

Mandated Reporting of Child Abuse or Neglect Model Policy

December 2022



**Municipal Police
Training Council**

New York State Division of Criminal Justice Services
80 South Swan Street, Albany, New York 12210

www.criminaljustice.ny.gov



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Mandated Reporting of Child Abuse or Neglect Model Policy

The Mandated Reporting of Child Abuse or Neglect Model Policy was developed to provide law enforcement agencies with guidance to assist them in developing their own policy and training. The use of this policy is not mandatory.

The Municipal Police Training Council (MPTC) approved the model policy in December 2022.

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New York State Association of Chiefs of Police

New York State Police

New York City Police Department

New York State Sheriff's Association

New York State Office of Children and Family Services

New York State Children's Alliance

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I. Purpose

This policy is designed to provide guidance to law enforcement agencies regarding the mandatory reporting of child abuse or neglect, reporting procedures and obligations of persons required to report, provisions for taking a child into protective custody, mandatory reporting of deaths, immunity from liability, penalties for failure to report, and obligations for the provision of services and procedures necessary to safeguard the life or health of the child.¹

II. Policy

All law enforcement officers are mandated reporters and as such have an affirmative obligation to personally report or cause a report to be made when there is reasonable cause to suspect a child is being abused or maltreated. When a report of possible child abuse or neglect is made, law enforcement officers will work collaboratively, as necessary, with their local child protective services to increase the safety of a child who has been harmed or is at risk of harm.

III. Legal Definitions

A. **Child** – A person actually or apparently under the age of eighteen years.²

1. **Abused Child** – A child whose parent or other person legally responsible for the child's care:

- a) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, or
- b) creates or allows to be created a substantial risk of physical injury to such child by other than accidental means which would be likely to cause death or serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ, or

¹ NYS Executive Law § 840(j)(1)

² NYS Social Services Law § 371

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- c) commits or permits an offense against a child, including a sex offense, prostitution, incest, sexual performance by a child or human trafficking.³
2. **Maltreated Child**⁴ – A child who has had serious physical injury inflicted upon oneself by other than accidental means or meets the definition of a neglected child pursuant to the Family Court Act⁵ to include a child:
- a) whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of the child’s parent or other person legally responsible to exercise a minimum degree of care:
 - (1) in supplying the child with adequate food, clothing, shelter, education or medical care; or
 - (2) in providing the child with proper supervision or guardianship by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that there is loss of self-control of actions.
- B. **Mandated Reporter** – Anyone employed in New York State who is required to report includes, but is not limited to, peace officers; police officers; district attorneys or assistant district attorneys; investigators employed in the office of a district attorney; or other law enforcement officials.⁶
- C. **Minimal Facts Interview** – An interview of a child conducted by a first responder – when another individual such as a supportive caregiver or other person involved cannot provide enough information – designed to minimize the risk of contaminating the investigation prior to a forensic interview of the child, when critical information must be obtained from a child to ensure the safety of the child and other potential victims.
- D. **Imminent Danger** – Refers to a reasonable cause to believe an immediate danger to the child’s life, safety, or health exists should the child remain in their place of residence, condition, or situation.

³ NYS Family Court Act § 1012(e)

⁴ NYS Social Services Law § 412(2)

⁵ NYS Family Court Act § 1012(f)

⁶ NYS Social Services Law § 413(1)(a) – Denotes the full list of legally required persons and officials designated as mandated reporters

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- E. **Persons Legally Responsible** – A child's custodian, guardian, any other person responsible for the child's care at the relevant time. Custodian may include any person continually or at regular intervals found in the same household as the child when the conduct of such person causes or contributes to the abuse or neglect of the child.⁷
- F. **Parent** – A person who is recognized under the laws of the state of New York to be the child's legal parent.⁸

IV. Reporting Cases of Suspected Abuse or Maltreatment of Child

- A. Mandated reporters shall in good faith⁹ report or cause a report to be made when in their professional or official capacity they have reasonable cause to suspect:
 - 1. A child coming before them is an abused or maltreated child; or
 - 2. A parent, guardian, custodian or other person legally responsible for such child comes before them and states from personal knowledge, facts, conditions or circumstances which, if correct, would render the child an abused or maltreated child.
- B. Any person, official or institution who are mandated by law to report a case of suspected child abuse or maltreatment and willfully fails to do so can be held criminally and civilly liable.¹⁰

