be founded only after the Worker has:

- Secured a preponderance of evidence that a child age three years or under has been intentionally or knowingly shaken by a parent or caretaker with or without causing an injury.

SPRAINS/DISLOCATIONS (Priority II)

I. Definition

Sprain: trauma to a joint, which causes pain and disability depending upon the degree of injury to ligaments. In a severe sprain, ligaments may be completely torn. The signs are rapid swelling, heat, and disability, often discoloration and limitation of function.

Discoloration: the displacement of any part, especially the temporary displacement of a bone from its normal position in a joint. The types include:

- Complicated dislocation: a dislocation associated with other major injuries.
- Compound dislocation: a dislocation in which the joint is exposed to the external air.
- Closed dislocation: a simple dislocation.
- Complete dislocation: a dislocation that completely separates the surfaces of a joint.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child sustained a sprain or dislocation as a result of maltreatment.

B. Usage

The reporter has reason to believe that a sprain or dislocation resulted from one of the following:

- A direct, non-accidental action of the parent or caretaker (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person that resulted in the child sustaining a sprain or dislocation (failure to protect).

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child currently has a sprain or dislocation or had a sprain or dislocation in the past (such verification must come from a physician, registered nurse, or by a direct admission from the alleged offender); and
- Secured a preponderance of evidence that the sprain or dislocation was sustained as a result of maltreatment as defined in Section I.

STRIKING A CHILD AGE SEVEN OR OLDER ON THE FACE OR HEAD (Priority II)

I. Definition

The victim child, age seven or older, has sustained a blow to the face or head inflicted intentionally or knowingly by a parent or caretaker with either an open hand or an object.

II. Taking a Report

A. An acceptable reporter is any person who has reasonable cause to suspect that a child has been intentionally or knowingly struck on the face or head by a parent or caretaker.

B. Usage

The reporter has reason to believe that a child has been intentionally or knowingly struck on the face or head by a parent or caretaker.

III. Founding a Report

This allegation may be founded only after the Worker has:

- Secured a preponderance of evidence that a child ages seven or older has been intentionally or knowingly struck on the face or head by a parent or caretaker causing a physical injury.

NOTE: Abuse does not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes of restraining or correcting the child. Reasonable and moderate physical discipline should cause no more than transient pain or minor temporary marks.

NOTE: The age, size and condition of the child and the location of the injury and the frequency of recurrence of injuries shall be considered when determining whether the physical discipline is reasonable and moderate.

STRIKING A CHILD AGE SIX OR YOUNGER ON THE FACE OR HEAD (Priority II)

I. Definition

The victim child aged six years or younger has sustained an intentional or knowing blow to the face or head inflicted by a parent or caretaker with either an open hand or an object.

II. Taking a Report

A. An acceptable reporter is any person with reasonable cause to suspect that a child aged six years or younger has been intentionally or knowingly struck on the face or head by a parent or caretaker.

B. Usage

The reporter has reason to believe that a child aged six years or younger has been intentionally or knowingly struck on the face or head by a parent or caretaker.

III. Founding a Report

This allegation may be founded only after the Worker has:

Secured a preponderance of evidence that a child aged six years or younger has been intentionally or knowingly struck on the face or head by a parent or caretaker with or without causing an injury.

STRIKING A CHILD WITH A CLOSED FIST (Priority II)

I. Definition

The parent or caretaker has used a clenched hand to intentionally or knowingly hit the child on any part of his body.

II. Taking a Report

A. An acceptable reporter is any person who has reasonable cause to suspect that a child has been intentionally or knowingly struck with a fist by a parent or caretaker.

B. Usage

The reporter has reason to believe that the child has been intentionally or knowingly struck with a fist by a parent or caretaker.

III. Founding a Report

This allegation may be founded only after the Worker has:

- Secured a preponderance of evidence that the child has been intentionally or knowingly struck and physically injured by a parent or caretaker with a closed fist.

NOTE: Abuse does not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes of restraining or correcting the child. Reasonable and moderate physical discipline should cause no more than transient pain or minor temporary marks.

