

STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK

COUNCIL BILL NUMBER: CB9

ORDINANCE NUMBER: 2016-9

**TITLE: AN ORDINANCE APPROVING A COOPERATIVE AGREEMENT
BETWEEN THE CITY OF BLACK HAWK AND HUMAN SERVICES OF
GILPIN COUNTY, COLORADO**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACK HAWK,
GILPIN COUNTY:

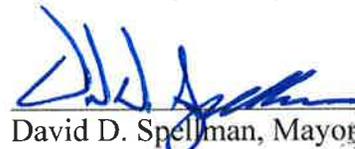
Section 1. The City of Black Hawk hereby approves the Cooperative Agreement between the City of Black Hawk and Human Services of Gilpin County, Colorado regarding child neglect and abuse investigations, as more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference, and authorizes the Mayor to execute the same on behalf of the City.

Section 2. Safety Clause. The Board of Aldermen hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, that it is promulgated for the health, safety, and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Aldermen further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

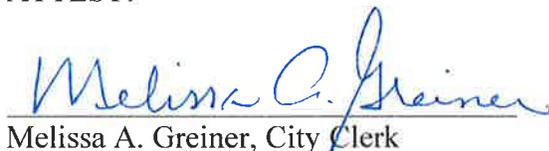
Section 3. Severability. If any clause, sentence, paragraph, or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 4. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 25th day of May, 2016.


David D. Spellman, Mayor

ATTEST:


Melissa A. Greiner, City Clerk



**Cooperative Agreement Between
Law Enforcement
&
Human Services
of
Gilpin County, Colorado**

December 2015

INDEX

	<u>Page</u>
Protocol for Cooperation.....	1
General Philosophy.....	2
General Provisions of Cooperative Agreement.....	3
Definitions.....	4
Legal Authority.....	9
Responsibility for Investigations.....	14
I. Applicable Cases Using Joint Investigative Procedures.....	14
II. Joint Investigative Procedures.....	15
III. Procedures for DHS Only Investigations.....	17
IV. Procedures for Law Enforcement Only Investigations.....	18
Signature Page.....	19
Appendix 1 – Investigation Planning Checklist.....	20
Appendix 2 – C.R.S. 19-3-308.5 Recorded Interviews of Child.....	21
Appendix 3 – Situations Suggesting the Need for Protective Custody.....	22
Appendix 4 – CDHS Rule 7.304.3 Out-of-Home Placement Criteria.....	24
Appendix 5 – Notice of Rights & Remedies for Families.....	26
Appendix 6 – Colorado Safety Assessment/Plan.....	30

PROTOCOL FOR COOPERATION

1. Colorado Child Abuse reporting laws, C.R.S. 19-3-304, allow reports of suspected neglect or abuse to be made to *both* the county department of human services (DHS) and the local law enforcement agency. This fact makes cooperation essential to assure protection of the child, prompt action and appropriate responses as required by law.
2. The decision regarding who investigates a case of suspected Child Abuse/Neglect shall be made by the receiving agency. It is the responsibility of the agency receiving the report to evaluate the facts of the case in light of the protocols set up in this agreement and as required by C.R.S. 19-3-308. The receiving agency will then determine if the case is one requiring a joint investigation or one which allows a single agency response.
3. In cases where the receiving agency is unsure of the appropriate investigation method, the alternate investigative agency (Law Enforcement or Human Services) will be consulted so that a joint determination can be made as to the proper response.
4. The following persons should be notified regarding child abuse referrals in Gilpin County:

Gilpin County Human Services	Caseworker	(303) 582-5444*
Gilpin County Sheriff's Office	Dispatch	(303) 582-5500
Central City Police Department	Dispatch	(303) 582-5511
Black Hawk Police Department	Dispatch	(303) 582-5878
Gilpin County Child Abuse Hotline	Human Services	(844) 264-5437

**After hours or if there is NO answer, Call Dispatch at (303) 582-5500, or 911.*

GENERAL PHILOSOPHY

The State Legislature has mandated specific tasks for County Department of Human Services agencies and local Law Enforcement agencies in the area of Child Abuse & Neglect.

It must be remembered by both County Department of Human Services staff and Law Enforcement officers that both the law and good practice require a joint, cooperative effort between their respective agencies in the investigation of these cases. It is vital that the respective agencies are able to communicate and cooperate freely with one another.

Towards that end, the following document has been produced as a general guideline for investigating allegations of sexual and physical abuse or neglect of children.

It should be understood by all involved that this document is only a guideline and each case must be assessed individually for the best approach to the investigation.

Any deviation from these guidelines must be done with the protection and best interests of the child in mind.

