

SUMMARY OF AGENDA ITEM

DATE: 7/24/07
Police

SUBMITTED BY: Donald B. Engler, Chief of

RESOLUTION/ORDINANCE #:

TITLE: Interagency Memorandum of Understanding Between the Gila Family Advocacy Center and the Payson Police Department.

PURPOSE:

The purpose of this interagency memorandum of understanding is to put into place a formal agreement between the Gila Family Advocacy Center and the Payson Police Department to work together on cases involving victims of abuse, neglect and violence in Gila County.

SUMMARY OF CHANGES TO ACCOMPLISH THIS PURPOSE:

This Family Advocacy Center was recently developed to enhance the victim services to the community. The goal of this center is to provide one location for victim services so they will not need to be taken out of the community to receive services, or shuttled from one entity to another.

RECOMMENDED COUNCIL ACTION:

It is recommended that the Interagency Memorandum of Understanding be approved.

BACKGROUND:

Until approximately April of 2007, the victims of child abuse and many other crimes of neglect, violence or abuse were required to actually leave the city limits and be interviewed by organizations such as Child Help and the Phoenix Children's Hospital. With the addition of the Gila Family Advocacy Center to Payson, many of these services will now be offered in the community, so the victims will no longer have to travel great distances for services. Further, all the entities involved in these types of criminal investigations will be available at one central location to participate in the investigation and make recommendations on the cases.

AUG 02 2007 G.H.*

Interagency Memorandum of Understanding Statement of Support

The following Gila County Interagency Council member agencies agree to actively participate in the implementation of a Multidisciplinary Protocol for the Joint Investigation of victim abuse; to join in ongoing cooperative efforts to improve both this protocol and its practice in Gila County; and to make every effort to incorporate these guidelines into their internal policies and practices for the purpose of caring for victims in Gila County to the best of their abilities. These agencies also agree to participate in collaborative activities to improve joint investigations of and response to victims of abuse, neglect and violence in Gila County including: usage of the Gila Family Advocacy Center or a neighboring family advocacy center; multi-disciplinary (MDT) case reviews involving the sharing of information as allowed by law and policy; trainings; dispute and barrier resolution processes; case tracking and reporting.

Signatures	Date	Signatures	Date
<hr/> Gila County Attorney's Office Daisy Flores, Gila County Attorney		<hr/> Gila Family Advocacy Center Christy Walton, Program Director- Forensic Interviewer	
<hr/> Gila County Sheriff's Office Sheriff John Armer		<hr/> Payson Police Department Don Engler, Chief of Police	
<hr/> Child Protective Services Chris Taylor, Program Manager		<hr/> Family Advocacy Jean Oliver, Family Advocate	
<hr/> Time Out, Inc., DV Shelter Gerry Bailey, Executive Director		<hr/> Southwest Behavioral Health Jeff Gray, Executive Director	
<hr/> Division of Adult and Aging Services/APS Rex M. Critchfield, Assistant Director		<hr/> Tonto Apache Tribe Police Department Quincy Goseyun, Chief of Police	
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RESOLUTION NO. 2304

A RESOLUTION OF THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, APPROVING AND AUTHORIZING THE POLICE CHIEF TO EXECUTE AN INTERAGENCY MEMORANDUM OF UNDERSTANDING/STATEMENT OF SUPPORT.

THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, DO HEREBY RESOLVE AS FOLLOWS:

Section 1. That the Interagency Memorandum of Understanding/Statement of Support attached hereto marked Exhibit "A" and made a part hereof by this reference, be and is hereby approved in substantially the form as attached.

Section 2. That Donald Engler, Chief of Police of the Town of Payson, be and is hereby authorized to execute said Interagency Memorandum of Understanding/Statement of Support in substantially the form as attached as Exhibit "A".

Section 3. That the Town of Payson be and is hereby authorized to take such other and further actions as may be necessary or appropriate to carry out the intent of this Resolution Number 2304.

PASSED AND ADOPTED BY THE MAYOR AND COMMON COUNCIL OF THE TOWN OF PAYSON, ARIZONA, this ____ day of _____, 2007, by the following vote:

AYES _____ NOES _____ ABSTENTIONS _____ ABSENT _____

F. Robert Edwards, Mayor

ATTEST:

APPROVED AS TO FORM:

Silvia Smith, Town Clerk

Samuel I. Streichman, Town Attorney

EXHIBIT "A"

to Resolution No. 2304

Interagency Memorandum of Understanding Statement of Support

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**Gila Family Advocacy Center
Policy and Protocol
May 2007**

History

The Gila Family Advocacy Center (GFAC) was made possible with the help of two grants through the Governor's office of Children Youth and Families, and through collaborative community support. These grants were acquired and managed through Time Out Inc. The first grant was awarded in July 2005 as a one year planning grant. Project coordinator, Jean Oliver, co-coordinator Christy Walton and a team of stakeholders called the Gila County Family Violence Prevention Task Force met regularly to identify the gaps in victim's services. As a result, the Task Force recommended the establishment of a Family Advocacy Center in Gila County, to be located in Payson.

The second grant provided funds to implement this recommendation. The process included securing a location, coordinating a multidisciplinary team, establishing protocols, attending trainings, and acquiring staff. Renovations and furnishings for the new location were donated by the Expedition Ministry of Mountain Bible Church.

The Gila Family Advocacy Center was officially opened for business in March, 2007

Arizona Revised Statute 8-817:

Initial screening and safety assessment and investigation protocols; investigations

- A. The department shall develop initial screening and safety assessment protocols in consultation with the attorney general and statewide with county attorneys, chiefs of police, sheriffs, medical experts, victims rights advocates, domestic violence victim advocates and mandatory reporters. Any initial screening and safety assessment tools shall be based on sound methodology and shall ensure valid and reliable responses. The department shall establish written policies and procedures to implement the use of the initial screening and safety assessment protocols.
- B. In each county, the county attorney, the sheriff, the chief law enforcement officer for each municipality in the county and the department of economic security shall develop and implement protocols for the cooperation in investigations of allegations involving extremely serious conduct. The protocol shall include:
 - 1. The process for notification of receipt of extremely serious conduct allegations.
 - 2. The standards for interdisciplinary investigations of specific types of abuse and neglect, including timely forensic medical evaluations.
 - 3. The standards for interdisciplinary investigations involving native American children in compliance with the Indian Welfare Act.
 - 4. Procedures for sharing information.