NOTE: The age, size and condition of the child and the location of the injury and the frequency of recurrence of injuries shall be considered when determining whether the physical discipline is reasonable and moderate.

SUBDURAL HEMATOMA (Priority I)

I. Definition

Hematoma is a swelling or mass of blood (usually clotted) confined to an organ, tissue, or space and caused by a break in a blood vessel.

Subdural means beneath the dura mater (the outer membrane covering the spinal cord and brain).

A subdural hematoma is located beneath the membrane covering the brain and is usually the result of head injuries or the shaking of a small child or infant. It may result in loss of consciousness, seizures, mental or physical damage, or death.

II. Taking a report

A. Acceptable reporters are medical personnel, medical facilities or pediatric facilities with reasonable cause to suspect that a child sustained a subdural hematoma as the result of maltreatment.

B. Usage

The reporter has reason to believe that the subdural hematoma resulted from one of the following:

- A direct, non-accidental action of the parent or caretaker (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person that resulted in a subdural hematoma (failure to protect).

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child currently has a subdural hematoma or has sustained a subdural Hematoma in the past (such verification must come from a physician); and
- Secured a preponderance of evidence that the subdural hematoma was sustained as a result of maltreatment as defined in Section I.

SUBSTANCE MISUSE (Priority II)

I. Definition

The consumption of a substance capable of intoxication to the extent that it observably affects the child's health, behavior, motor coordination, judgment, or intellectual capability. This may include such mood altering chemicals as cannabis (marijuana), hallucinogens, stimulants (including cocaine), sedatives (Valium), narcotics, or inhalants, alcohol (except alcohol given a child during a recognized religious ceremony or service); over-the-counter drugs (if a person purposely administers an overdose to a child or purposely gives an inappropriate over-the-counter drug to a child and the child is detrimentally impacted by the overdose or the over-the-counter drug.

Examples of substance misuse may include, but are not limited to:

- Giving a minor (unless prescribed by a physician) any amount of heroin, cocaine, morphine, peyote, LSD, PCP, pentazocine, or methaqualude or encouraging, insisting, or permitting a minor's consumption of the above substances.
- Giving any mood altering substance, including alcohol or sedatives (unless prescribed by a physician) to an infant or toddler.
- Encouraging, assisting, or permitting a child to consume alcohol, drugs, or another mood altering substance.
- Encouraging, assisting, or permitting an adolescent to consume alcohol, drugs, or another mood altering substance.
- Encouraging, assisting, or permitting any minor to consume alcohol, drugs, or another mood altering substance, even if on an infrequent basis.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child has consumed a mood altering substance as a result of maltreatment.

B. Usage

The reporter has reason to believe that the substance misuse resulted from one of the following:

- A direct, non-accidental action of the parent or caretaker (abuse).
- One or more of the foregoing persons encouraged or assisted the child's consumption of the mood altering substances.
- The failure of the parent or caretaker to make reasonable efforts to stop another person from giving mood-altering substances to the child (failure to protect).
- A blatant disregard to responsibilities for the child's welfare. This includes the failure of the parent or caretaker to take reasonable actions to prevent the child from misusing mood altering substances (neglect).

C. Factors to be considered

The following factors should be considered when determining whether a child is involved in substance misuse:

- Age of child.
- Frequency of substance misuse.
- Amount of substance consumed.
- Degree of behavior dysfunction, or physical impairment linked to substance misuse.
- The child's culture, particularly as it relates to use of alcohol in religious ceremonies or on special occasions.
- Whether the parent's or caretaker's attempts to control an older child's substance misuse or to seek help for the child's substance misuse were reasonable under the circumstances.

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that a child is currently involved in or has been involved in substance misuse; and
- Secured a preponderance of evidence that the substance misuse was the result of maltreatment as defined in Section I.
- Applied the factors in Section II, C, above and determined that the substance misuse is significant enough to constitute child abuse and neglect.