GENERAL PROVISIONS OF THE COOPERATIVE AGREEMENT

1. The intent of this agreement is to clarify and enhance cooperation between the Department of Human Service (DHS) and Law Enforcement agencies, whose roles are to protect children. It is recognized that there may be differing opinions regarding some case decisions. In those cases, referral to supervisory levels would be appropriate. Both Law Enforcement and DHS may request consultation, feedback and direction regarding a case from the Child Protection Team, the District Attorney's Office or any other agency or group which has expertise in the field of abuse. These resources should be utilized in cases where disagreements exist.
2. It is understood that joint training for DHS and Law Enforcement will be required to implement this agreement in the community. Both entities will be responsible for suggesting pertinent training and committing time and resources to obtain the training.
3. Because agencies and communities are changing entities, this Cooperative Agreement should be reviewed *at least annually* to ensure that the Agreement remains appropriate for the community and that it conforms to applicable laws and regulations.
4. DHS will file a copy of this agreement with the District Attorney's Office of the Fifth Judicial District and with the Colorado Department of Human Services within ten (10) days of the signing of this document.

DEFINITIONS

"Abuse" or "Child abuse or neglect" [19-1-103(1)(a), C.R.S.]

Any act or omission in one of the following categories that threatens the health or welfare of a child:

- (I) Any case in which a child exhibits evidence of skin bruising, bleeding, malnutrition, failure to thrive, burns, fracture of any bone, subdural hematoma, soft tissue swelling, or death and either:
 - A. Such condition or death is not justifiably explained;
 - B. the history given concerning such condition is at variance with the degree or type of such condition or death; or
 - C. the circumstances indicate that such condition may not be the product of an accidental occurrence;
- (II) Any case in which a child is subjected to unlawful sexual behavior;
- (III) Any case in which a child is a child in need of services because the child's parents, legal guardian, or custodian fails to take the same actions to provide adequate food, clothing, shelter, medical care, or supervision that a prudent parent would take;
- (IV) Any case in which a child is subjected to emotional abuse;
- (V) Any act or omission described in 19-3-102 (1)(a), (1)(b), or (1)(c) C.R.S.;
- (VI) Any case in which a child tests positive at birth for either a schedule I controlled substance or a schedule II controlled substance, unless the child tests positive for a schedule II controlled substance as a result of the mother's lawful intake or such substance as prescribed.

"Criminal Child Abuse" [18-6-401(1), C.R.S.]

- (a) A person commits child abuse if such person causes an injury to a child's life or health, or permits a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, or engages in a continued pattern of conduct that results in malnourishment, lack of proper medical care, cruel punishment,

mistreatment, or an accumulation of injuries that ultimately results in the death of a child or serious bodily injury to a child.

- (b) (I) Except as otherwise provided in subparagraph (III) of this paragraph (b), a person commits child abuse if such person excises or infibulates, in whole or in part, the labia majora, labia minora, vulva, or clitoris of a female child. A parent, guardian, or other person legally responsible for a female child or charged with the care or custody of a female child commits child abuse if he or she allows the excision or infibulation, in whole or in part, of such child's labia majora, labia minora, vulva or clitoris.
 - (II) Belief that the conduct described in subparagraph (I) of this paragraph (b) is required as a matter of custom, ritual, or standard practice or consent to the conduct by the child on whom it is performed or by the child's parent or legal guardian shall not be an affirmative defense to a charge of child abuse under this paragraph (b).
 - (III) A surgical procedure as described in subparagraph (I) of this paragraph (b) is not a crime if the procedure:
 - (A) Is necessary to preserve the health of the child on whom it is performed and is performed by a person licensed to practice medicine under Article 36 of Title 12, C.R.S.; or
 - (B) Is performed on a child who is in labor or who has just given birth and is performed for medical purposes connected with that labor or birth by a person licensed to practice medicine under Article 36 of Title 12, C.R.S.
 - (IV) If the district attorney having jurisdiction over a case arising under this paragraph (b) has a reasonable belief that any person arrested or charged pursuant to this paragraph (b) is not a citizen or national of the United States, the district attorney shall report such information to the immigration and naturalization service in an expeditious manner.
- (c) (I) A person commits child abuse if, in the presence of a child, or on the premises where a child is found, or where a child resides, or in a vehicle containing a child, the person knowingly engages in the manufacture or attempted manufacture of a controlled substance, as defined by Section 18-18-102(5), or knowingly possesses ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers, or salts of isomers, with the intent to use the product as an immediate precursor in the manufacture of a controlled substance. It shall be no defense to the crime of child abuse, as described in this subparagraph

- (I), that the defendant did not know a child was present, a child could be found, a child resided on the premises, or that a vehicle contained a child.
- (II) A parent or lawful guardian of a child or a person having the care or custody of a child who knowingly allows the child to be present at or reside at a premises or to be in a vehicle where the parent, guardian, or person having care or custody of the child knows or reasonably should know another person is engaged in the manufacture or attempted manufacture of methamphetamine commits child abuse.
- (III) A parent or lawful guardian of a child or a person having the care or custody of a child who knowingly allows the child to be present at or reside at a premises or to be in a vehicle where the parent, guardian, or person having care or custody of the child knows or reasonably should know another person possesses ephedrine, pseudoephedrine, or phenylpropanolamine, or their salts, isomers or salts of isomers, with the intent to use the product as an immediate precursor in the manufacture of methamphetamine commits child abuse.

“Institutional Abuse” [19-1-103(66), C.R.S.]