5. Procedures for coordination of screening, response and investigation with other involved professional disciplines and notification of case status.
 6. The training required fro the involved child protective services workers, law enforcement officers and prosecutors to execute the investigation protocols, including forensic interviewing skills.
 7. The process to ensure review of and compliance with the investigation protocols and the reporting of activity under the protocols.
 8. Procedures for an annual report to be transmitted within forty-five days after the end of each fiscal year to the governor, the speaker of the house of representatives, and the president of the senate.
 9. Procedures for the dispute resolution.
- C. The department, the appropriate county attorney and the appropriate law enforcement agency shall cooperate in the investigation of extremely serious conduct allegation in accordance with the investigation protocols established pursuant to this section.

Mission Statement:

The mission of the Gila Family Advocacy Center is to break the cycle of abuse through collaborative intervention.

Agencies Involved:

Time Out Inc.
 Payson Police Department
 Gila County Sheriff's Office
 Gila County Attorney's Office
 Arizona Child Protective Services
 Arizona Adult Protective Services
 Southwest Behavioral Health

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Law Enforcement

I. Initial Report:

- A. **Elements of the Crime:** Patrol officers may establish the elements of the crime of physical abuse, sexual abuse, or neglect, and jurisdiction.
- B. **Reporting Source Interviews:** Patrol officers may interview the reporting source, away from the victim, witness(es) or other reporting sources in order to:
1. Obtain the facts of the reported crime:
 2. Determine if the child is in imminent danger:
 3. Determine if the victim may require medical attention; and
 4. Determine jurisdiction
 - If within departmental jurisdiction, continue per this protocol
 - If not within departmental jurisdiction, patrol officer will document their actions and coordinate with the appropriate jurisdiction.
- C. **Victim Interviews:** Patrol officers may interview the child victim, only if the child is verbal and has not spontaneously provided the following information about the abuse to law enforcement. **ONLY** these **SPECIFIC QUESTIONS** should be asked:
1. What happened?
 2. Who did this?
 3. Where were you when this happened?

4. When did this happen?
 - Patrol officers should document the child's demeanor and any spontaneous statements.
- D. **Witness Interviews:** Patrol officers may interview witness(es). Date of birth, social security numbers, and other biographical information including where child witness(es) attend school will be obtained. It is recommended that child witnesses and any siblings or children within the home be interviewed after consultation with a detective.
- E. **Suspect Interviews:** If the suspect is at the scene and:
 1. If the child is **NOT taken to the hospital** in serious condition, the Patrol Officer may conduct an initial interview of the suspect or ensure that the detective does so immediately. Obtain the suspect's version of what happened (e.g., determine if it was a discipline measure; if a weapon or instrument was used; or if it was an alleged accident).
 2. If the child is **admitted to the hospital**, a decision as to whether or not the Patrol Officer may interview the suspect and/or caretaker should be made in consultation with a detective.
 - The Patrol Officer should not disclose any medical information to the caretaker(s) regarding the condition of the child or possible mechanism of injury
 - The Patrol Officer should always encourage the medical personnel not to disclose this information until they consult with detectives.
- F. **Scene preservation:** Document and preserve the scene through photographs if possible.

II. INITIAL CASE PREPARATION: Once it is determined that a crime has been committed, Patrol Officers may then continue the initial case preparation:

- A. **Assess/Determine the need for the following:**
 1. **Medical Intervention:** Medical intervention and ensuring that the child is taken to the hospital if necessary. If the child is admitted to a hospital, and in any case requiring medical attention, Investigations unit should be notified immediately.
 - Depending on the severity of the injury, this unit could be Homicide, or the detail handling physical abuse cases in the agency.
 - It is recommended that Patrol Officers consult with Detectives on all child abuse cases to assess the need for a forensic medical exam.
 2. **Scene Preservation:** and/or evidence collection. Scene's involving death shall immediately be secured. Consult with investigations regarding search warrants and/or consent searches. If the child or suspect gives information regarding a weapon, instrument, or mechanism of injury, it is recommended search warrant or consent form should be obtained.

3. **Photographs**: Document any physical injury to the child with digital or 35 mm photographs.
 - Photographs should depict the child's entire body and face, not just the external manifestations of abuse.
 - Photographs should include ruler and color bar where possible. In cases of severe physical abuse and/or severe neglect, a consent form or search warrant should be used to obtain evidence or video of the entire household as well as other evidence that could be used to substantiate any future charging.
4. **CPS Jurisdiction**: ASAP determine whether CPS may have jurisdiction on the matter under investigation, AND **notify the Hotline** with sufficient information for CPS to coordinate with law enforcement.