SUFFOCATION (Priority I)

I. Definition

The parent or caretaker intentionally or knowingly uses any means to interfere with a child's ability to breathe. This includes, but is not limited to choking the child, compressing the child's chest, placing a binding material around the child's neck or covering the child's nose and mouth with a hand or other object that restricts breathing.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child has been suffocated as a result of maltreatment.

B. Usage

The reporter has reason to believe suffocation resulted from one of the following:

- A direct, non-accidental action of the parent or caretaker (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another that resulted in suffocation (failure to protect).

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that a child has been suffocated.
- Secured a preponderance of evidence that the suffocation occurred as a result of maltreatment as defined in Section I.

THREAT OF HARM (Priority I)

I. Definition

Conduct of the parent or caretaker creating a realistic and serious threat of death, permanent or temporary disfigurement, impairment of any bodily organ, or an injury to a juvenile's intellectual, emotional or psychological development as evidenced by observable and substantial impairment of the juvenile's ability to function within the juvenile's normal range of performance and behavior.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a parent or caretaker's conduct has created a realistic and serious threat of harm.

B. Usage

The reporter has reason to believe that the parent or caretaker's conduct created a realistic and serious threat of harm that resulted from one of the following:

- A non-accidental action of the parent or caretaker.
- An intentional or knowing act of the parent or caretaker.

III. Founding a Report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the incident occurred; and
- Determined that the child is/was facing a realistic and serious threat of harm; and
- Secured a preponderance of evidence that the parent or caretaker created a significant and realistic threat of harm as defined above in

THROWING A CHILD (Priority II)

I. Definition

The parent or caretaker of the child has thrown, hurled or flung the child into an object or across a space.

II. Taking a Report

A. An acceptable reporter is any person who has reasonable cause to suspect that a child has been thrown, hurled, or flung by a parent or caretaker.

B. Usage

The reporter has reason to believe that the child has been thrown, hurled, or flung into an object or across space by his parent or caretaker.

III. Founding a Report

This allegation of maltreatment may be founded only after the Worker has:

- Secured a preponderance of evidence that the child was thrown, hurled, or flung by a parent or caretaker into an object or across space and a physical injury occurred.

NOTE: Abuse does not include physical discipline of a child when it is reasonable and moderate and is inflicted by a parent or guardian for purposes of restraining or correcting the child. Reasonable and moderate physical discipline should cause no more than transient pain or minor temporary marks.

NOTE: The age, size and condition of the child and the location of the injury and the frequency of recurrence of injuries shall be considered when determining whether the physical discipline is reasonable and moderate.

TYING/CLOSE CONFINEMENT: (Priority II)

I. Definition

Tying a child to a fixed (or heavy) object, or binding or tying a child's limbs together.

Examples include, but are not limited to:

- Tying one or more limbs to a bed, chair, or other object except as authorized by a licensed physician.
- Tying a child's hands or legs together.

II. Taking a report

A. An acceptable reporter is any person with reasonable cause to suspect that a child was tied or closely confined as the result of maltreatment.

B. Usage

The reporter has reason to believe that the child was tied or closely confined as a result of one of the following:

- A direct, non-accidental action of the parent or caretaker (abuse).
- The failure of the parent or caretaker to make reasonable efforts to stop an action by another person that resulted in the child being tied or closely confined (failure to protect.)

III. Founding a report

This allegation of maltreatment may be founded only after the Worker has:

- Verified that the child is/was tied or closely confined; and
- Secured a preponderance of evidence that the tying or close confinement was sustained as a result of maltreatment as defined in Section I. If the alleged offender contends that reasonable tying/close confinement was recommended by a physician or psychiatrist as a suggested means to ensure the child's safety or control the child's behavior, this must be verified by the physician or psychiatrist.

UNDERAGED JUVENILE AGGRESSOR (UNDER 10 YEARS OF AGE) (Priority I)

I. Definition:

Sexual abuse by a child younger than ten (10) years of age of another child younger than eighteen (18) years of age. The sexual abuse may be any of the following acts:

- Any contact or attempted contact between the sex organ of one child and the mouth of another child.
- Any act of sexual gratification involving the touching, directly or through clothing, of the sex organs, buttocks or anus of another child or the breast of a female child.
- Any penetration, however slight, of the anus or mouth of another child by his penis
- The penetration of the labia majora or anus of another child by any body member or foreign instrument manipulated by the child being assessed.

