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*Lesson Plan / Instructor Guide*

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## Child Abuse

New Mexico Law Enforcement Academy Board  
Annual In-Service Training Curriculum 2022

**COURSE TITLE:**

**2022-2023 In-Service Child Abuse**

**INSTRUCTIONAL GOAL:**

Demonstrate an understanding and knowledge concerning the crime and social issue of child abuse, including the dynamics of why people abuse children and the results of that abuse.

**INSTRUCTIONAL OBJECTIVES:**

Upon completion of this block of instruction the participant will:

- 1) Define child abuse
- 2) Recognize and understand the basics of the different types of child abuse: Physical, emotional, sexual & neglect
- 3) Find and refer to the statutes that relate to child abuse and neglect
- 4) Understand the legal requirements when deciding to remove a child from the home.
- 5) Understand the reporting requirements as it pertains to child abuse
- 6) Review the basic dynamics concerning pedophiles
- 7) Have a basic understanding of the dynamics of a SIDS death

**INSTRUCTIONAL METHODS:**

Classroom Lecture & Discussion

**HANDOUTS:**

**COURSE DURATION:**

2hrs

**CURRICULUM REFERENCES:**

29-7-4.2, 30-10-3, 30-18-12, 31-18-15, 30-9-11, 30-9-13, 30-9-1, 30-6A-3, 32A-4-2, 32A-4-6, 32A-4-3, 30-6-4, 30-6-2, 30-6-1 NMSA 1978

**EQUIPMENT, PERSONNEL, AND SUPPLIES NEEDED:**

Computer, projector, screen

**TARGET AUDIENCE:**

Certified NM law enforcement officers

**INSTRUCTOR RATIO:**

1:60

**EVALUATION STRATEGY:**

Class participation

**AUTHOR & ORIGINATION DATE:**

**REVISION / REVIEW DATE(S):**

December 2021

**REVISED / REVIEWED BY:**

NMLEA Staff

Inflicted physical injury most often represents unreasonably severe corporal punishment. This usually happens when the parent is frustrated, angry and shakes, throws, or strikes a child. Other forms of punishment may also place a child in a situation where injury occurs, or the child is endangered.

The combination of physical punishment and rage is ineffective as a disciplinary tool. The use of excessive corporal punishment may teach a child to resolve conflicts violently.

**Develop a discussion on the difference in discipline and abuse. Explain that abuse crosses the line from discipline and is excessive and unnecessary, as well as a crime.**

- A. Definition: Child Abuse is the non-accidental injury of a child, consisting of one episode or several episodes of injuries ranging from minor to fatal.

## **I. Types of Child Abuse**

### **A. Physical Abuse**

Physical abuse is the infliction of physical injury as a result of punching, beating, kicking, biting, burning, shaking, or otherwise harming a child. The parent or caretaker may not have intended to hurt the child, rather the injury may have resulted from over-discipline or physical punishment.

### **B. Child Neglect**

Child neglect is characterized by failure to provide for the child's basic needs. Neglect can be physical, educational, or emotional. Physical neglect includes refusal of or delay in seeking health care, abandonment, expulsion from the home or refusal to allow a runaway to return home, and inadequate supervision. Educational neglect includes the allowance of chronic truancy, failure to enroll a child of mandatory school age in school, and failure to attend to a special educational need. Emotional neglect includes such actions as marked inattention to the child's needs for affection, refusal of or failure to provide needed psychological care, spouse abuse in the child's presence, and permission of drug or alcohol use by the child. The

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assessment of child neglect requires consideration of cultural values and standards of care as well as recognition that the failure to provide the necessities of life may be related to poverty.

C. Sexual Abuse

Sexual abuse includes fondling a child's genitals, intercourse, incest, rape, sodomy, exhibitionism, and commercial exploitation through prostitution or the production of pornographic materials. Many experts believe that sexual abuse is the most under-reported form of child maltreatment because of the secrecy or "conspiracy of silence" that so often characterizes these cases.

D. Emotional Abuse (Psychological/Verbal Abuse/Mental Injury)

Emotional abuse includes acts or omissions by the parents or other caregivers that have caused, or could cause, serious behavioral, cognitive, emotional, or mental disorders. In some cases of emotional abuse, the acts of parents or other caregivers alone, without any harm evident in the child's behavior or condition, are sufficient to warrant child protective services (CPS) intervention. For example, the parents/caregivers may use extreme or bizarre forms of punishment, such as confinement of a child in a dark closet. Less severe acts, such as habitual scapegoating, belittling, or rejecting treatment, are often difficult to prove and, therefore, CPS may not be able to intervene without evidence of harm to the child.

Although any of the forms of child maltreatment may be found separately, they often occur in combination. Emotional abuse is almost always present when other forms are identified.

## II. Statutes:

### [30-6-1. Abandonment or abuse of a child.](#)

A. As used in this section:

- (1) "child" means a person who is less than eighteen years of age;
- (2) "neglect" means that a child is without proper parental care and control of subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parents, guardian or custodian or their neglect or refusal, when able to do so, to provide them; and
- (3) "negligently" refers to criminal negligence and means that a person knew or should have known of the danger involved and acted with a reckless disregard for the safety or health of the child.

B. Abandonment of a child consists of the parent, guardian or custodian of a child intentionally leaving or abandoning the child under circumstances whereby the child may or does suffer neglect. A person who commits abandonment of a child is guilty of a misdemeanor, unless the abandonment results in the child's death or great bodily harm, in which case the person is guilty of a second degree felony.