III. Investigation: The investigation should be **conducted by a DETECTIVE**.

A. **Non-Hospitalized Children**:

1. **Initial Report and Interviews**: A detective reviews the initial report and continues the investigation by interviewing the family, siblings, other witnesses, etc. as dictated by the facts of the case.
 - **Victims under ten (10) years of age** (mental or physical) should be sent to the Gila Family Advocacy Center, or other area advocacy center that may be available. A forensic interview should be conducted by a trained forensic interviewer, and be audio/video taped.
 - Child victim should also be sent to a medical facility for a forensic medical exam that should be conducted by a professional that has advanced training in child abuse.
2. **Photographs**: If not already done and if appropriate digital or 35mm photographs are taken to document the abuse. A detective should ensure that additional follow up photographs are taken as needed.
3. **Contact CPS**: CPS shall be contacted to obtain prior reports and to determine what action CPS is taking on the referral. If CPS is involved, law enforcement shall share information with them.
4. **Suspect's Priors**: The suspect's prior police history should be determined, paying particular attention to assault and domestic violence contacts.
5. **Child's Medical Records**: The investigating unit should obtain relevant medical records on the child, and interview appropriate medical personnel.
6. **Suspect Interview**: A Detective should interview the suspect if not already interviewed.
 - If the suspect has not invoked his/her rights, re-interview to complete his/her account of the events.
 - If the suspect has not already been booked, the detective shall assess the risk of flight to avoid prosecution and

determine if the suspect should be arrested in light of all the information obtained.

7. **Forensic Medical Exam:** The need for a forensic medical exam should be assessed.

B. Hospitalized Children:

1. **Notify the County Attorney:** The Deputy County Attorney on call for physical abuse cases shall be notified as soon as possible on all cases where a child is admitted to a hospital or dies as a result of suspected child abuse.
2. **Notify Investigations Unit:** The investigations unit shall assume responsibility for the investigation of all hospitalized child abuse cases as soon as they are notified by the patrol office.
3. **Secure the Scene:** The investigations unit should ensure that the scene(s) is (are) identified and secured pending issuance of a search warrant.
4. **Physician Statement:** A Detective shall obtain an initial statement from the most qualified physician (not an intern or resident on duty) as to time frames, mechanism of injury, and symptoms the child would be expected to show, given the injury sustained.
5. **Interviews:** Interviews should be conducted with all caretakers, suspects, and witnesses, including specialized physicians (e.g. neurosurgeons, pediatric radiologists, etc.). Interview of the caretaker shall focus not only on the current injury, but also on a thorough background of the child's health and upbringing.
6. **Medical Records:** All medical records including recent and previous hospitalizations, doctor or emergency room visits by the child should be requested for the investigation.
7. **Search Warrants:** Search warrants are to be utilized, where appropriate, to ensure a thorough scene investigation. Investigators may contact the County Attorney's Office regarding sealing the affidavit of search warrant.
8. **Contact CPS:** CPS shall be contacted to obtain prior reports, and to coordinate the investigation. If CPS is involved, the agencies will share information.

IV. Case Presentation

Case File May Contain:

1. **Reports/Tapes:** The case file should include a copy of the police report, a copy of audiotapes; videotapes; photographs; and tapes of 911 calls.
2. **Records:** All medical records of the child; Child Protective Services files on the child and family; prior relevant police reports and any other information obtained during the investigation shall be submitted in a timely manner.

3. **Document:** Attorney General documents should be included, specifically; dependency hearing transcripts, or depositions, information from other cases etc. within 10 days following the hearing.
- B. **Case filing possibilities:** If the case is filed and:
1. **Case filed with Grand Jury:** The case goes to Grand Jury or Preliminary Hearing. The assigned Detective should be present during the case. If he or she does not feel comfortable with presenting the medical evidence, he/she shall notify the Deputy County Attorney, who can subpoena a physician to the Grand Jury or Preliminary Hearing for testimony regarding medical findings.
 2. **Not Filed:** If the case is not filed, notification of the decision not to file shall be the responsibility of the County Attorney's Office. The victim's representative should be notified of the decision.
 2. **Post Filing Further Investigation:** If a post filing further investigation is requested and the suspect is in custody, a detective shall be assigned. All requested information should be presented to the Deputy County Attorney 24 hours prior to Grand Jury or Preliminary Hearing.
 3. **Case Referred Back to Law Enforcement:** If the Deputy County Attorney refers the case back to the law enforcement agency for further investigation:
 - The case should be returned to the original case agent if possible; and
 - The requested information should be obtained as soon as possible.
 - The Gila County Attorney's Office must be advised if the investigating agency decides to inactivate/close the case within 30 days of such action.

Child Protective Service

Child Protective Services (CPS) is based in a philosophy and law on the premise that children have a right to be protected from physical abuse, sexual abuse, neglect, abandonment and exploitation. CPS is the primarily responsible for investigating in-home allegations of abuse/neglect.

CPS believes that children should be maintained in their own homes, if at all possible. The Adoption and Safe Families Act of 1997 (P.L. 105-89) requires the child's health and safety be the paramount concern when assessing risk of harm and making placement decisions and in providing services to families.

The Arizona Department of Economic Security (ADES) is required, by law, to receive reports of child neglect and/or abuse twenty-four (24) hours a day, seven (7) days a week and to initiate prompt investigation. (A.R.S. 8-802 and A.R.S. 13-3620.) CPS Specialist, working at the CPS Hotline, receives telephone calls at 1-888-767-2445 or TDD 1-800-530-1831 and written reports at: P.O. Box

44240, Phoenix, AZ. 85064-4240. (See CPS Hotline Cue Questions). Reporting sources do not need to have answers to all cue questions. If the incoming communication meets the definition of a report, then the report is given a priority. The field Supervisor then assigns the report to a CPS Specialist to complete the investigation.

CPS actions rarely result in removal of children from the home of the parents. Less than 10% of CPS investigations result in temporary removal of the children from their homes. More often CPS workers offer an array of supportive services found in the community, and information on particular programs to strengthen the family unit. When there are concerns about a child's safety in their home, CPS attempts to engage the child's family to the greatest extent possible in planning for voluntary interventions that minimize intrusion to the family, while ensuring the safety of the child. These alternatives include: providing additional resources of safeguards to the family so a child can remain in the home, assisting the parent, guardian or custodian in identifying a relative or friend who can care for the child temporarily, or entering into a Voluntary Foster Care agreement with the parent/guardian.