II. Taking a Report

A. An acceptable reporter is any person, who has reasonable cause to suspect that a child (under age 10 years) has sexually abused another child

B. Usage

The reported age of the child being investigated in under the age of 10.

III. Founding a Report

A determination may be made only after the Worker has:

- Established the exact age of the child being assessed and whether or not he/she has s sexually abused (such as the behaviors listed above) another child; and
- Secured a preponderance of evidence that the sexual abuse or attempted sexual abuse either occurred or did not occur.

The overall finding or determination will be one of the following:

- **Unfounded** (unsubstantiated) - If there is no preponderance of evidence that the sexual abuse occurred.
- **Exempt From Finding** (under ten years of age) – There is a preponderance of evidence that the sexual abuse occurred AND the child being assessed is less than ten (10) years old.

NOTE: If there is a preponderance of evidence that the sexual abuse occurred AND the child being assessed is ten (10) years of age or older, then an overall finding or determination of “True” will fall under one of the following types of sexual child maltreatment, whichever is most appropriate –

1. Oral Sex
2. Pornography/Live Sex Act Exposure
3. Sexual Contact
4. Sexual Exploitation
5. Sexual Penetration

PRESENCE OF AN ILLEGAL SUBSTANCE IN A CHILD OR ITS MOTHER AT THE TIME OF BIRTH RESULTING FROM THE MOTHER’S KNOWING USE OF THE SUBSTANCE (Priority II)

I. Definition

Causing a child to be born with:

An illegal substance present in the child’s bodily fluids or bodily substances as a result of the pregnant mother knowingly using an illegal substance before the child’s birth; or

Presence of an illegal substance in the mother at the time of birth:

An illegal substance present in the mother’s bodily fluids or bodily substances as a result of her knowingly using an illegal substance before the child’s birth.

“Illegal substance” means a drug that is prohibited to be used or possessed without a prescription under the Arkansas Criminal Code, § 5-1-101 et seq.

II. Taking a Report

- A. An acceptable reporter is limited to any one of the following mandated reporters, who have reasonable cause to suspect that a child has been subjected to an illegal substance before birth or the mother had an illegal substance in her system at the time of the birth: a licensed nurse; an osteopath; a physician; a resident or intern; a surgeon; an hospital social worker; or any medical personnel who may be engaged in the admission, examination, care or treatment of persons in hospitals or similar medical settings.**

B. Usage:

The reporter has reason to believe that the child's condition (having an illegal substance in its body) is the direct result of prenatal exposure of the newborn to an illegal substance abused by the mother.

The reporter has reason to believe that the mother had an illegal substance in her system at the time of the birth from knowingly using an illegal substance.

When a child is stillborn and the reporter believes the child died as a result of the mother's prenatal illegal drug use, the hotline will not accept a report of neglect. Based on Arkansas statute, a stillborn delivery is not considered a birth.

III. Founding a Report

This allegation may be founded only after the Worker has:

- Verified that the child has an illegal substance in its bodily fluids or bodily substances or;
- Verified that the mother's bodily fluids or substances contained an illegal substance at the time of the birth.

IV. Garrett's Law, Illegal Substance and Adoption

During the course of an investigation, or when DCFS has custody, when the mother or child has tested positive for the presence of an illegal substance in the bodily fluids or bodily substances, and the mother indicates that she wants to place the child for adoption through a private agency or private entity, the Family Service Worker must contact OCC immediately.

NOTE: All Garrett's Law investigations must be initiated within twenty-four (24) hours.

NOTE: CAPTA still requires a Plan of Safe Care for all infants born affected by prenatal drug abuse (See Executive Directive SPP 2004 -05 issued June 18, 2004, located in CHRISNet under "DCFS Exe Directives").