C. A parent, guardian or custodian who leaves an infant less than ninety days old in compliance with the

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Safe Haven for Infants Act [[24-22-1](#) NMSA 1978] shall not be prosecuted for abandonment of a child.

D. Abuse of a child consists of a person knowingly, intentionally or negligently, and without justifiable cause, causing or permitting a child to be:

- (1) placed in a situation that may endanger the child's life or health;
- (2) tortured, cruelly confined or cruelly punished; or
- (3) exposed to the inclemency of the weather.

E. A person who commits abuse of a child that does not result in the child's death or great bodily harm is, for a first offense, guilty of a third degree felony and for second and subsequent offenses is guilty of a second degree felony. If the abuse results in great bodily harm to the child, the person is guilty of a first degree felony.

F. A person who commits negligent abuse of a child that results in the death of the child is guilty of a first degree felony.

G. A person who commits intentional abuse of a child twelve to eighteen years of age that results in the death of the child is guilty of a first degree felony.

H. A person who commits intentional abuse of a child less than twelve years of age that results in the death of the child is guilty of a first degree felony resulting in the death of a child.

I. Evidence that demonstrates that a child has been knowingly, intentionally or negligently allowed to enter or remain in a motor vehicle, building or any other premises that contains chemicals and equipment used or intended for use in the manufacture of a controlled substance shall be deemed prima facie evidence of abuse of the child.

J. Evidence that demonstrates that a child has been knowingly and intentionally exposed to the use of methamphetamine shall be deemed prima facie evidence of abuse of the child.

K. A person who leaves an infant less than ninety days old at a hospital may be prosecuted for abuse of the infant for actions of the person occurring before the infant was left at the hospital.

### **[30-6-2. Abandonment of dependent.](#)**

Abandonment of dependent consists of a person having the ability and means to provide for his spouse or minor child's support and abandoning or failing to provide for the support of such dependent.

Whoever commits abandonment of dependent is guilty of a fourth-degree felony.

### **[30-6-4. Obstruction of reporting or investigation of child abuse or neglect.](#)**

Obstruction of reporting or investigation of child abuse or neglect consists of:

A. knowingly inhibiting, preventing, obstructing or intimidating another from reporting, pursuant to Section 32-1-15 NMSA 1978, child abuse or neglect, including child sexual abuse; or

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B. knowingly obstructing, delaying, interfering with or denying access to a law enforcement officer or child protective services social worker in the investigation of a report of child abuse or sexual abuse.

Whoever commits obstruction of reporting or investigation of child abuse or neglect is guilty of a misdemeanor.

### **32A-4-2. Definitions.**

As used in the Abuse and Neglect Act:

A. "abandonment" includes instances when the parent, without justifiable cause:

(1) left the child without provision for the child's identification for a period of fourteen days;

or

(2) left the child with others, including the other parent or an agency, without provision for support and without communication for a period of:

(a) three months if the child was under six years of age at the commencement of the three-month period; or

(b) six months if the child was over six years of age at the commencement of the six-month period;

B. "abused child" means a child:

(1) who has suffered or who is at risk of suffering serious harm because of the action or inaction of the child's parent, guardian or custodian;

(2) who has suffered physical abuse, emotional abuse or psychological abuse inflicted or caused by the child's parent, guardian or custodian;

(3) who has suffered sexual abuse or sexual exploitation inflicted by the child's parent, guardian or custodian;

(4) whose parent, guardian or custodian has knowingly, intentionally or negligently placed the child in a situation that may endanger the child's life or health; or

(5) whose parent, guardian or custodian has knowingly or intentionally tortured, cruelly confined or cruelly punished the child;

C. "aggravated circumstances" includes those circumstances in which the parent, guardian or custodian has:

(1) attempted, conspired to cause or caused great bodily harm to the child or great bodily harm or death to the child's sibling;

(2) attempted, conspired to cause or caused great bodily harm or death to another parent, guardian or custodian of the child;

(3) attempted, conspired to subject or has subjected the child to torture, chronic abuse or sexual abuse; or

- (4) had parental rights over a sibling of the child terminated involuntarily;
- D. "great bodily harm" means an injury to a person that creates a high probability of death, that causes serious disfigurement or that results in permanent or protracted loss or impairment of the function of a member or organ of the body;
- E. "neglected child" means a child:
- (1) who has been abandoned by the child's parent, guardian or custodian;
  - (2) who is without proper parental care and control or subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child's parent, guardian or custodian or the failure or refusal of the parent, guardian or custodian, when able to do so, to provide them;
  - (3) who has been physically or sexually abused, when the child's parent, guardian or custodian knew or should have known of the abuse and failed to take reasonable steps to protect the child from further harm;
  - (4) whose parent, guardian or custodian is unable to discharge that person's responsibilities to and for the child because of incarceration, hospitalization or physical or mental disorder or incapacity; or
  - (5) who has been placed for care or adoption in violation of the law; provided that nothing in the Children's Code [[32A-1-1](#) NMSA 1978] shall be construed to imply that a child who is being provided with treatment by spiritual means alone through prayer, in accordance with the tenets and practices of a recognized church or religious denomination, by a duly accredited practitioner thereof is for that reason alone a neglected child within the meaning of the Children's Code; and further provided that no child shall be denied the protection afforded to all children under the Children's Code;
- F. "physical abuse" includes but is not limited to any case in which the child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling or death and:
- (1) there is not a justifiable explanation for the condition or death;
  - (2) the explanation given for the condition is at variance with the degree or nature of the condition;
  - (3) the explanation given for the death is at variance with the nature of the death; or
  - (4) circumstances indicate that the condition or death may not be the product of an accidental occurrence;
- G. "sexual abuse" includes but is not limited to criminal sexual contact, incest or criminal sexual penetration, as those acts are defined by state law;
- H. "sexual exploitation" includes but is not limited to:
- (1) allowing, permitting or encouraging a child to engage in prostitution;
  - (2) allowing, permitting, encouraging or engaging a child in obscene or pornographic photographing;
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or

(3) filming or depicting a child for obscene or pornographic commercial purposes, as those acts are defined by state law; and

I. "transition plan" means an individualized written plan for a child, based on the unique needs of the child that outlines all appropriate services to be provided to the child to increase independent living skills. The plan shall also include responsibilities of the child, and any other party as appropriate, to enable the child to be self-sufficient upon emancipation.

