

**GENERAL ORDER**

April 2016

Immediately

**V.3:02**

Distribution: All Employees

**Subject: CHILD ABUSE AND NEGLECT INVESTIGATIONS**

Index as:	Abuse of a Child	DCF
	Aggravated Child Abuse	Delinquency, Contributing to
	Caregiver	Department of Children and Families (DCF)
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	Child Abuse and Neglect Investigations	Malicious
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	Child Removal	Neglect of a Child
	Children	Sexual Abuse
	Contributing to the Delinquency of a Minor	Unlawful Sexual Activity with Certain Minors
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Accreditation Standards: 44.2.1

Cross Reference: [G.O. III-06, Juvenile Procedures](#)  
 Florida State Statutes, Chapters 39 and 827  
 State v. Wilson, 744 So.2nd 1237

Replaces: I.O. V.3:02, Child Abuse and Neglect Investigations (April 28, 2016)

This Directive describes the responsibility of and procedures for the investigation of reports of child abuse and neglect. The Directive consists of:

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**I. DEFINITIONS**

- A. Aggravated Child Abuse – (§827.03, F.S.S.) When a person commits aggravated battery on a child; or
  1. Willfully tortures, maliciously punishes, or willfully and unlawfully cages a child; or
  2. Knowingly or willfully abuses a child; and
  3. In so doing, causes great bodily harm, permanent disability, or permanent disfigurement to the child.

- B. Caregiver – (§827.01, F.S.S.) A parent, adult household member, or other person responsible for a child's welfare.
- C. Child – (§827.01, F.S.S.) Any person under the age of eighteen (18) years.
- D. Child Abuse – (§827.03, F.S.S.) The intentional infliction of physical or mental injury upon a child;
1. An intentional act that could reasonably be expected to result in physical or mental injury to a child; or
  2. Active encouragement of any person to commit an act that results, or could reasonably be expected to result, in physical or mental injury to a child; or
  3. A person twenty-one (21) years of age or older who impregnates a child under sixteen (16) years of age. (§827.04, F.S.S.)
- E. Contributing to the Delinquency of a Minor – (FSS §827.04) Any person who:
1. Commits any act which causes, tends to cause, encourages or contributes to a child becoming a delinquent child or a child in need of services; or
  2. Induces or endeavors to induce, by act, threat, command or persuasion, a child to commit or perform any act, follow any course of conduct, or live in a manner that causes, or tends to cause, such child to become or to remain a delinquent or dependent child, or a child in need of services.
- F. Child Protective Investigator (CPI) – An employee of the Florida Department of Children and Families (DCF) or an employee of an agency contracted by the DCF to conduct the investigation of child abuse, abandonment or neglect.
- G. In Loco Parentis – The legal doctrine under which an individual assumes parental rights, duties, and obligations without going through the formalities of legal adoption.
- H. Malicious – An act done wrongfully, intentionally and without legal justification and excuse [§827.03(4) F.S.S.].
- I. Mental Injury – An injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the ability to function within the normal range of performance and behavior.
- J. Neglect of a Child – (§827.03, F.S.S.) A caregiver's failure or omission to provide a child with care, supervision, and services necessary to maintain the child's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child; or, the caregiver's failure to make a reasonable effort to protect a child from abuse, neglect or exploitation by another person.
- K. Unlawful Sexual Activity with Certain Minors – (§794.05, F.S.S.) Prohibits sexual activity by a person 24 years of age or older with a person 16 or 17 years of age.

## II. CHILD ABUSE AND NEGLECT INVESTIGATIONS

- A. Initial investigation into an allegation of child abuse/neglect is usually the responsibility of Uniform Services Bureau (USB) personnel.
1. Officers dispatched to investigate any allegation of child abuse or neglect will conduct the criminal investigation.
  2. Officers will conduct a comprehensive investigation and should not rely only on the investigation conducted by the CPI. The criminal investigation should include:
    - a. Complete names, home, business and school addresses, phone numbers and all other pertinent information concerning the victim, witness, suspect, and CPI;
    - b. Securing the scene;
    - c. An interview with the child and, depending upon the age and sex of the child, a visual inspection of the child for any injuries, with particular attention given to evidence of earlier injuries;
    - d. Interviews with any witnesses and suspects;

- e. Securing physical evidence (e.g., electric cords used to whip a child or other instruments used to inflict punishment); and
- f. Taking of photographs.