Any case of abuse that occurs in any public or private facility in the state that provides child care out of the home, supervision, or maintenance. “Facility” includes, but is not limited to, family child care homes, foster care homes, and any other facility subject to the Colorado “Child Care Licensing Act” and described in Section 26-6-102, C.R.S. “Institutional abuse” shall not include abuse that occurs in any public, private or parochial school system, including any preschool operated in connection with said system; except that, to the extent that the school system provides extended day services, abuse that occurs while such services are provided shall be institutional abuse.

“Intrafamilial Abuse” [19-1-103(67), C.R.S.]

Any case of abuse that occurs within a family context by a child’s parent, stepparent, guardian, legal custodian, or relative, by a spousal equivalent, or by any other person who resides in the child’s home or who is regularly in the child’s home for the purpose of exercising authority over or care for the child; except that “intrafamilial abuse” shall not include abuse by a person who is regularly in the child’s home for the purpose of rendering care for such child if such person is paid for rendering care and is not related to the child.

"Neglected or dependent child" [19-3-102(1) and (2), C.R.S.]

(1) A child is neglected or dependent if:

- (a) A parent, guardian, or legal custodian has abandoned the child or has subjected him or her to mistreatment or abuse or a parent, guardian, or legal custodian has suffered or allowed another to mistreat or abuse the child without taking lawful means to stop such mistreatment or abuse and prevent it from recurring;
- (b) The child lacks proper parental care through the actions or omissions of the parent, guardian, or legal custodian;
- (c) The child's environment is injurious to his or her welfare;
- (d) A parent, guardian, or legal custodian fails or refuses to provide the child with proper or necessary subsistence, education, medical care, or any other care necessary for his or health, guidance, or well-being;
- (e) The child is homeless, without proper care, or not domiciled with his or her parent, guardian, or legal custodian through no fault of such parent, guardian, or legal custodian;
- (f) The child has run away from home or is otherwise beyond the control of his or her parent, guardian, or legal custodian;
- (g) The child tests positive at birth for either a schedule I controlled substance or a schedule II controlled substance, unless the child tests positive for a schedule II controlled substance as a result of the mother's lawful intake of such substance as prescribed.

(2) A child is neglected or dependent if:

- (a) A parent, guardian, or legal custodian has subjected another child or children to an identifiable pattern of habitual abuse; and
- (b) Such parent, guardian, or legal custodian has been the respondent in another proceeding under this article in which a court has adjudicated another child to be neglected or dependent based upon allegations of sexual or physical abuse, or a court of competent jurisdiction has determined that such parent's, guardian's, or legal custodian's abuse or neglect has caused the death of another child; and

- (c) The pattern of habitual abuse described in paragraph (a) of this subsection (2) and the type of abuse described in the allegations specified in paragraph (b) of this subsection (2) pose a current threat to the child.

“Spousal Equivalent” [19-1-103(101), C.R.S.]

Any person who is in a family-type living arrangement with a parent and who would be a stepparent if married to that parent.

“Third-Party Abuse” [19-1-1-3(108), C.R.S.]

Any case in which a child is subjected to abuse by any person who is not a parent, stepparent, guardian, legal custodian, spousal equivalent, or any other person not included in the definition of intrafamilial abuse.

LEGAL AUTHORITY

I. LEGISLATIVE INTENT

A. COOPERATIVE AGREEMENT [19-3-308(5.5), C.R.S.]

The general assembly intended for law enforcement agencies and the county department of human services of each county in the state to develop and implement Cooperative Agreements to coordinate duties of both agencies in connection with the investigation of all child abuse and neglect cases and that **the focus of such agreements shall be to ensure the best protection for the child**. The said agreements shall provide for special requests by one agency for assistance from the other agency and for joint investigation by both agencies.

B. COLORADO CHILDREN'S CODE [19-1-102(1), C.R.S.]

The general assembly has declared that the Purposes of the Children's Code are to:

1. Secure for each child such care and guidance, preferably in his own home, as will best serve his welfare and the interests of society;
2. Preserve and strengthen family ties whenever possible, including improvement of home environment;
3. Remove a child from the custody of his parents only when his welfare and safety or the protection of the public would otherwise be endangered and, in either instance, for the courts to proceed with speed to a legal determination that will serve the best interests of the child; and
4. To secure for any child removed from parental care the necessary care, guidance, and discipline and to assist him in becoming a responsible and productive member of society.

C. COLORADO CRIMINAL CODE, TITLE [18-1-102, C.R.S.]

The Colorado Criminal Code shall be construed in such a manner as to promote maximum fulfillment of its general purposes, namely;

1. To define offenses, to define adequately the act and mental state which constitute each offense, to place limitations on the condemnation of conduct as criminal when it is without fault, and to give fair warning to all

persons concerning the nature of the conduct prohibited and the penalties authorized upon conviction;

2. To forbid the commission of offenses and to prevent their occurrence through the deterrent influence of the sentences authorized; to provide for the rehabilitation of those convicted and their punishment when required in the interests of public protection;
3. To differentiate on reasonable grounds between serious and minor offenses, and prescribe penalties which are proportionate to the seriousness of offenses and which permit recognition of differences in rehabilitation possibilities as between individual offenders; and
4. To prevent arbitrary or oppressive treatment of persons accused or convicted of offenses, and to identify certain minimum standards for criminal justice which, within the concept of due process of law, have the stature of substantive rights of persons accused crime.