**32A-4-3. Duty to report child abuse and child neglect; responsibility to investigate child abuse or neglect; penalty.**

A. Every person, including a licensed physician; a resident or an intern examining, attending or treating a child; a law enforcement officer; a judge presiding during a proceeding; a registered nurse; a visiting nurse; a schoolteacher; a school official; a social worker acting in an official capacity; or a member of the clergy who has information that is not privileged as a matter of law, who knows or has a reasonable suspicion that a child is an abused or a neglected child shall report the matter immediately to:

(1) a local law enforcement agency;

(2) the department; or

(3) a tribal law enforcement or social services agency for any Indian child residing in Indian country.

B. A law enforcement agency receiving the report shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to the department and shall transmit the same information in writing within forty-eight hours. The department shall immediately transmit the facts of the report and the name, address and phone number of the reporter by telephone to a local law enforcement agency and shall transmit the same information in writing within forty-eight hours. The written report shall contain the names and addresses of the child and the child's parents, guardian or custodian, the child's age, the nature and extent of the child's injuries, including any evidence of previous injuries, and other information that the maker of the report believes might be helpful in establishing the cause of the injuries and the identity of the person responsible for the injuries. The written report shall be submitted upon a standardized form agreed to by the law enforcement agency and the department.

C. The recipient of a report under Subsection A of this section shall take immediate steps to ensure prompt investigation of the report. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as well as that of any other child under the same care who may be in danger of abuse or neglect. A local law enforcement officer trained in the investigation of child abuse and neglect is responsible for investigating reports of alleged child abuse or neglect at schools, daycare facilities or childcare facilities.

D. If the child alleged to be abused or neglected is in the care or control of or in a facility administratively connected to the department, the report shall be investigated by a local law enforcement officer trained in the investigation of child abuse and neglect. The investigation shall ensure that immediate steps are taken to protect the health or welfare of the alleged abused or neglected child, as

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well as that of any other child under the same care who may be in danger of abuse or neglect.

E. A law enforcement agency or the department shall have access to any of the records pertaining to a child abuse or neglect case maintained by any of the persons enumerated in Subsection A of this section, except as otherwise provided in the Abuse and Neglect Act.

F. A person who violates the provisions of Subsection A of this section is guilty of a misdemeanor and shall be sentenced pursuant to the provisions of Section [31-19-1](#) NMSA 1978.

#### **32A-4-6. Taking into custody; penalty.**

A. A child may be held or taken into custody:

(1) by a law enforcement officer when the officer has evidence giving rise to reasonable grounds to believe that the child is abused or neglected and that there is an immediate threat to the child's safety; provided that the law enforcement officer contacts the department to enable the department to conduct an on-site safety assessment to determine whether it is appropriate to take the child into immediate custody, except that a child may be taken into custody by a law enforcement officer without a protective services assessment being conducted if:

(a) the child's parent, guardian or custodian has attempted, conspired to cause or caused great bodily harm to the child or great bodily harm or death to the child's sibling;

(b) the child's parent, guardian or custodian has attempted, conspired to cause or caused great bodily harm or death to another parent, guardian or custodian of the child;

(c) the child has been abandoned;

(d) the child is in need of emergency medical care;

(e) the department is not available to conduct a safety assessment in a timely manner; or

(f) the child is in imminent risk of abuse; or

(2) by medical personnel when there are reasonable grounds to believe that the child has been injured as a result of abuse or neglect and that the child may be at risk of further injury if returned to the child's parent, guardian or custodian. The medical personnel shall hold the child until a law enforcement officer is available to take custody of the child pursuant to Paragraph (1) of Subsection A of this section.

B. When a child is taken into custody by law enforcement, the department is not compelled to place the child in an out-of-home placement and may release the child to the child's parent, guardian or custodian.

C. When a child is taken into custody, the department shall make reasonable efforts to determine whether the child is an Indian child.

D. If a child taken into custody is an Indian child and is alleged to be neglected or abused, the department shall give notice to the agent of the Indian child's tribe in accordance with the federal Indian Child Welfare Act of 1978.

E. Any person who intentionally interferes with protection of a child, as provided by Subsection A of this

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section, is guilty of a petty misdemeanor.

#### **29-7-4.2. NMSA 1978 Child Abuse Incident Training:**

Child abuse incident training shall be included in the curriculum of each basic law enforcement training class. Child abuse incident training shall be included as a component of in-service training each year for certified police officers.