When children are found to be in imminent harm, or there is no parent/guardian able or willing to provide care for the child, CPS and law enforcement have the authority to remove them from their home for up to (72) hours excluding weekends or holidays. (CPS may also remove a child for up to twelve hours to obtain a medical/psychological evaluation in order to make a determination if maltreatment has occurred).

If ADES cannot ensure the safety of the child (ren) in the home within that 72 Hours (not counting holidays or weekends), then the dependency petition is filed with the Gila County Juvenile Court. The Juvenile Court Judge has the final decision on making the child (ren) wards of the court through this process. Once the petition is filed, then the case plan is developed with the participants to rectify why the child (ren) came into protective custody. The parents and children are referred to appropriate services through CENPATICO, Community Providers, and/or CPS to meet their identified needs.

CPS specialists are assigned by their Unit Supervisor to investigate reports of child maltreatment. CPS Specialists adhere to the following procedures:

I. Pre-interview Protocol

- A. The CPS Specialist shall coordinate the investigations with law enforcement. Coordination will be stressed when the report alleges or the investigation indicates the child is a victim of sexual abuse and/or a criminal investigation of the alleged child maltreatment is in progress or anticipated. These reports shall be reported immediately by**

telephone and fax to the responsible law enforcement agency. Other CPS reports may be handled with joint Law Enforcement/CPS Investigations requested by either agency.

- B. High Priority-High Risk reports and *there is a reason to believe* a crime has been committed shall immediately be reported by telephone to the responsible law enforcement agency.
- C. All other CPS reports will be reported to law enforcement by faxing the police version of the CPS report summary.
- D. The CPS Specialist will gather information from law enforcement reports, sources of the current report, prior CPS records and others as availability and time allow.

II. CPS Interview Protocol

- A. The following is the sequence for interviewing:
 - 1. Alleged victim if the child's age and intellect / emotional functioning permit;
 - 2. Siblings/other children in the home;
 - 3. School/day care provider;
 - 4. Non-abusing spouse/caretaker;
 - 5. Alleged abusive caretaker; and
 - 6. Neighbors, relatives, and others with knowledge of the abuse.
- B. Child Interviews
 - 1. The CPS Specialist will work in conjunction with Law Enforcement whenever applicable.
 - 2. The alleged abusive parent, guardian or custodian shall not be present during the investigative interviews with alleged child victims.
 - 3. Initial interviews are generally unannounced to maximize the gathering of relevant facts.
 - 4. To eliminate the need for multiple interviews of the child victim, the CPS Specialist will arrange for:
 - a) A joint interview of the child victim coordinate between CPS and law enforcement; or
 - b) A joint interview of the child victim by a qualified professional coordinated with law enforcement. If CPS is conducting the interview, law enforcement must witness the entire interview in the observation room to

- assure all pertinent questions are asked.
- c) If a joint interview is not feasible, information from the victim interview should be shared with law enforcement.
5. Interviews of the alleged child sexual abuse victims will be videotaped and audio-taped.
 6. Interviews of alleged child physical abuse victims may be audio-taped.
 7. CPS may take legal custody of the alleged victim for the purpose of conducting an interview and/or medical examination.
 8. The CPS Specialist shall:
 - a) Introduce and identify him/herself as a CPS Specialist, while effecting an interview in a private, safe and neutral location .
 - b) Develop and maintain rapport and a helping relationship with the child by demonstrating respect for the language, dialect, communication style, and culture of the child. Language skilled translators will be assigned as needed.
 - c) Inform the child of the agency's mandate to investigate, the agency's goal to provide needed services, and answer and to answer any of the child's questions.
 - d) Allow and encourage the child to express emotional reactions to the investigation and help resolve his/her feelings.
 - e) Inform the child that CPS has the responsibility to complete the investigation, including interviewing other members of his/her family.
 - f) Assess the need for immediate medical examination or treatment and arrange for this, seeking caretaker cooperation as appropriate. (See Medical Protocol for sexual or physical abuse.)
 - g) Assess the need for immediate shelter / foster care of the child. The CPS Specialist will consult with his/her Supervisor prior to taking a child into Protective custody.

C. Parent/Caretaker Interview

1. The CPS Specialist will work in conjunction with Law Enforcement whenever applicable.

2. Initial interviews are generally unannounced to maximize the gathering of relevant facts. Arrangements should be made so that the interview is conducted privately.
3. Provide parents/caretakers the same information and afford the same considerations as listed in the children's interview protocol.
4. Initiate contact the same day with the parent/caretaker in situations when a child has already been interviewed. If parental contact cannot be made the same day, the reasons for lack of contact must be documented.
5. Initiate immediate contact with the parent/caretaker in all situations when the child is taken into temporary protective custody. This includes advisement of legal rights in writing, the agency's authority to take such action necessary to protect the child or to conduct the investigation, and the parent's right to recommend a relative to temporarily care for the child (ren).
6. Offer services and information on resources to family members, whether children are removed from the home or not when the family could benefit from these services.

III. Case Management Protocol

The CPS Specialist will:

- A. Obtain a medical examination of the child victim following guidelines of the medical evaluation protocol. (See Medical Protocol)
- B. Gather and record information from the CPS Specialist's own observations and through interaction with collateral sources and professionals involved with the investigations.
- C. Consult with the CPS Unit Supervisor and/or other agency personnel to determine the need to remove the child from the family based upon the information gathered and the risk of harm to the child. In an emergency, the CPS Specialist will consult with a supervisor immediately after taking temporary custody of the child, and obtain supervisory approval.
- D. The CPS Specialist will make a determination as to the findings. If the report of abuse/neglect/dependency is proposed to be substantiated or unsubstantiated by CPS standards, CPS will notify the parent/caretaker in writing. All proposed substantiated findings will be sent to the Protective Services Review Team, who will notify the alleged perpetrator of their rights.

Prosecution

The Gila County Attorney's Office has long emphasized a sensitive and coordinated approach to the prosecution of child physical and sexual abuse cases through vertical prosecution and specialized training.