II. SPECIFIC LAWS RELATED TO THE COOPERATIVE AGREEMENT

A. **Intrafamilial abuse [19-3-308(4)(a), C.R.S.]**

1. Gives responsibility to DHS to coordinate all *Intrafamilial* abuse or neglect investigations. (See Definitions Section for the definition of Intrafamilial abuse.)
2. Provides that DHS shall conduct the investigation in conjunction with the local law enforcement agency to the extent a joint investigation is possible and deemed appropriate.

B. **Intrafamilial abuse reported to law enforcement [19-3-308(5), C.R.S.]**

1. If a local law enforcement agency receives a report of a known or suspected incident of intrafamilial child abuse or neglect, it shall forthwith attempt to contact DHS in order to refer the case for investigation.
2. If law enforcement is unable to contact DHS, it shall forthwith conduct a complete intrafamilial investigation and institute the appropriate legal proceedings on behalf of the child. As a part of such an investigation, Law Enforcement shall have access to the records and reports of child abuse or

neglect maintained by the state department of human services for information under the name of the child or any suspected perpetrator.

3. Law enforcement, upon the receipt of a report and upon completion of any investigation, shall forthwith forward a summary of the investigatory data plus all relevant documents to DHS

C. Institutional abuse [19-3-308(4.5)(a) C.R.S.]

1. The state department of human services creates and adopts rules setting forth procedures for the investigation of reports of institutional abuse. Such rules provide for investigations to be conducted by DHS and reported to the state department for final resolution.

D. Third-Party abuse or neglect [19-3-308(5.3)(a), C.R.S.]

1. Law enforcement shall have responsibility for the coordination of all investigations of reports of *Third-party abuse or neglect by persons ten (10) years of age or older*. (See Definitions for the definition of third-party abuse.)
2. Upon receipt of a report, if law enforcement believes that the welfare and safety of a child is at risk, they shall notify DHS for an assessment regarding dependency and neglect.
3. Law enforcement shall refer to DHS any reports of *third-party* abuse where the alleged perpetrator is under the age of ten years.
4. Upon the completion of an investigation, the law enforcement agency shall forward a copy of its completed investigative report to DHS.
5. DHS shall review the report and determine whether the report constitutes a case of confirmed child abuse which must be submitted to the state department of human services.

E. Third party abuse investigation where services are needed [19-3-308(5.3)(b), C.R.S.]

1. If, before a third-party investigation is completed, law enforcement determines that human services are needed for the child (or the child's family), they may request such assistance from DHS.

2. DHS shall immediately respond to the law enforcement request for services or assistance.

F. Criminal child abuse reported to DHS [19-3-308(5.5), C.R.S.]

1. Upon receipt of a report, if DHS reasonably believes that an incident of abuse or neglect has occurred, it shall immediately notify the local law enforcement agency responsible for the investigation of violations of criminal child abuse laws.
2. It is the intent of the General Assembly that law enforcement and DHS shall develop and implement a cooperative agreement to coordinate the duties of both agencies in connection with the investigation of all child abuse or neglect cases and that the focus of such agreements shall be to ensure the best protection for the child.

G. Taking Children into custody [19-3-401, C.R.S.]

1. A child may be taken into temporary custody by a law enforcement officer without order of the court:
 - a. When the child is abandoned, lost or seriously endangered in such child's surroundings or seriously endangers others and immediate removal appears to be necessary for such child's protection or the protection of others;
 - b. When there are reasonable grounds to believe that such child has run away or escaped from such child's parents, guardian or legal custodian; or
 - c. When an arrest warrant has been issued for such child's parent or guardian on the basis of an alleged violation of Section 18-3-304, C.R.S. No child taken into temporary custody pursuant to this paragraph (c) shall be placed in detention or jail.

H. Standards of Proof:

1. Civil Proceedings:
 - a. *Preponderance of the Evidence*: This definition requires that after all the evidence has been weighed, the outcome will be in favor of the side that has presented the most convincing evidence. The Indian Child

Welfare Act requires clear and convincing evidence for dependency/neglect cases.

- b. *Clear and Convincing Evidence*: That proof which results in reasonable certainty of the truth of the ultimate fact in controversy. Proof which requires more than a preponderance of the evidence, but less than proof beyond a reasonable doubt.

2. Criminal Proceedings:

- a. *Beyond a Reasonable Doubt*: This definition requires that the evidence point to one conclusion and leaves no reasonable doubt about that conclusion.

RESPONSIBILITY FOR INVESTIGATIONS

Child abuse and neglect are community problems requiring a cooperative complementary response by law enforcement, human services, and many other agencies. Depending on the situation, agencies benefit from the assistance and cooperation of one another.

DHS is primarily responsible for assessing the welfare and risk to a child. As Colorado law makes clear, DHS is responsible for the coordination of all investigations of all reports of known or suspected incidents of intrafamilial abuse or neglect, and shall conduct the investigations jointly and in coordination with law enforcement to the extent joint investigation is possible and deemed appropriate as outlined in these guidelines.