#### **IV. Elements of Abuse**

- a. Abuse most often occurs in the home. Three elements are involved to create an abusive environment: 1) the abuser, 2) the abused, 3) a crisis.
  - b. Abuser:
    - i. Usually the parent or caretaker
    - ii. Perpetrators include:
      - 1. mothers
      - 2. fathers
      - 3. boyfriends
      - 4. stepfathers
      - 5. babysitters, ....etc.
  - c. Characteristics of Abusers:
    - a. History of having been abused themselves. (explain the cycle of abuse)
    - b. Tend to keep to themselves
    - c. Move from place to place
    - d. Tend to be young
    - e. Alcohol/Drug abuse
    - f. Mate knows about the abuse, ignores or even participates in it.
  - d. The Abused:
    - a. The child victim. Children under two are most at risk. Non-verbal and non-ambulatory.
    - b. Handicapped children at high risk.
    - c. Adopted children or reconstituted families (yours, mine & ours)
    - d. Sickly, unattractive, unwanted child at risk.
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## e. The Crisis:

- i. The factor that sets the abusive parent in motion causing them to lose control and start the abuse.
- ii. Parent overreacts, usually as a result of stresses.
- iii. ANYTHING CAN BE A CRISIS

## V. Types of Abuse:

- A. Physical
- B. Emotional
- C. Sexual
- D. Neglect

- a. Physical Abuse: inflicted physical injury most often represents unreasonable severe corporal punishment. Beating, throwing, striking, burning, breaking, killing of a child.
- b. **32A-4-2 NMSA 1978**: Abandonment or Abuse of a Child: “abused child” means a child who has been physically, emotionally, or psychologically abused or who has been sexually abused or exploited by parents, guardians or custodian.
- c. There are a number of indicators of physical abuse. The presence of unexplained, inconsistent or incompatible explanations of injuries assist the officer in determining the appropriate course of action.
- d. Types of injuries: normal bruises will occur over bony prominences. Facial scratches, knee and shin bruises, and forehead bruises. These are normal in children during the elementary years and will appear as small flat circular bruises.
- e. Mongolian spots – pseudo bruises. Less than 2% of the population bruise easy. Occurs in the following races:
  - i. 95% in Black babies
  - ii. 81% in Oriental/American Indian babies
  - iii. 70% in Hispanic babies
  - iv. 10% in Caucasian babies.

## E. Assessment of injuries:

- a. Primary target zone: 70% of injuries will be located on the posterior, shoulders to back of legs. This area is well protected and hidden from view.
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- b. Configuration: Bruises in specific pattern that might resemble the instrument used, ex. Hand, belt buckle, wire, coat hanger, etc.)
- c. Cluster bruises: indicates repeated contact with a hand or instrument.
- d. Age dating bruises. Bruises in various stages of healing, as indicated by differing shades of skin discoloration. Such bruises indicate injuries occurring at different times, which might be consistent with a pattern of abuse.
- e. Age day dating: 0-1 red, purple, swollen
  - i. 1-7 blue-black (brown at rim)
  - ii. 5-10 greenish – yellow
  - iii. 7-14 brownish – yellow
  - iv. 10-21 fades to normal.
- f. Bruises which are found on more than one side of the body.
- g. Angle of attack, will tell you how victim was positioned in regard to the perpetrator.
- h. Bite marks, pinch marks, hair pulled out. If more than 3 cm, an adult bite.
- i. Defense marks. Forearms held out to protect buttocks, etc. Grab marks, look underneath the arms.
- j. **Remind students as we progress through injuries and become angry with abusers, that children love their parents and we need to keep this in perspective.**

#### F. Burns

1. Immersion burns indicating dunking in a hot liquid. “Stocking” burns on the arms or legs, “doughnut” shaped burns on the buttocks; any burn which stops at a distinct boundary line.
2. Cigarette burns have crater appearance.
3. dry burns (no blisters)
4. Rope burns from binding or tethering.

#### G. Lacerations & Abrasions

1. Loop type as in electrical cords.
  2. Wraparound caused by belts
  3. Buckle impressions
  4. Attempt to locate instrument causing injury (be creative)
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#### H. Internal Injuries/pummeling

1. Blows to the body may cause serious internal injuries to the liver, spleen, pancreas, kidneys and other vital organs. Occasionally these injuries may cause shock and result in death. Lethal abdominal trauma in children requires forces comparable to a motor vehicle running over them. Most children who die of this have had significant delays in medical care. This is the second leading cause of death for victims of child abuse.
2. Detectable surface evidence of such trauma is rarely present. Evidence of such trauma includes: 1) distended abdomen, 2) blood in urine, 3) vomiting, 4) abdominal pain, 5) shock

#### I. Head Injuries

1. Head injuries are the most common cause of child abuse related deaths and an important cause of disabilities.
2. Eggshell-fracture: skull x-rays may reveal an “eggshell” fracture of the back of the skull. Occurs when children are slammed or thrown against a solid object.
3. Subdural Hematoma – refers to trapped blood around the brain caused by a blunt force blow to the head. Special caution: serious head injuries don’t result from simple falls.
4. Shaking Baby Syndrome: caused by violent or excessive shaking of a child. The injury can also be caused by inappropriate play (such as throwing a very young child into the air, etc). Young children have weak neck muscles and their heads are heavy in relation to their size. Spots or pools of blood may be visible in their eyes.