- A. Special consideration is given to the selection of the attorneys who prosecute Sex Crimes and Physical Abuse Cases.

1. All sex crimes attorneys are experienced prosecutors and trial advocates.
 2. The attorneys are carefully chosen for their expertise, interest and sensitivity to the myriad of issues surrounding child victims/witnesses.
 3. The attorneys are expected to remain current on case law and research on victim and offender related dynamics. They are also expected to be familiar with the medical issues and literature on child sexual/physical abuse.
- B. Upon appointment to either child abuse or sex crimes and attorney must complete the following training:**
1. 8 Hour basic forensic interview training;
 2. 40 hour advanced forensic interview training; Because this course involves practica for interviewing and testifying that design primarily for law enforcement and child protective services workers, the attorney may audit the course.
 3. 8-Hour basic training on child physical abuse;
 4. The attorneys must complete two of the following within two years:
 - a. Investigation and prosecution of child abuse: Equal Justice for Children;
 - b. Investigation and prosecution of child fatalities and physical
 - c. ChildProof: Advance trial advocacy for child abuse prosecutors.
 5. Because training opportunities vary, the attorney may substitute another similar training for any of the above requirements with the approval of the county attorney.
- I. Duties of the Sex Crimes Attorney**
- A. On-Call**
1. On-call attorneys assist law enforcement agencies in child abuse investigations.
 2. The on-call attorney may:
 - a. Visit the scene
 - b. Assist in the preparation of a search warrant
 - c. Answer legal inquiries
 - d. Attend the initial appearance, and
 - e. Attend the autopsy
- B. Charging Review**
- Will review all investigations submitted by law enforcement agencies involving sexual assaults, child sexual abuse, child exploitation, indecent exposure, child abuse, child homicide, custodial interference or kidnapping for the possible filing of criminal charges.
1. After the investigation is completed by law enforcement, the police agency submits the departmental report for attorney review.
 2. Submittals are designated either as Out-of-Custody or In Custody.
 - a. Out-of-Custody Submittals:

- (1) Aside from the statute of limitations, there is legally no time limit imposed for filing charges.
 - (2) Submittals should have a reviewing decision made within 90 days from the date the submittal was received by the Gila County Attorney's Office.
- b. In Custody Submittals:
- (1) Charges via a complaint must be filed within 48 hours of an initial appearance (an Initial Appearance occurs within 24 hours of being booked into jail) in order to maintain the bond or release conditions, which were set at the initial appearance. The 48 hours does not include weekends and holidays.
 - (2) If charges are not filed within 48 hours time frame, the defendant will be released from custody. Any bond or other release conditions that have been imposed at the initial appearance will be exonerated or otherwise lifted.
 - (3) If, at the initial appearance, the defendant was released on his own recognizance, on bond, or to pre trial services, and charges were not filed, all release conditions will no longer apply and any bond posted will be exonerated.
 - (4) For a complaint to be filed in a timely fashion, the agency must fax or otherwise present a copy of the report to the charging attorney within 24 hours of the initial appearance.
- c. As a practical matter, not all defendants who are arrested will have charges filed.
- (1) There will be instances where further investigation will be necessary before the case is ready to be filed; or
 - (2) The case may not meet the County Attorney's Office standards for prosecution.

III Processing Submittals

- A. Once the investigation has been submitted, a reviewing attorney Reads the report(s) and decides if the submittal is to be furthered for additional investigation, declined for prosecution or filed.
1. Submittals further for more investigation
 - a. The reviewing attorney will list with specificity the information necessary for prosecution.
 - b. The submittal is then returned to the investigating agency to complete the investigation, with a copy to CPS.

- c. At this juncture, the law enforcement agency has two investigation options:
 - (1) To complete the investigation: or
 - (2) To Inactivate/close the investigation.
 - I. If the decision is to inactivate/close the investigation then a letter to the County Attorney shall be sent stating the basis for this decision.
 - d. When the requested further investigation is complete, the law enforcement agency will re-submit the report for the County Attorney's review
 - e. If the agency does not pursue the investigation, the County Attorney's Office must be notified in writing, **WITHIN 30 DAYS.**
2. Submittals declined for prosecution
- a. The primary reason submittals are declined for prosecution is that they do not meet the office-charging standard: i.e. that the submittal, when reviewed as a trial case, has no reasonable likelihood of conviction.
 - b. The County Attorney's Office will not reject a case solely on the basis that the victim or victim's family refuses to cooperate with prosecution.
 - c. When the reviewing attorney determines that a decline is appropriate, the County Attorney may review the submittal at the specific request of the victim, CPS or law enforcement.
 - d. A letter indicating that decision will be mailed to the victim and/or the victim's lawful representative (i.e. parent or guardian) by the County Attorney's Office.
 - e. The submittal is then returned to law enforcement indicating the decision not to file. A copy shall be sent to CPS.
 - f. The victim or the victim's lawful representative has the right to confer with the initial reviewing prosecutor regarding the decision not to prosecute.
 - g. All cases that are **NOT FILED** may be re-evaluated if new evidence is presented.
 - h. With the exception of homicide and as of 2001, any Class 2 Sex Crimes (Chapter 14 or 35.1) cases which have no Statute of Limitations, the Statute of Limitations for any felony allows for a prosecution up to seven years from disclosure of the crime. (See Appendix D, ARS 13-107)
3. If a submittal is appropriate for prosecution:

- a. The Deputy County Attorney shall issue appropriate charges.
- b. A probable cause determination must be made through either a Preliminary Hearing or a Grand Jury.
- c. The majority of child physical or sexual abuse cases will be taken to Grand Jury. Grand Jury proceedings are not open to the public, thus, they do not subject the victim to the stress of testifying.

IV Vertical Prosecution – A Team Approach

A. The County Attorney’s Office utilizes vertical prosecution with a team approach in child sexual abuse, child physical abuse and homicide cases

1. Vertical prosecution means the same County Attorney who reviewed the submittal and filed the charges will prosecute the case.