3. The investigating Officer will:

a. Ensure the required notification to the Florida Abuse Hotline is made, by phone (1-866-LE ABUSE [1-866-532-2873]) a priority number for law enforcement only, fax (1-800-914-0004), or online submission using the Florida Department of Children and Families homepage at: <https://www.myflfamilies.com/>

1) When lines are busy, a message may be left in the voice mailbox. Call-backs are difficult for hotline personnel, so it is important to listen carefully and leave complete information to include the names of all subjects to ensure that they are properly communicated.

2) For online submissions using the DCF website, Officers must:

a) Self-identify their profile as "Law Enforcement" in the appropriate field

b) Add the unique DCF submission confirmation number to their report.

b. Cooperate and share information with the CPI.

c. During the regular business day, contact the Sergeant in the Crimes Against Children Unit (CACU) whenever the abuse is aggravated or involves a sexual battery. After normal work hours, the on-call Investigative Services Bureau Supervisor will be contacted and they will contact the CAC Sergeant.

d. Complete the appropriate Police Report:

1) The report will be titled, "Child Abuse" or if unfounded, "Child Abuse-Unfounded".

2) The report will not be titled Police Information (PINFO), "Assist Outside Agency," or "Call for Assistance" in any allegation involving child abuse alleged to have occurred *within the City of St. Petersburg*, unless the Officer's presence is merely for security when the CPI is removing a child or while a CPI is obtaining a urine test, when an "Assist Outside Agency".

4. Officers may unfound an alleged child abuse when the facts fail to support the elements of the crime.

a. The investigating Officer is required to clearly document the rationale regarding the unounding of the case, and particularly, address which elements of the crime have not been met.

b. If the investigation determines the case to be unfounded, there is no requirement to have the scene photographed, nor must it be reported to the Child Abuse Hotline. However, photographs will be taken if any injuries are noted, even if the investigation does not support an allegation of abuse.

c. The inability to contact the victim is insufficient to unfound a report.

## B. Child Neglect

1. Neglect charges based upon a dirty/unkept living area are difficult to prosecute based on court decisions.

a. Should the scene be particularly dirty, it should be videotaped instead of photographed to better document the situation, whenever feasible.

b. A Supervisor, Uniform Services Bureau (USB), should be contacted for guidance as needed.

c. Generally, these cases are not considered a criminal offense and will be followed up by the DCF.

2. The follow-up investigation into allegations of child abuse/neglect is primarily the responsibility of the Special Victims Unit (SVU), Investigative Services Bureau. This does not preclude USB personnel from conducting a follow-up investigation, after receiving direction from a supervisor.

3. The CPI is not a sworn Law Enforcement Officer and does not conduct criminal investigations. The CPI is responsible for a social investigation to determine if the child victim should be removed from the home and/or if siblings are in jeopardy.

### III. CONTRIBUTING TO DELINQUENCY INVESTIGATIONS

A. Initial investigation of an allegation of contributing to the delinquency of a **minor** is usually the responsibility of USB personnel.

1. Officers will conduct a criminal investigation including:
  - a. Recording complete names, addresses, schools and phone numbers of all victims, witnesses and suspects.
  - b. Interviewing victims, witnesses and suspects.
  - c. Collecting physical evidence.
  - d. Taking photographs.
2. Reports will be forwarded to the SVU for follow-up.

B. If the act was committed in the presence of the Officer, a physical arrest may be made upon the showing of probable cause.

C. In non-arrest situations, the report will be forwarded to the State Attorney's Office.

### IV. SETTING THE STATE ATTORNEY'S INVESTIGATION

A. All incidents involving sexual abuse of a child must be set on the "live" calendar within 24-hours of the arrest, regardless of whether or not the suspect is a caregiver.

B. Physical Abuse and Neglect of a Child

1. The Child Abuse Statute (§827.03, F.S.S.) does not discriminate between acts committed against a child by a parent, caregiver or any other person.