#### J. Behavioral Indicators

1. Child:
  2. Overly passive, compliant, or fearful; or at the other extreme: excessively aggressive or physically violent.
  3. Attempts to hide injuries; child wears inappropriate clothing (especially in hot weather); frequently absent from school or physical education classes.
  4. Fearful of physical contact
  5. Afraid to go home
  6. Cries little
  7. **Note: Children who are physically abused may have learned to cover for their parents. They will make excuses for the injury and use the cover stories their parents tell them.**
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**K. Behavioral indicators of parent/caretaker**

1. Delays or fails to seek medical care for the child. More than 3 hour delay should raise issues.
2. Inconsistent or incompatible explanations for the child's injuries
3. Unrealistic expectations of the child.
4. Irrational or bizarre actions

**L. History/Explanation**

1. Childs' statement indicates that the injury was caused by abuse.
2. Knowledge that a child's injury is unusual for a specific age group (ex. Any fracture in an infant)
3. Unexplained injuries (ex. Parent is unable to explain cause of injury; there are discrepancies; a third party is blamed; explanations are inconsistent with medical diagnosis.)
4. History of previous or recurrent injuries. Check hospital records/known physicians

**M. Investigation**

1. Level of response depends upon the following:
  - a. Nature of the call (in-progress vs. old injury)
  - b. Age of the child(ren) or special condition (e.g., developmentally disabled)
  - c. Imminent danger to child without intervention
  - d. Immediate need for medical attention
  - e. Reliability and authenticity of reporting party.
  - f. History of prior reports
  - g. **Note: The need for a warrantless entry should be determined using the above criteria.**

**N. Evidence Collection**

Pertinent evidence should be collected to substantiate the alleged physical abuse. Such evidence may include:

1. Photographs of the victim and/or the crime scene. Photographs of bruises should be taken several days apart to document age and severity.)
  2. Medical information
  3. Instruments/weapons that caused the injury
  4. Statements of victim(s) witness/parents
  5. Documentation of observations
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6. **Note: The most common instrument of abuse are hands and feet.**

## VI. Child Neglect

### A. Child Neglect defined: any child ...

1. who has been abandoned by his parents, guardians, custodians or
2. Who is without proper parental care, control, subsistence, education, medical or other care necessary for wellbeing or
3. Whose parent, guardian or custodian is unable to discharge responsibilities for the child or
4. Who has been placed for care or adoption in violation of law.
5. State statute: 30-6-1(listed earlier)

6. **Note: Abuse = action against a child.**

**Neglect = lack of action for the child**

### B. Child neglect indicators

1. Neglect may be suspected if the following conditions exist:
2. Lack of adequate medical or dental care.
3. Chronically sleepy or hungry.
4. Chronically dirty, poor personal hygiene, inadequate dress for weather conditions.
5. Evidence of poor supervision: ex. Child is left alone in the home, or unsupervised under any circumstances; (repeatedly falls downstairs, repeated ingestion of harmful substances, a child cared for by another child, left in car, street, etc.)
6. Conditions in home constitute a health hazard (garbage, animal, or human excretion)
7. Home lacks heating or plumbing
8. Fire hazards or other unsafe conditions
  - a. Inadequate sleeping arrangements. Ex. Dirty, lack of appropriate bedding, etc.
  - b. Nutritional quality of food in home is poor
  - c. Spoiled food in refrigerator or cupboards

**It is important the instructor distinguish between neglect and poverty or poor parenting skills. While some of these conditions may exist in the home environment, it is the extreme or persistent presence of these factors that indicates some degree of neglect.**

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Extreme conditions resulting in an “unfit home” constitute neglect and may justify protective custody as well as criminal charges.

**Suggestion: attempt discussion on whether criminal charges are appropriate for neglect situations.**

## **VII. Emotional Abuse/Deprivation**

Just as physical injuries can scar and incapacitate a child, emotional cruelty can similarly cripple and handicap a child emotionally, behaviorally, and intellectually.

Excessive verbal assaults (belittling, screaming, threats, blaming, sarcasm), unpredictable responses (inconsistency), continual negative moods, and constant family discord are examples of ways parents may subject their children to emotional abuse.

### **A. Behavioral Indicators**

1. Victim:
  - a. Withdrawn, depressed, apathetic
  - b. “Acts out” and considered a “behavior problem”
  - c. Rocking, head banging, habit disorders
  - d. Self destructive/suicide attempts
  - e. Truancy or other disciplinary problems
2. Parent – Caretaker characteristics
  - a. Mentally ill or immature parents
  - b. Discriminatory treatment among children in family
  - c. Belittles the child
  - d. Uses child as a scapegoat when things go wrong

## **VIII. Sexual Abuse & Exploitation of Children**

Sexual Abuse is described as contact with a child where the child is being used for sexual stimulation of the other person. Sexual abuse can be committed by a person of any age. The abuser is often older than the victim and/or in a position of authority over the child.

**30-6A-3. Sexual exploitation of children.**

- A. It is unlawful for a person to intentionally possess any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts any prohibited sexual act or simulation of such act and if that person knows or has reason to know that one or more of the participants in that act is a child under eighteen years of age. A person who violates the provisions of this subsection is guilty of a fourth-degree felony.
- B. It is unlawful for a person to intentionally distribute any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts any prohibited sexual act or simulation of such act and if that person knows or has reason to know that one or more of the participants in that act is a child under eighteen years of age. A person who violates the provisions of this subsection is guilty of a third-degree felony.
- C. It is unlawful for a person to intentionally cause or permit a child under eighteen years of age to engage in any prohibited sexual act or simulation of such an act if that person knows, has reason to know or intends that the act may be recorded in any obscene visual or print medium or performed publicly. A person who violates the provisions of this subsection is guilty of a third-degree felony, unless the child is under the age of thirteen, in which event the person is guilty of a second-degree felony.
- D. It is unlawful for a person to intentionally manufacture any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if one or more of the participants in that act is a child under eighteen years of age. A person who violates the provisions of this subsection is guilty of a second-degree felony.
- E. It is unlawful for a person to intentionally manufacture any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts a prohibited sexual act or simulation of such an act and if that person knows or has reason to know that a real child under eighteen years of age, who is not a participant, is depicted as a participant in that act. A person who violates the provisions of this subsection is guilty of a fourth-degree felony.
- F. It is unlawful for a person to intentionally distribute any obscene visual or print medium depicting any prohibited sexual act or simulation of such an act if that person knows or has reason to know that the obscene medium depicts a prohibited sexual act or simulation of such an act and if that person knows or has reason to know that a real child under eighteen years of age, who is not a participant, is depicted as a participant in that act. A person who violates the provisions of this subsection is guilty of a third-degree felony.
- G. The penalties provided for in this section shall be in addition to those set out in Section [30-9-11](#) NMSA 1978.