B. The County Attorney’s policy is to use a team approach to prosecution. The team consists of the Deputy County Attorney, County Attorney Investigators, Victim Advocate, Legal Assistants and outside agencies, such as Child Protective Services.

1. County Attorney Investigation may be utilized to assist the prosecutor once a case is filed.
2. Victim Advocates act as a liaison between the Deputy County Attorney and the victim’s representative. The Deputy County Attorney, in conjunction with the victim advocate, will work with the victim, parent, guardian ad litem or the victim’s attorney on the case.
3. Legal Assistants help in the research and preparation of motions regarding special issues surrounding child sexual and physical abuse prosecutions.
4. Child Protective Services is an independent State agency that deals with civil issues involving the child victim. If a case involves Child Protective Services intervention, the Deputy County Attorney will attempt to work with the assigned caseworker, recognizing that the goals for the case resolution of the two agencies are not necessarily the same.
5. Prosecution is a team effort among the investigative agency, the prosecutor, the Victim Advocate, the victim and the witnesses. All members of the team are under a continuing obligation to exchange information about the case. The assigned detective is encouraged to assist prosecution during the trial.

V Case Dispositions – Change of Plea or Trial

A. Once the case is assigned to a Deputy County Attorney, the attorney and/or the Victim Advocate will contact the victim as soon as practicable to discuss the process and obtain input as to a possible disposition.

1. Sex crimes and serious physical abuse cases are staffed for disposition. A case is staffed by the Deputy County Attorney and County Attorney.
 2. Plea guidelines as well as prior case dispositions will be utilized in making plea offers in order to provide consistency of dispositions among similar cases.
 4. Serious physical injury cases utilize office plea guidelines, but the child abuse prosecutor manages the case disposition based on the specifics of the case.
 5. In all child abuse cases that involve more than one count, it is anticipated that any plea offer will include lifetime probation. Lifetime probation may be imposed even in cases that include a term of imprisonment.
 6. Plea offers should be extended within 30 days of arraignment, following office policy, and should be entered by 90 days after the arraignment date. Extensions of the plea offer may be granted but only with the approval from the County Attorney.
 7. The offer will then be communicated to the victim via the Victim Advocate or the attorney. It is the duty of the County Attorney's Office to see that justice is served in the handling of criminal cases. In that endeavor, it is recognized that the opinion of the victim as to what is just in their case may differ from the views of this office.
 - a. If the victim's view of the disposition diverges from the staffing offer, he or she shall be given the opportunity to discuss their disagreement with the Deputy County Attorney and, if necessary, with the County Attorney.
 - b. If the difference of the opinion is still not resolved, the victim has the right and opportunity to notify the pre-sentence probation officer and the court of their opinion.
 - c. Final disposition of a disputed negotiated plea rests with the discretion of the court to either accept or reject the plea offer.
- B. If a case cannot be resolved by a Change of Plea, the case is set for trial. The Gila County Attorney's Office recognizes that many victims and/or their lawful representatives are apprehensive about testifying. Trial apprehension is caused by:
1. Unfamiliar with the trial process;
 2. Uncertainty regarding whether or not the case is proceeding to trial;
 3. Unnecessary delays;
 - a. The Deputy County Attorney will not create any unnecessary delays;

- b. The Deputy County Attorney will oppose any unnecessary delays

4. Fear of testifying.

VI Trial Disposition – Trial and Victim Preparation

- A. Trial preparation is the responsibility of the Deputy County Attorney.
 - 1. The Deputy County Attorney should meet with the victim in order to acquaint the victim with the trial process.
 - 2. The Deputy County Attorney should strive to develop rapport with the victim.
- B. Victim preparation is the responsibility of the Deputy County Attorney with the assistance of the Victim Advocate.
 - 1. In all but very rare cases, the victims are required to testify in court.
 - 2. At least three days before the trial, the victim will be taken into a courtroom and the Deputy County Attorney will explain courtroom protocol and procedures to the victim.
 - 3. The Deputy County Attorney is aware that the courtroom may be intimidating to the child/victim.
 - a. In appropriate cases, the Deputy County Attorney may request adaptation of the courtroom in order to fit the victim's needs.
 - b. When handled properly, trial testimony can be a powerful aid to the victim recovery process.
 - c. The Deputy County Attorney takes an active role in the victim's recovery process by the manner in which he/she handles a case destined for trial.
 - (1) If requested to do so, the Deputy County Attorney will assist the victim in selecting a support person to be present during the victim's testimony, in a addition to the Victim Advocate.
 - (2) The support person cannot otherwise be a witness in the case.
 - (3) The Deputy County Attorney will seek appointment of an Interpreter or guardian ad litem for a victim in appropriate cases.
 - 4. Prior to trial, the Deputy County Attorney and the Victim Advocate will discuss the possible outcomes of the trial with the victim and the victim's representative.
 - 5. At the option of the victim, he or she may submit to an interview by the defense attorney.
 - a. The Deputy County Attorney will be present at the victim's request and will actively participate in the interview.
 - b. The Deputy County Attorney will make necessary arrangement for any reasonable conditions requested by the victim, including;

- (1) The presence of the Victim Advocate who acts as a support person for the victim, or
 - (2) The presence of another support person
 - c. The Deputy County Attorney or his/her representative will arrange defense interviews of witnesses at the defense's request.
 - (1) The Deputy County Attorney or his/her representative will be present and will tape record the interview.
 - (2) The Victim Advocate will arrange interviews with the victims, their family members, and any special needs witnesses.
- C. The County Attorney's Officer recognizes that child sexual and physical abuse cases often require retention of expert witnesses.
 - 1. In those cases, the County Attorney's Office will pay reasonable fees for that expertise.
 - 2. Professionals are required to testify because they are material witnesses (i.e. they have seen and evaluated the child or are involved in the case within their professional capacity) rather than expert witness compensation.
 - 3. Expert and professional witnesses often have scheduling difficulties. The Deputy County Attorney shall strive to give adequate notice of a pending trial date to these witnesses.
 - 4. Special considerations will be given to the experts and professional witnesses to accommodate their schedules in coordinating a time for their testimony. Obvious constraints are imposed on the prosecutor, but efforts will be made to minimize the inconvenience to the expert or professional witness.