I. APPLICABLE CASES USING JOINT INVESTIGATIVE PROCEDURES

1. Suspicious death of a child with surviving siblings in the family.
2. Intrafamilial physical abuse.
3. Intrafamilial sexual abuse.
4. Severe or repeated neglect, including failure to thrive.
5. Cases involving the possibility of the need for placement or protective custody.
6. When a risk of danger to DHS investigator by perpetrator exists.
7. When parents refuse access to the children by DHS or refuse medical examinations of the child.
8. Abuse in an institutional setting, foster or group home, or child care home or facility.
9. Cases involving drug or alcohol affected babies.
10. When conditions suggest the need for an arrest.

II. JOINT INVESTIGATIVE PROCEDURES

1. The receiving agency notifies the other agency as soon as practicable upon receipt of a complaint.
2. DHS and Law Enforcement plan the investigation using the Investigation Planning Checklist (Appendix 1).
3. If a conflict or the appearance of a conflict exists (e.g. a victim or alleged perpetrator is a family member of, or an employee of either agency) it will be stated at the outset of the investigation. A plan for an alternate agency to conduct the investigation will be discussed and implemented.
4. Interviews will be conducted according to the plan agreed upon in the planning meeting or discussion. All due care should be taken to prevent consultation between the victim and the perpetrator once interviews are begun. Every effort should be made to limit the number of interviews of the victim in cases where the possibility of traumatization of the victim exists.
5. If the person taking the initial report feels that the allegation is of a minor nature, a supervisor may authorize that the interview be conducted locally by a Law Enforcement officer or DHS caseworker. It is preferred that all such interviews shall be audio recorded. (See Appendix 2) If the initial interview is conducted locally and additional interviews are deemed necessary because of the complexity or seriousness of the case, it is preferable that those follow-up interviews be done at a Child Advocacy Center.
6. The decision regarding the immediate removal of the victim and/or other children will be made by Law Enforcement after consultation with DHS. (See Appendix 3 & 4) If a decision is made for removal, the "Rights and Remedies for Families" form (Appendix 5) must be completed and given to the parent(s), custodian(s) or guardian(s).
7. In making a determination regarding the child(ren)'s safety, DHS may consider less drastic alternatives to immediate removal, including writing a safety plan (Appendix 6) which may include: Requiring the alleged perpetrator or offender to leave the home; Requiring the child(ren) to go to the home of an appropriate adult relative; or, Allowing the child(ren) to remain in the home with adequate conditions agreed to by the parent(s), custodian(s) or guardian(s).
8. Law Enforcement will continue the criminal investigation without DHS involvement (unless requested by Law Enforcement) and will submit the case to the District Attorney or the Deputy District Attorney assigned to Gilpin County for review for the possibility of filing criminal charges.
9. DHS will determine the course of action for protection of the child or other children in the situation. This action may include the filing of a Dependency and Neglect petition or appropriate notification of the Court if a removal of the child has occurred.

10. Appropriate sharing of reports shall occur. If a criminal investigation is done, a copy of that report should be provided to DHS as soon as possible, but at least within 3 days, of the close of the criminal investigation. DHS will send a copy of all founded or highly suspected cases of abuse to the local Law Enforcement agency which has jurisdiction and the District Attorney as soon as possible, but at least within 3 days, of the completion of their investigation.

III. PROCEDURES FOR DHS ONLY INVESTIGATIONS

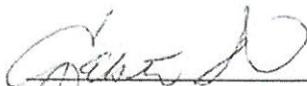
1. DHS proceeds with the investigation, including all interviews and assessments.
2. If issues requiring Law Enforcement involvement become apparent during the investigation, the "Joint Investigative Procedures" shall be instituted.
3. Appropriate notification will be made to the other agencies as mandated in these guidelines.
4. The following cases are appropriate for DHS-only investigations:
 - A. Mild Physical Abuse
 - B. Fetal Alcohol Syndrome
 - C. Non-Organic Failure to Thrive
 - D. Medical Neglect (including failure to provide medically indicated treatment to disabled infants with life-threatening conditions and drug affected babies.)
 - E. Educational Neglect
 - F. Emotional or psychological Abuse
 - G. Mild to moderate Neglect and lack of supervision.

IV. PROCEDURES FOR LAW ENFORCEMENT ONLY INVESTIGATIONS.

1. Law Enforcement proceeds with the investigation including interviews and appropriate assessments.
2. If issues requiring DHS involvement become apparent during the investigation, the "Joint Investigative Procedures" shall be instituted.
3. Upon completion of the investigation, Law Enforcement will submit the case to the District Attorney's Office for review to determine whether sufficient evidence exists (a reasonable probability of success based on the merits of the case) to file criminal charges in the case.
4. Upon completion of the investigation, Law Enforcement may provide copies of all investigative reports to DHS so that they can determine if sufficient evidence (preponderance of the evidence) exists to constitute a case of confirmed child abuse or neglect which must be submitted to the state department of human services.
5. The following cases are appropriate for Law Enforcement-Only investigations:
 - A. Non-Familial Physical Abuse.
 - B. Non-Familial Sexual Abuse.
 - C. The Suspicious Death of a child with no surviving siblings.
 - D. Reports of immediate danger to a child when the proximity and speed of a Law Enforcement response is necessary and when child protective services are not available and risk to the child indicates that an immediate evaluation is needed.