**30-9-1. Enticement of child.**

Enticement of child consists of:

- A. enticing, persuading or attempting to persuade a child under the age of sixteen years to enter any vehicle, building, room or secluded place with intent to commit an act which would constitute a crime under Article 9 [[30-9-1](#) to [30-9-9](#) NMSA 1978] of the Criminal Code; or
- B. having possession of a child under the age of sixteen years in any vehicle, building, room or secluded place with intent to commit an act which would constitute a crime under Article 9 of the Criminal Code.

Whoever commits enticement of child is guilty of a misdemeanor.

**30-9-13. Criminal sexual contact of a minor.**

A. Criminal sexual contact of a minor is the unlawful and intentional touching of or applying force to the intimate parts of a minor or the unlawful and intentional causing of a minor to touch one's intimate parts. For the purposes of this section, "intimate parts" means the primary genital area, groin, buttocks, anus or breast.

B. Criminal sexual contact of a minor in the second degree consists of all criminal sexual contact of the unclothed intimate parts of a minor perpetrated:

- (1) on a child under thirteen years of age; or
- (2) on a child thirteen to eighteen years of age when:
  - (a) the perpetrator is in a position of authority over the child and uses that authority to coerce the child to submit;
  - (b) the perpetrator uses force or coercion that results in personal injury to the child;
  - (c) the perpetrator uses force or coercion and is aided or abetted by one or more persons;or
- (d) the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual contact of a minor in the second degree is guilty of a second degree felony for a sexual offense against a child and, notwithstanding the provisions of Section [31-18-15](#) NMSA 1978, shall be sentenced to a minimum term of imprisonment of three years, which shall not be suspended or deferred. The imposition of a minimum, mandatory term of imprisonment pursuant to the provisions of this subsection shall not be interpreted to preclude the imposition of sentencing enhancements pursuant to the provisions of Sections [31-18-17](#), [31-18-25](#) and [31-18-26](#) NMSA 1978.

C. Criminal sexual contact of a minor in the third degree consists of all criminal sexual contact of a minor perpetrated:

- (1) on a child under thirteen years of age; or
-

(2) on a child thirteen to eighteen years of age when:

- (a) the perpetrator is in a position of authority over the child and uses this authority to coerce the child to submit;
  - (b) the perpetrator uses force or coercion which results in personal injury to the child;
  - (c) the perpetrator uses force or coercion and is aided or abetted by one or more persons;
- or
- (d) the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual contact of a minor in the third degree is guilty of a third degree felony for a sexual offense against a child.

D. Criminal sexual contact of a minor in the fourth degree consists of all criminal sexual contact:

- (1) not defined in Subsection C of this section, of a child thirteen to eighteen years of age perpetrated with force or coercion; or
- (2) of a minor perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing services in or for a school that the child is a student in a school.

Whoever commits criminal sexual contact in the fourth degree is guilty of a fourth degree felony.

### **30-9-11. Criminal sexual penetration.**

A. Criminal sexual penetration is the unlawful and intentional causing of a person to engage in sexual intercourse, cunnilingus, fellatio or anal intercourse or the causing of penetration, to any extent and with any object, of the genital or anal openings of another, whether or not there is any emission.

B. Criminal sexual penetration does not include medically indicated procedures.

C. Aggravated criminal sexual penetration consists of all criminal sexual penetration perpetrated on a child under thirteen years of age with an intent to kill or with a depraved mind regardless of human life. Whoever commits aggravated criminal sexual penetration is guilty of a first-degree felony for aggravated criminal sexual penetration.

D. Criminal sexual penetration in the first degree consists of all criminal sexual penetration perpetrated:

- (1) on a child under thirteen years of age; or
  - (2) by the use of force or coercion that results in great bodily harm or great mental anguish to the victim.
-

Whoever commits criminal sexual penetration in the first degree is guilty of a first-degree felony.

E. Criminal sexual penetration in the second degree consists of all criminal sexual penetration perpetrated:

- (1) by the use of force or coercion on a child thirteen to eighteen years of age;
- (2) on an inmate confined in a correctional facility or jail when the perpetrator is in a position of authority over the inmate;
- (3) by the use of force or coercion that results in personal injury to the victim;
- (4) by the use of force or coercion when the perpetrator is aided or abetted by one or more persons;
- (5) in the commission of any other felony; or
- (6) when the perpetrator is armed with a deadly weapon.

Whoever commits criminal sexual penetration in the second degree is guilty of a second-degree felony. Whoever commits criminal sexual penetration in the second degree when the victim is a child who is thirteen to eighteen years of age is guilty of a second degree felony for a sexual offense against a child and, notwithstanding the provisions of Section [31-18-15](#) NMSA 1978, shall be sentenced to a minimum term of imprisonment of three years, which shall not be suspended or deferred. The imposition of a minimum, mandatory term of imprisonment pursuant to the provisions of this subsection shall not be interpreted to preclude the imposition of sentencing enhancements pursuant to the provisions of the Criminal Sentencing Act [[31-18-12](#) NMSA 1978].