VII Jury Verdicts

- A. Once the case has been presented and the jury returns with a verdict, the Deputy County Attorney and/or the Victim Advocate will inform the interested parties and team members of the case outcome.
 - 1. A jury has three (3) options in reaching a verdict on any of the charges,
 - a. Not guilty, in which case the defendant is acquitted, charges are dismissed and the defendant is free from future prosecution on that matter;
 - b. Guilty, in which case the defendant is bound over for sentencing;
 - c. "Hung Jury", in which case the jury was unable to reach a unanimous verdict s the defendant's guilt or innocence.
 - (1) Officially, this result in a mistrial, and the case is rest for trial. The case may be re-tried, resolved by plea, or dismissed.

- (2) It is the Deputy County Attorney's responsibility to consult with and keep the victim informed of the decision regarding the final disposition of the case.

VIII Sentencing

- A. If the defendant pleads guilty or no contest, or if the jury finds the defendant guilty, the Deputy County Attorney and/or the Victim Advocate will inform the victim of the sentencing procedure.
- B. The sentencing date is 30 to 90 days after conviction.
- C. The duties of the Deputy County Attorney include:
 1. Submitting to the Adult Probation Officer and Adult Probation packet, which includes:
 - a. The departmental reports;
 - b. The indictment, information or complaint;
 - c. Copy of the plea agreement (when applicable);
 - d. Victim's biological information;
 - e. Other relevant information; and
 - f. The Deputy County Attorney's sentencing recommendation.
- D. Upon request of the victim, the Deputy County Attorney:
 1. Will inform the victim of his/her rights to restitution.
 2. Will inform the victim of sentencing procedure options, such as:
 - a. The defendant may seek a continuance of the original sentencing date in order to present mitigating evidence;
 - b. The State may seek a continuance of the original sentencing date in order to present mitigating evidence;
 - c. Either side may request a mental examination under Rule 26.5, Arizona Rules of Criminal Procedure.
 3. Will inform the victim of his/her sentencing options at the sentencing proceedings:
 - a. The victim or the victim's lawful representative has the right to be present at the sentencing;
 - b. The victim or the victim's lawful representative has the right to address the court.
 4. Will assist the victim in addressing the court.
 - a. The Deputy County Attorney may request of the court that the matter proceed in chambers.
 - b. The Deputy County Attorney may assist the victim in preparing a written statement to present to the court.

IX Post Conviction Relief and Appeals

- A. The Deputy County Attorney and/or the Victim Advocate will explain to the victim and his/her representative the possibility of a review via petition for Post-Conviction Relief (PCR) or an Appeal.

1. PCR is a legal review of the Charges of Plea proceeding. PSR's are handled by the Deputy County Attorney.
2. An appeal is legal review of the trial proceedings. Appeals are handled by the Attorney General's Office.

X Dispute Resolution

A. Pursuant to House Bill 2024, Child Abuse Protocols shall contain procedures for dispute resolution among law enforcement, Child Protective Services and the County Attorney's Office. (See appendix FF for these procedures.)

Mental Health Services

I. Mental Health:

- A. Gila Family Advocacy Center will provide mental health service to victims and non-offending family members through community linkages. It is the policy of the GFAC to make every effort to provide mental health services to victims and non-offending family members, regardless of ability to pay.
- B. Southwest Behavioral Health (SBH) will be an active partner, whom will assist with crisis intervention (see Family Advocacy section), and mental health services as needed. SBH will make every effort to provide clients with services or referrals that will accommodate client needs. GFAC will make every effort to refer to culturally appropriate mental health services that may be offered in the community
- C. Southwest Behavioral Health Services in their role as a core component of the GFAC, will be an active part of the case review process (see case review section). SBH will also be a member in the process of continual protocol updates through the GFAC, and the Gila County Attorney's Office.
- D. Gila Family Advocacy Center will keep a mental health referral list that will contain current service information. The GFAC will send out questionnaires to referral agencies yearly for updates to services, rates, language accommodations, and service locations.

Family Advocacy / Crisis Intervention

I. Family Advocacy:

- A. Gila Family Advocacy Center will assist clients with victim advocacy services through specially trained on site personnel. Family Advocacy services may be transferred to the Gila County Attorney's Office, Division

of Victim Services at the time of charging if necessary. GFAC and the Gila County Attorney's Victim Advocate will work together to ensure victim advocacy services are provided, and continued through the prosecution phase of the case. These services may be continued longer if needed/requested. Services provided by the GFAC and Gila County Attorney's Victim Advocate can include:

1. Victim and non-offending family member stabilization.
2. Providing victims with a folder to include information about the center, community referral information, and crime victim compensation forms.
3. Assistance in filling out crime victim and other forms as needed.
4. Follow up services will including contact through out the criminal justice process, or as needed by the client and non-offending family members.
5. Educating clients and non-offending family members about partners in the system, and the roles they play.
6. Court preparation and accompaniment will be provided by the GFAC or the Gila County Attorney's Office Victim Advocate.
7. Referrals for mental health services within the community.

II. **Crisis Intervention:**

A. The Gila Family Advocacy Center will provide clients and non-offending family members with crisis intervention services through community linkage with **Southwest Behavioral Health (SBH) through Nurse Wise Cenpatico**. SBH will provide crisis intervention services to GFAC clients twenty-four hours per day / seven days per week. This service can be accessed by any of the GFAC team members by following the below process:

1. Call Nurse Wise Cenpatico at (866) 495-6735.
2. Request crisis intervention services from SBH to the GFAC.
3. Give general information to assist with the report.
4. For general information related to crisis intervention cal SBH / Rim Guidance Center at (928) 474-3303.