2. At the instruction of the State Attorney's Office, if the suspect is a caregiver, the case will be placed on the "live" child abuse calendar.

3. If the child was physically victimized or neglected by someone other than a caregiver, the case should be set on the regular calendar.

### V. CRIMINAL CHARGES

A. In order to charge a parent, guardian, or person acting *in loco parentis* with aggravated battery, it must be shown that the act was carried out *maliciously*.

B. A court has ruled that a parent, guardian, or person acting *in loco parentis* may not be charged with felony child abuse when they are in the act of disciplining their child, unless their actions meet the elements of *aggravated child abuse* in subsections §827.03(1)(a) 1-3 F.S.S.

1. A parent who utilized a single, open-handed slap to their child (State v. Wilson, 744 So.2nd 1237) was found not to have committed *aggravated child abuse* as there was no malice. The appellate court then determined that, as the injury resulted from parental discipline, the parent could not be charged with *felony child abuse*.

2. The court also determined that *simple battery* was not a lesser included offense of *felony child abuse*.

3. When Officers investigate an incident where a parent has disciplined a child and it cannot be shown that it was carried out in a malicious manner, or if the incident does not otherwise rise to the level of *aggravated child abuse*, no physical arrest should be made.

a. The Police Report should be titled "Child Abuse - Unfounded" and include complete information on the investigation.

b. The investigating Officer will refer the case to the CACU for review and assistance in determining if the incident has risen to the level of an aggravated child abuse, or whether the element of "malice" is present.

## VI. ASSISTING OTHER JURISDICTIONS

A. The St. Petersburg Police Department, pursuant to an interagency agreement, has agreed that it will conduct an initial investigation into an alleged child abuse, even if the child was victimized *outside of the City of St. Petersburg* (e.g., the victim child is currently at a hospital or school within the City).

B. The assigned officer will conduct a preliminary investigation to establish sufficient facts to evaluate the allegation, giving particular attention to the severity of the alleged offense, the availability of witnesses, and the existence of physical evidence requiring timely handling.

C. Upon completion of the preliminary investigation, immediate notification will be made to an on-duty supervisor of the agency having jurisdiction where the alleged offense occurred.

1. The agency with jurisdiction where the alleged offense occurred is responsible for investigating the criminal act(s).

2. Officers should document the time they notified the responsible agency, noting the name and title of the person to whom they gave the investigative information. Since the offense took place outside of the City, it will be titled "Child Abuse - Assist Outside Agency."

## VII. ALLEGATION OF "MENTAL INJURY"

A. The law enforcement agency having jurisdiction in an investigation of alleged abuse has the authority to decide whether a criminal investigation is warranted.

B. When the allegation of child abuse is limited only to "mental injury" sustained as a result of a child witnessing a domestic battery, the St. Petersburg Police Department will respond only when the CPI has completed their investigation, and has determined there are sufficient behavioral indicators showing that, in fact, a mental injury was sustained by a child, warranting a criminal investigation.

C. During regular duty hours, a Supervisor or Investigator from the SVU will review the CPI's report where mental injury is alleged and determine if there is sufficient information to warrant the dispatch of an Officer to investigate.

D. When there are no SVU personnel available, a Supervisor from the district where the act is alleged to have occurred will review the report from the CPI and determine whether an officer should be dispatched.

E. In all cases, the CPI will be notified of the Department's decision.

## VIII. DRUG ADDICTED BABIES

The Florida Supreme Court has ruled that an infant born addicted to, or under the influence of an illicit drug such as cocaine, does not constitute "delivery" under statutes dealing with narcotic drug law violations. If this is the only basis for the complaint, an Officer will not be dispatched to investigate these non-criminal incidents.

## IX. DRUG INVOLVED PARENTS

Occasionally, an allegation of child abuse, abandonment or neglect may be reported by the DCF or another agency because a parent, on probation or parole, has tested positive for drugs. If this is the only basis for a complaint, an Officer will not be dispatched.

X. CHILD REMOVAL

A. When a child is born to a mother who previously had a child (or children) removed from her custody, the hospital or a CPI may ask police to respond. However, if this is the only basis for a complaint, an Officer will not be dispatched.

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Chief of Police