F. Criminal sexual penetration in the third degree consists of all criminal sexual penetration perpetrated through the use of force or coercion not otherwise specified in this section.

Whoever commits criminal sexual penetration in the third degree is guilty of a third-degree felony.

G. Criminal sexual penetration in the fourth degree consists of all criminal sexual penetration:

- (1) not defined in Subsections D through F of this section perpetrated on a child thirteen to sixteen years of age when the perpetrator is at least eighteen years of age and is at least four years older than the child and not the spouse of that child; or
- (2) perpetrated on a child thirteen to eighteen years of age when the perpetrator, who is a licensed school employee, an unlicensed school employee, a school contract employee, a school health service provider or a school volunteer, and who is at least eighteen years of age and is at least four years older than the child and not the spouse of that child, learns while performing services in or for a school that the child is a student in a school.

Whoever commits criminal sexual penetration in the fourth degree is guilty of a fourth-degree felony.

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**30-10-3. Incest.**

Incest consists of knowingly intermarrying or having sexual intercourse with persons within the following degrees of consanguinity: parents and children including grandparents and grandchildren of every degree, brothers and sisters of the half as well as of the whole blood, uncles and nieces, aunts and nephews.

Whoever commits incest is guilty of a third-degree felony.

**A. Sexual Abuse Indicators:**

Sexual abuse of a child may surface through a broad range of physical, behavioral, and social symptoms

**1. Historical indicators:**

- a. Child reports sexual activities to a friend, classmate, teacher, friend's mother, or other trusted adult. The disclosure may be direct or indirect, ex. "I know somebody"; "what would you do if?"; "I heard something about somebody." It is not uncommon for the disclosure to be delayed.

**2. Physical Indicators:**

- a. Child wears torn, stained, or bloody underclothing.
- b. Difficulty in walking or sitting
- c. Pain in genital area
- d. Bruises or bleeding in vaginal or anal areas
- e. Venereal disease, especially in pre-teens
- f. Pregnancy

**3. Sexual behavioral indicators of children:**

- a. Detailed and age-inappropriate understanding of sexual behavior (especially by younger children)
- b. Inappropriate, unusual or aggressive sexual behavior with peers or toys
- c. Excessive / compulsive masturbation
- d. Unusually seductive with classmates, teachers, and other adults.
- e. Prostitution or excessive promiscuity
- f. Excessive concern about homosexuality, especially in boys.

**4. Behavioral indicators in younger children:**

- a. Frequent bathing
-

- b. School problems or significant change in school performance (attitude and grades)
  - c. Running away from home
  - d. Seductive behavior
  - e. Sleeping disturbances, ex. Nightmares, fearful about falling asleep.
  - f. Fecal soiling
5. Behavioral indicators in older children and adolescents
- a. Withdrawal
  - b. Poor hygiene or excessive bathing
  - c. Poor peer relations and social skills, inability to make friends.
  - d. Acting out, runaway, aggressive or delinquent behavior
  - e. Alcohol or drug abuse
  - f. School problems, frequent absences, sudden drop in school performance
  - g. Refusal to dress for physical education
  - h. Fearful of showers / restrooms
  - i. Fearful of home life, ex. Arrives at school early or leaves late.
  - j. Crying without provocation
  - k. Fire setting
  - l. Suicide attempt or other self-destructive behavior
6. Offender Indicators: Intra-familial- Father or father figure
- a. Overprotective / jealous
  - b. Strict disciplinarian
  - c. Secretive / anxiety ridden
  - d. Low self esteem
  - e. Substance abuse
7. Mother or mother figure
- a. There are instances of intra-familial sexual abuse by females. However, little is known about behavioral indicators, family dynamics and characteristics.
8. Family Indicators
- a. Isolation
-

- b. Overcrowding in the home in sleeping arrangements
- c. Absence of one parent

## IX. Reporting Child Abuse

- A. The reporting requirements: while everyone should report suspected child abuse and neglect, State Statute 32A-4-3 provides that it is a crime for certain professionals and laypersons who have a special working relationship or contact with children may not be required to report suspected abuse to the proper authorities. Failure to do so is a misdemeanor. This penalty ensures that those required to do so will report all suspected incidents of child abuse immediately to the appropriate agencies.
  
  - B. Duty to report:
    - 1. Any licensed physician, resident or intern examining, attending or treating a child
    - 2. Any law enforcement officer
    - 3. Registered nurse
    - 4. Visiting nurse
    - 5. School teacher
    - 6. Social worker acting in his official capacity
    - 7. or any other person knowing or suspecting that a child is an abuse or a neglected child, shall report the matter immediately to:
      - 8. The local law enforcement agency
      - 9. The Children, Youth and Family Department office in the county
  
  - C. Child abuse and neglect investigations are a joint responsibility of the police and Children, Youth & Family worker. Under law, any person reporting an instance of alleged neglect or abuse is presumed to be acting in good faith and is immune from liability unless acting maliciously or in bad faith.
  
  - D. Protective custody: a child may be taken into custody by a law enforcement officer when the officer has reasonable grounds to believe that a child is suffering from illness or injury, or has been abandoned, or is in danger from the child's surroundings, parents are hiding the child or is in need of medical attention. 32A-4-6.
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- E. **Police liability for failing to ensure the protection of the child:** If an officer negligently fails to place an endangered child in protective custody, that officer may be civilly liable for damages if the child suffers further injuries. Whenever there is doubt as to the need for protective custody, the decision should be made in favor of protective custody if there is evidence to support it.
- F. **An officer should never leave the abused or neglected child with neighbors or friends of the child's family in situations where protective custody is required.**

The presence of siblings in the home should be considered when determining protective custody. When one child victim is removed, the abusing parent or caretaker may abuse another child. While only one child may have been identified, others may also be subject to abuse.