SBH will send a crisis response team consisting of a behavioral health specialist and a Behavioral Health Tech to the scene. They will do crisis intervention and assist with any recommendation for additional, immediate, or future mental health services. In instances where the client may need hospitalization, SBH will make arrangements through their own, or linkages with the community. There is no fee for crisis intervention services offered by SBH through the GFAC. The GFAC Family Advocate is a core component of the team, and will be a part of the case review process (see case review section). The Family Advocate will also assist with periodic updating of the center and Gila County Protocol.

Forensic Interviewing

I. Interviews:

- A. **Training:** Any professional conducting an interview on a child 10 years old and under, a special needs adolescent, or special needs adult at the GFAC shall have training equivalent to:
- 8 hour basic forensic interview training offered through the State of Arizona.
 - 40 hour advanced forensic interview training offered through the State of Arizona.
 - Participate in a peer review process with other interviewers.
- Equivalent training waiver must be approved by the Gila County Attorney's office.
- B. **Videotaping:** Interviews conducted at the GFAC will be video and audio recorded. A CD, DVD, VHS, and/or audio tape of this recording will be released as requested to:
- Investigating law enforcement detective.
 - Investigating CPS Investigator.
 - County Attorney's Office having jurisdiction of the case.
- Other requests for copies of interviews must go through the Gila County Attorney's Office.
- C. Law Enforcement or CPS investigators may determine that in the best interest of the case, the interview should be conducted at another location. In these cases, every effort should be made for the interview to be audio taped. Investigators will also make an effort to ensure the victim and non-offending family members have contact information and services offered at the GFAC.
- D. Forensic interviews and mental health services offered by the GFAC will be separate by practice and policy. Forensic interviews will not be conducted by any person would/may later provide mental health services to the client. Forensic interviews at the center will be conducted by trained center staff, law enforcement, or CPS investigators, while mental health services are referred to community resources.

Case Review

- I. **Purpose:** The Gila Family Advocacy Center and partnering agencies will conduct a case review on regular schedule to:
- A. Discuss cases of special interest that will help to educate the team process
 - B. Ensure cases receive needed attention from all agencies.
 - C. Help to coordinate cases still in the system
 - D. Assist in gathering information for case tracking

- II** **Logistics:**
- A. Case reviews will be at the Gila Family Advocacy Center.
 - B. Reviews will be held on the third Tuesday of the month from 1:30 – 3:30 p.m. unless specifically rescheduled by multidisciplinary (MDT) members.
 - C. The Gila County Attorney or designee will be responsible for running the review meetings.
 - D. The GFAC Director or designee will be responsible for notifying members of upcoming cases, and any follow up needed from each meeting.
 - E. Each representative attending case review shall sign a confidentiality agreement.
 - F. No notes will be taken at case review, except for gathering information to enter into Case Tracking
- III** **Agency Representation:** Representatives from the following should attend Case review:
- A. Law Enforcement
 - B. Child Protective Services
 - C. Prosecution
 - D. Mental Health
 - E. Victim Advocacy
 - F. GFAC Director

Confidentiality Statement

- I.** **Purpose:** The Gila Family Advocacy Center recognizes that the confidentiality of identifying data is crucial to the continued confidence, ethical health, and success of the Gila Family Advocacy Center.
- A. All records of a confidential nature, including those containing specific identifying information of any kind, shall be securely stored.
 - B. Data systems shall be backed up weekly and copies stored in a locked area.
 - C. All case information is highly confidential and cannot be shared with anyone outside of the direct investigation. Any breach of confidentiality will be referred to the appropriate agency for investigation and disciplinary action.

Gila Family Advocacy Center Operations

- I.** **Operation:**
- A. **Hours of Operation:** GFAC will be open for services during the hours of 8:00AM to 5:00PM Monday through Friday not including holidays.
 - B. **After Hours Call Out:** Agencies requesting the GFAC for services after

hours will call Time Out Shelter's 24 hour hot line at (928) 472-8007. The advocate on duty will then contact appropriate staff from the center to coordinate with requesting agencies.

- C. **Scheduling Interviews:** Law enforcement, CPS, and prosecuting attorney's can call the GFAC at (928) 472-4544 to schedule a forensic interview and other services. It is requested that the Investigator have information available including:
- Victim name and DOB
 - Non-offending guardian's information.
 - Law enforcement and CPS case numbers
 - Sibling information

II. **Case Referral:**

- A. A case may be referred to the GFAC by law enforcement, Child Protective Services (CPS), prosecutor, or Adult Protective Services only. Any referral must be made by an investigator (CPS or LE), prosecutor, or with supervisor approval.
- B. Multidisciplinary team members shall not refer anyone directly to the GFAC without a CPS, APS, or law enforcement officer, the victim or family member will be referred to an appropriate agency for assistance.
- D. A law enforcement agency, CPS, or APS shall initiate a referral to the GFAC by contacting the Director or designee. The GFAC Director or his/her designee shall have the sole responsibility and discretion to determine the appropriateness of a case referral to the GFAC and to authorize or decline the referral.
- E. All referrals will be documented on a case referral/Intake form. If a referral is declined, the Case Referral/Intake form shall state the reason for declination.

III **Background Checks:**

It is the policy of the Gila Family Advocacy Center that all staff and volunteers will undergo a criminal background check through Arizona Department of Public Safety equal to that required for a mental health provider. Fingerprint cards will be a part of the employee's file.

Miscellaneous

I. **ADA Needs:**

- A. Victims requiring an ADA approved restroom during their visit to the center, through an agreement, will be able to use facilities at Doctor Steckal's office next door. Address is also 616 Beeline Hwy.
- B. Other center services should be able to fit the special needs of victims at the GFAC.