Cooperative Agreement Between
Law Enforcement & Human Services of Gilpin County
for Child Protection

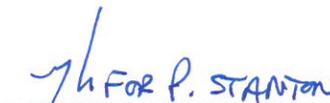
The undersigned individuals representing their respective agencies have read this document and agree to implement the procedures as outlined in the document.


Elizabeth Donovan, Director
Gilpin County
Human Services

5-24-16
Date


Bruce Hartman, Sheriff
Gilpin County
Sheriff's Office

4/14/16
Date


Patrick Stanton, Acting Chief
Central City
Police Department

7/14/16
Date


David D. Spellman
Mayor
City of Black Hawk

5/25/16
Date

Appendix 1

LAW ENFORCEMENT/HUMAN SERVICES INVESTIGATION PLANNING CHECKLIST

- What type of case is it?
- Are there any special characteristics or problems with the case?
Are any special contacts or considerations required by the circumstances of the case?
- Is special expertise required to adequately investigate the case?
- When will the investigation begin?
- Where will the interviews be conducted? *With supervisory approval, the interview may be done locally by appropriately trained staff.*
- What investigative method should be used? Who will take the lead under what circumstances? How will observers be able to ask or submit questions during the interview?
- What is the order of the interviewing? (victims, siblings, parents, witnesses, relatives, teachers, therapists and suspected perpetrators)
- Have both agencies checked for prior contacts with the victim, perpetrator or the family or other witnesses?
- Will the interviews be audiotaped or videotaped?
- Will any special interview aids be used? (i.e. dolls, drawings, etc.)
- When and how will medical evaluations be obtained? Who will accomplish that facet of the investigation?
- When and how will photographs be taken?
- What procedures will be used to gather and retain physical evidence?
- Have decision points regarding possible criminal or civil actions been discussed or determined?
- How will on-going case plans be coordinated to continue cooperation?

Appendix 2

C.R.S. § 19-3-308.5. Recorded Interviews of Child

(1)(a) Any interview of a child conducted pursuant to section 19-3-308, concerning a report of child abuse, may be audiotaped or videotaped. However, interviews concerning reports of sexual child abuse are strongly encouraged to be videotaped. Any audiotaped or videotaped interview shall be conducted by a competent interviewer at a child advocacy center, as that term is defined in section 19-1-103(19.5), that has a memorandum of understanding with the agency responsible for the investigation or by a competent interviewer for the agency responsible for the investigation in accordance with such section; except that an interview shall not be videotaped when doing so is impracticable under the circumstances or will result in trauma to the child, as determined by the investigating agency. No more than one videotaped interview shall be required unless the interviewer or the investigating agency determines that additional interviews are necessary to complete an investigation. Additional interviews shall be conducted, to the extent possible, by the same interviewer. Such recordings shall be preserved as evidence in the manner and for a period provided by law for maintaining such evidence. In addition, access to such recordings shall be subject to the rules of discovery under the Colorado rules of criminal and civil procedure.

Appendix 3

SITUATIONS SUGGESTING THE NEED FOR PROTECTIVE CUSTODY

(Source: Douglas J. Besharov, Recognizing Child Abuse, New York: Free Press, 1990)

The following situations suggest the need for protective custody by DHS pursuant to a court order or, if there is not time to obtain one, on an emergency basis by Law Enforcement. However, the decision to remove a child has a second part: *Can the need to place a child in protective custody be obviated by the parents [or the offender's] incarceration or by provision of appropriate Human services by the child protective agency or other agencies?*

1. The child was assaulted, that is, hit, poisoned, or burned so severely that serious bodily injury resulted or could have resulted. (For example, the parent threw an infant against the wall, but somehow the infant was not seriously injured.)
2. The child has been systematically tortured or inhumanely punished. (For instance, the child was locked in a closet for long periods; forced to eat unpalatable substances; or forced to squat, stand or perform other unreasonable acts for a long time.)
3. The parent's reckless disregard for the child's safety caused serious [bodily] injury or could have done so. (For example, the parent left a young child in the care of an obviously irresponsible or dangerous person.)
4. The physical condition of the home is so dangerous that it poses an immediate threat of serious [bodily] injury. (For instance, exposed electrical wiring or other materials create an extreme danger of fire or upper story windows are unsecured and easily accessible to young children.)
5. The child has been sexually abused or sexually exploited.
6. The parents have purposefully or systematically withheld essential food or nourishment from the child. (For example, the child is denied food for extended periods as a form of punishment for real or imagined behavior.)
7. The parents refuse to obtain or consent to medical or psychiatric care for the child that is needed immediately to prevent or treat a serious injury or disease. (For instance, the child's physical condition shows signs of a severe deterioration to which the parents seem unwilling or unable to respond.) [The religious rights of the parents to refuse medical care, as allowed by C.R.S. § 19-3-103(1), may require that a court

order be obtained for a medical evaluation to determine whether the child is in a life-threatening situation or whether the child's condition will result in a serious disability. See 19-1-104(3), C.R.S.]