G. Victim Interview:

- a. Every effort should be made to minimize the number of interviews with the child victim. Techniques to consider may include:
- b. Coordination of the investigation with Children, Youth & Family Department so that both agencies can be present during interviews.
- c. Consultation with the district attorney's office
- d. Use of audio and/or video recordings. If your community has access to a "Safe House" environment, it becomes a great asset for videotaping.
- e. Always conduct a thorough and well documented interview.

x. **Protective Custody Assessment in Child Abuse**

- A. The officer should determine the need for protective custody of the victim(s), siblings, and others by taking into consideration the following factors:
1. Need for medical care
  2. Imminent danger of continued abuse, intimidation or retaliation
  3. Whether non-offending parent is appropriately supportive and protective of the child. **Be careful here.**
  4. Whether physical environment poses an immediate threat to the child's health and safety
  5. History of prior offenses or allegations of physical or sexual abuse
-

6. Parent or guardian capable of or willing to exercise care and control over the child.
  
- B. Police officers may remove children from the home based on the circumstances. Children, Youth and Family workers may request the children be removed. The final decision rests with the police. You must maintain a working relationship with CYFD because they will be able to assist you in the investigation of the criminal offense and they will become instrumental in placing the child in a temporary safe environment.

## **XI. Pedophiles**

Officers also need to understand the dynamics of a pedophile. Not all offenders in child sexual abuse cases are pedophiles. Pedophiles:

- a. Have a sexual preference for children
  - b. They can and do have sex with adults to get to the children.
  - c. They have the potential to molest large numbers of children
  - d. They need frequent and repeated sex with children
  - e. They seduce children with attention, affection, and gifts
  - f. They seduce children over a period of time by lowering their inhibitions. He/she knows how to listen to children
  - g. They frequently target children that are victims of emotional or physical neglect.
  - h. Their sexual fantasies and erotic imagery focus on children.
- 
- A. Access to children. The pedophile will have a method of gaining access to children. Other than simply hanging around where kids congregate, this is done primarily in three ways:
    1. Marriage
    2. Neighborhood
    3. Occupation—this includes hobbies and vocations that give access to children. This is the most common access to children.
  
  - B. Two most important pedophile indicators are:
    1. Multiple victims
    2. Collection of child pornography or erotica
-

C. Characteristics of pornography collection:

1. It is the most important thing in their life
2. He never throws anything away
3. Usually maintains detailed, neat, orderly records.
4. He may move or hide the collections, but he will never destroy it.
5. Collection is concealed due to its illegal nature.
6. Has a need to share, to tell others about his collection.

D. Dynamics of victimization

1. Children become victims because their vulnerable, are easily persuaded to cooperate, and are too ashamed to talk about it with others.
2. They have been taught to obey adults. They don't know they can say "no" to adults.
3. The guilt the child feels after being seduced is often used against he/she as a blackmail device.

## **XII. Sudden Infant Death Syndrome (SIDS)**

SIDS, commonly known as "crib death" or "cot death" is the number one cause of death in infants between one month and one year of age. About 6500 babies die of SIDS every year in the United States.

SIDS cannot be predicted or prevented, even by a physician. It almost always occurs during sleep. The typical SIDS case involves an apparently healthy infant, usually between the ages of 4 weeks and 7 months, who has suddenly died. No illness has been present; although the baby may have had signs of a slight cold. There is no indication that the baby struggled or cried out while dying.

The only way SIDS can be conclusively diagnosed is by an autopsy. Diagnosis is made only after all other causes of death have been ruled out.

You as a first responder can only suspect SIDS as the cause of death. As a first responder, you need to know some of the identifying features characteristic of the SIDS victim as opposed to an abused child. The following table is a list of the general physical characteristics of each.

SIDS Victim	Child Abuse
<b>Appears to be sleeping</b>	<b>Adult story does not “sound right”; or account for all injuries on baby</b>
<b>May be twisted in the bed clothing</b>	<b>Disfigurements, welts, burns, bruises, etc. – which may be in different stages of healing, or may be scars</b>
<b>Purple mottled markings on head and facial area</b>	<b>Broken bones</b>
<b>Blood-tinged froth around nose and mouth areas</b>	<b>Siblings bearing marks of abuse or physical evidence of abuse</b>

- A. Things to look for and note:
  - a. Physical appearance of the baby
  - b. Position of baby in crib, may account for marks on child’s head or body.
  - c. Physical appearance of crib
  - d. Appearance of room/house
  - e. Behaviors of persons present.
  
- B. What is the role of the police officer?
  - a. Initiate CPR efforts if the infant is not obviously dead.
  - b. Conduct an “investigation” that will help determine the cause of death.
  - c. Provide leadership and protection to the SIDS family
  - d. Be in command of your own feelings. This can be difficult because of your own children, but be professional and act in a calm, efficient manner, exhibiting kind concern.
  - e. Your actions can have a positive impact on the grieving family.

**XIII. Conclusion**

We would strongly recommend you develop a solid working relationship with your regions CYFD case workers, safe houses, victims’ advocates, child psychologists or other regional service providers and your District Attorney’s Office prior to an incident so everyone is on the same page!

Remember, the child's welfare is our primary concern in these cases!!