V. Common reasonable cause indicators¹¹

- A. Physical abuse:
 - 1. Injuries such as to the torso, ears, neck, eyes, mouth and face¹²;
 - 2. Frequent injuries of any kind (bruises, cuts, and/or burns at any stage of healing), especially if the child is unable to provide an adequate explanation of the cause, including infants too young to crawl and pull up. These may appear in distinctive patterns such as grab marks, human bite

⁷ NYS Family Court Act § 1012(g)

⁸ NYS Family Court Act § 1012(l)

⁹ NYS Social Services Law § 419

¹⁰ NYS Social Services Law § 420

¹¹ NYS OCFS Summary Guide for Mandated Reporters (<https://ocfs.ny.gov/publications/Pub1159/OCFS-Pub1159.pdf>)

¹² Any suspicious injuries should be fully investigated, regardless of placement on the body

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marks, cigarette burns, or impressions such as linear marks caused by being hit by an object.

B. Sexual abuse:

1. Symptoms of sexually transmitted diseases;
2. Injury to genital area;
3. Difficulty and/or pain when sitting or walking;
4. Sexually suggestive, inappropriate, or promiscuous behavior or verbalization;
5. Expressing age-inappropriate knowledge of sexual relations;
6. Sexual victimization of other children.

C. Maltreatment:

1. Obvious malnourishment, listlessness, or fatigue;
2. Stealing or begging for food;
3. Untreated need for glasses, dental care, or other medical attention;
4. Child inappropriately left unattended or without supervision.

D. Additional indicators may include changes in a child's demeanor such as:

1. Destructive, aggressive, or disruptive behavior.
2. Passive, withdrawn, or emotionless behavior.
3. Fear of going home or fear of someone residing in the home.

VI. Reporting procedure

- A. Provide any immediate aid to the child, if necessary.
- B. Notifications

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1. Immediately orally report any suspected abuse to the Statewide Central Register of Child Abuse and Maltreatment (SCR) at **(800) 635-1522** unless the appropriate local plan for the provision of child protective services provides that oral reports should be made to the local Child Protective Service (CPS).
 2. Prepare and submit a NYS Office of Children and Family Services Report of Suspected Child Abuse or Maltreatment¹³ to the local department of social services' CPS as soon as possible, but no later than 48 hours¹⁴ where the abused/maltreated child resides.¹⁵
 3. If the alleged perpetrator cannot be the subject of a report because the individual is not a parent or other person legally responsible for the child and there is reasonable cause to believe that the alleged acts or circumstances against a child described may constitute a crime or an immediate threat to the child's health or safety, law enforcement will provide necessary aid or assistance to the child as well as take any necessary investigatory steps.¹⁶
- C. After making a report that initiates an investigation of an allegation of child abuse or maltreatment, comply with requests by CPS for records that are essential to a full investigation of such report. This may include photographs of the areas of trauma visible on the child.¹⁷
- D. Notify the medical examiner if there is reasonable cause to believe that child died as a result of abuse or maltreatment.¹⁸
- E. Any report received by law enforcement of an actual or attempted abduction¹⁹ or molestation shall notify the New York State Violent Crimes Analysis Program (ViCAP), via the requirements of the eJusticeNY Integrated Justice Portal of such report. This will prompt a comparison of data in its files of any similarities to other reports received by the ViCAP program.²⁰

¹³ ([LDSS-2221A](#)) – NYS OCFS Report of Suspected Child Abuse or Maltreatment

¹⁴ NYS Social Services Law § 415

¹⁵ To locate your Local Department of Social Services, visit this site <https://ocfs.state.ny.us/main/localdss.asp>

¹⁶ NYS Social Services Law § 422(2)(c)

¹⁷ NYS Social Services Law § 415

¹⁸ NYS Social Services Law § 418

¹⁹ This is separate from an Amber Alert request. If the child is believed to have been abducted and threatened of life or bodily harm, call New York State Police COMSEC (518) 457-6811.