8. The parents appear to be suffering from mental illness, mental retardation, drug abuse or alcohol abuse so severe that they cannot provide for the child's basic needs. (For example, the parents are demonstrably out of touch with reality.)
9. The parents have abandoned the child. (For instance, the child has been left in the custody of persons who have not agreed to care for the child for more than a few hours and who do not know how to reach the parents.)
10. There is reason to suspect that the parents may flee with the child. (For example, the parents have a history of frequent moves or of hiding the child from outsiders.)
11. There is specific evidence that the parent's anger and discomfort about the report and the subsequent investigation will result in retaliation against the child. (Such information could be gained through a review of each parent's past behavior, the parents' statements and behaviors during the investigative interview, or [reliable] reports from others who know the family.)
12. The parents have been arrested (for any reason) and there is no one to care adequately for the child.

IN ANY OF THESE SITUATIONS, THE YOUNGER THE CHILD, THE GREATER THE PRESUMPTIVE NEED FOR PROTECTIVE CUSTODY.

Appendix 4

CDHS Rule 7.304.3 OUT-OF-HOME PLACEMENT CRITERIA

Not every child at risk, needs out-of-home placement. These criteria are designed to provide a decision making model to assist in determining whether Core Service Program services and/or out-of-home placement are indicated. All three criteria must be met.

Criterion 1: The child may be at imminent risk of out-of-home placement, as defined in Section 26-5.3-102(1)(b), C.R.S., because one or more of the following conditions exist:

- A. Abandonment by or incarceration of parents/relatives/caretakers;
- B. Abuse/neglect – as defined in the Children’s Code;
- C. Domestic violence – as defined in Section 18-6-800.3, C.R.S.;
- D. Conditions that exist to such a degree for either the child or caretaker so that the caretaker is unable to care for the child:
 - 1. substance abuse; drug exposed infants
 - 2. mental illness
 - 3. disability
 - 4. physical illness
 - 5. homelessness
- E. Beyond control of parents;
- F. Danger to self, others, or community;
- G. Infant or young child of teen parent in placement;
- H. Delinquency – adjudicated delinquent meeting current out-of-home placement criteria written pursuant to Section 19-2-212, C.R.S.;
- I. Relinquishment or termination of parental right;
- J. Child returning home from out-of-home placement or moving to less restrictive level-of-care.

Criterion 2: Before considering placement, an assessment is completed to determine the level of risk. If assessment of risk determines that the child is at imminent risk of out-of-home placement, then child/family strengths are determined, and the appropriate services and/or community supports (reasonable efforts) needed to address the existing Criterion #1 conditions are identified. When these services are not immediately available, or are absent, unsuccessful, or exhausted, placement in the Core Services Program and/or out-of-home may be considered.

Reasonable efforts include the intervention strategies and advocacy efforts used:

- A. To identify/locate appropriate parent/relative/caretakers if necessary to prevent out-of-home placement;
- B. To assess the parent/relative/caretaker's ability to protect children;
- C. To assist the parent/relative caretaker and/or child in accessing and utilizing the identified services to address the presenting conditions.

Criterion 3: When placement is the best choice of available options/alternatives at this time to reduce risk to the child while continuing reasonable efforts to resolve the conditions which led to imminent risk, then, placement in the Core Services Program and/or out-of-home may occur.

Appendix 5

NOTICE OF RIGHTS AND REMEDIES FOR FAMILIES

Your children have been, OR are being removed from your home pursuant to Colorado Revised Statute, Title 19, C.R.S., the Colorado Children's Code. This notice provides you with important information. This is an important document, please read it carefully. If English is not your primary language, or you are hearing impaired you may request an interpreter for all proceedings. If you know or have reason to know your family is of American Indian heritage, the Indian Child Welfare Act (P.L. 95-608) applies.

The United States Constitution and State of Colorado Constitution guarantee your right to due process which includes a fair hearing.

PARENTAL RIGHTS:

1. You have a right to receive this NOTICE OF RIGHTS AND REMEDIES and a juvenile court order.
2. You have a right to an attorney. If the Court decides that you cannot afford to pay an attorney one will be provided for you at no cost. You are entitled to petition the court to appoint an attorney of your choosing that may or may not be granted by the Court.
3. You have a right to participate with the County Department of Human Services (referred to hereinafter as DHS) caseworker in developing a case plan. All parties will be requested to sign the case plan.
4. You have a right to a Detention Hearing within 48 to 72 hours to determine if your child(ren) should return home. This hearing MUST be held either within 48 to 72 hours, excluding Saturdays, Sundays and holidays. If the court decides that your child(ren) should not return home, your children may be placed with their grandparents or other appropriate relatives, or remain in foster care with County DHS. You have the right to testify and present witnesses in the court as to why the child(ren) should be allowed to return home, or whether they should be placed with their grandparents or other relatives. You have the right to compel witnesses by subpoena, to attend all court proceedings, and ask questions of any witnesses. If the petition is granted, the child(ren) are adjudicated dependent and neglected; legal custody of your child(ren) may be given to County DHS. Families may make later formal request, at any time for a hearing to regain legal custody of their child(ren).
5. You have the right to a Juvenile Judge instead of a magistrate at all proceedings of the Court except the initial Detention hearing.