²⁰ NYS Executive Law § 221-b(1)

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VII. Taking a Child into Protective Custody²¹

- A. Prior to taking any child into protective custody, law enforcement should make a reasonable effort to contact the local CPS unit to handle the removal of the child.
- B. If a parent or legal guardian of the child who is not a subject of the report is present, Law Enforcement/CPS may make a determination to release the child into said parent or legal guardian's custody. This determination should be based on an assessment of the parent or legal guardian's ability to keep the child safe from the subject of the report as well as any other factors that may suggest taking the child into protective custody is the appropriate action.
- C. Officers shall take a child into protective custody if they have reasonable cause to believe that the circumstances or condition of the child are such that the child continuing in their place of residence or in the care and custody of the parent, guardian, custodian or other person responsible for the child's care presents an imminent danger to the child's life or health.²²
- D. If time is a factor, law enforcement may take a child into protective custody without CPS present if:
 - 1. Law Enforcement has a court order; or
 - 2. There is reasonable cause to believe the child is in imminent danger and there is not time enough to apply for a court order; or
 - 3. You have written consent from the parent or legal guardian.
- E. The following measures shall be taken to protect a child's life or health when it is necessary for law enforcement to remove a child from imminent danger without the presence of CPS.
 - 1. Bring the child immediately to a place approved for such purpose by the local social services department unless the child is in need of immediate medical assistance.
 - 2. Make every reasonable effort to inform an uninvolved parent or other person legally responsible for the child's care of the facility to which you have brought the child.

²¹ NYS Social Services Law § 417(1)(a)

²² NYS Social Services Law § 417(1)(a)

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3. Make any necessary notifications as soon as possible to the family court and CPS, including following reporting procedures to the SCR.
4. Give, with removal, written notice to the parent or other person legally responsible for the child's care of their right to apply to the family court for the return of the child.
5. Document the decision to place the child in protective custody including the name of the person making the decision and the reasoning for placing the child into protective custody.

VIII. Interviewing a Child of Suspected Abuse or Maltreatment

- A. A child shall be interviewed by a certified forensic interviewer at an appropriate venue except when there may be instances where you must speak with the child including but not limited to:
 1. When the child comes directly to you and begins to disclose the abuse. In this instance, do not stop the child.
 2. When the child volunteers information to a first responder, the child should be listened to without interruption and the disclosure should be documented in the child's words.
 3. When you absolutely cannot gather needed information from other sources.
 4. When the health and safety of the child is at imminent risk.
- B. If an interview by personnel not trained in forensic interviewing is absolutely needed to obtain information for ensuring the safety of the child and potential victims, document the need and conduct a Minimal Facts Interview.
- C. In cases of suspected abuse or maltreatment, an in-depth forensic interview shall be conducted, when possible, at the local Child Advocacy Center by certified Forensic interviewers who are part of a Multi-Disciplinary Team. This will minimize the number of times a child victim is called upon to recite events.²³
- D. All child victims should be interviewed in a private setting as prescribed by law.²⁴

²³ NYS Executive Law § 642-a; Find your local Child Advocacy Center:
<https://www.nyschildrensalliance.org/child-advocacy-centers/find-a-center>

²⁴ NYS Executive Law § 642 2-a(a)

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IX. Medical Examinations

- A. All cases involving the unexplained or suspicious death of a child shall be investigated as a suspected case of child abuse or maltreatment.
- B. A local or regional fatality review team may investigate any unexplained or unexpected death of a child under the age of 18.²⁵ Provide to local and regional fatality review teams access to all records, except those protected by statutory privilege, within 21 days.²⁶

X. Training

- A. All officers shall receive written information²⁷ explaining the reporting requirements as a mandated reporter of child abuse and maltreatment.²⁸
- B. Officers shall complete mandated reporter training²⁹ and should receive training around child abuse/maltreatment and interview techniques.^{30, 31} Training will involve newly hired members of the agency as well as ongoing in-service training to reflect changes in policy and law.

²⁵ NYS Social Services Law § 422-b(1)

²⁶ NYS Social Services Law § 422-b(4)

²⁷ NYS Social Services Law § 413(2)

²⁸ The New York State Office of Children and Family Services maintains online resource center that can provide online training, resources and FAQs for law enforcement in New York State.

²⁹ Mandated Reporter Training <http://nysmandatedreporter.org/Default.aspx>

³⁰ The New York State Division of Criminal Justice Services provides an online training designed at understanding and responding to child abuse allegations
<http://criminaljustice.ny.gov/ops/training/other/Child-Abuse-Training/story.html>

³¹ Conducting a Minimal Facts Interview
<https://drive.google.com/file/d/1IPAbM2XOkGT4Ges03zwVEvFdUIA6YpMZ/view?usp=sharing>