6. You have a right to have the Dependency and Neglect Petition filed with the court no later than ten working days after the child(ren) are removed (Rules of Juvenile Procedure, Rule 4.A.).
7. You have a right to a jury trial.
8. You have a right to have the People prove that the allegations of the petition are true by a preponderance of the evidence. In the case of an Indian child the standard is clear and convincing evidence. If the petition is not granted, the Court can order the state to pay all your costs.
9. You have a right to appeal any final decision of the Court, unless you agree to a finding that your children are "Dependent and Neglected" (this would include an admission of "no fault of your own"). In that case you lose your rights to a jury trial, to subpoena witnesses and to appeal the Court's finding of "Dependent and Neglected."

NON-EMERGENCY REMOVAL:

If you child(ren) are being removed in a non-emergency situation, you are to receive a copy of the juvenile court order authorizing the removal and stating the reasons why your child(ren) are being removed along with a copy of this notice. (If your child is removed from some place other than the home, you are to receive the order the same day.)

Specific reason for non-emergency removal: _____

EMERGENCY REMOVAL:

If you child(ren) have been or are being removed under Colorado Statute 19-3-401, you will receive a copy of the court order forthwith.

Specific reason for emergency removal (reason cited from Colorado Statute 19-3-401):

Taking children into custody:

(1) A child may be taken into temporary custody by a law enforcement officer without order of the court:

(a) When the child is abandoned, lost, or seriously endangered in such child's surroundings or seriously endangers others and immediate removal appears to be necessary for such child's protection or the protection of others:

(b) When there are reasonable grounds to believe that such child has run away or escaped from such child's parents, guardian or legal custodian; or

(c) When an arrest warrant has been issued for such child's parent or guardian on the basis of an alleged violation of section 18-3-304, C.R.S. No child taken into temporary custody pursuant to this paragraph (c) shall be placed in detention or jail.

(1.5) An emergency exists and a child is seriously endangered as described in paragraph (a) subsection (1) of this section whenever the safety or well-being of a child is immediately at issue and there is no other reasonable way to protect the child without removing the child from the child's home. If such an emergency exists, a child shall be removed from such child's home and placed in protective custody regardless of whether reasonable efforts to preserve the family have been made.

(2) The taking of a child into temporary custody under this section shall not be deemed an arrest, nor shall it constitute a police record.

Additional comments on removal _____

REASONABLE EFFORTS

The law requires that reasonable efforts be made before, during, and after removal to keep child(ren) with parents, as described in 19-3-101.1, C.R.S:

Definitions. As used in this article, unless the context otherwise requires:

(1) "Reasonable efforts" means the exercise of diligence and care throughout the state of Colorado for children who are in out-of-home placement, or are at imminent risk of out-of-home placement, to provide, purchase, or develop the supportive and rehabilitative services to the family that are required both to prevent unnecessary placement of children outside of such children's home and foster, whenever

appropriate, the reunification of children with the families of such children. Services provided by a county or city and county in accordance with section 19-3-208 are deemed to meet the reasonable effort standard described in this subsection (1). Nothing in this subsection (1) shall be construed to conflict federal law.

State what reasonable efforts have been made to prevent the removal of the child(ren) from the home or explain why these efforts were not made _____

TERMINATION OF PARENTAL RIGHTS

If you do not comply with the treatment plan ordered by the court your parental rights may be terminated at a separate hearing. The standard of evidence for termination of parental rights is clear and convincing in all cases, except in cases of Indian child(ren) where the standard is beyond a reasonable doubt. If the petition is not granted, the Court can order the State to pay all your costs.

While your child(ren) is placed out of the home you have the right to visit your child(ren) as permitted by the court and be advised of their well-being. There will be regular court-reviews. Periodic reviews take place at the county department of human services. Reviews in court can be requested by you or required by the court.

GRIEVANCE PROCEDURES:

If you feel you have been are being treated unfairly by the County Department of Human Services, call your County of Human Services Director or grievance coordinator. Pursuant to 19-3-211 the county governing body may have established a citizen review panel to hear your grievance.

COUNTY SPECIFIC AND IMPORTANT TELEPHONE NUMBERS:

Caseworker (name and number) _____

Law Enforcement Officer (name and number) _____

County Department of Human Services Director _____

County Grievance Coordinator _____

Other Local Resources _____

COLORADO SAFETY ASSESSMENT/PLAN

Family Name: _____

Safety Plan

Describe what tasks will be done to assure safety, by whom, how often and duration. Indicate how the caseworkers will be monitoring the plan. Describe a backup plan if conditions of safety plan cannot be met.

1. _____

2. _____

3. _____

4. _____

5. _____

Family Agreement with Safety Plan

We have participated in the development of and reviewed this safety plan and agree to work with the providers and services as described above.

Parent(s): _____ Date: _____
_____ Date: _____

Comments: _____

Caseworker/Supervisor Agreement with Safety Plan

Caseworker: _____ Date: _____
Supervisor: _____ Date: _____