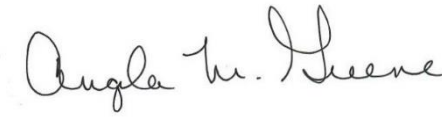
	LEXINGTON POLICE DEPARTMENT POLICY AND PROCEDURE GENERAL ORDER	Distribution ALL PERSONNEL	General Order Number 6.10
		Original Issue Date 01/06/2024	Reissue/Effective Date 01/06/2024
Order Title: ABUSE INVESTIGATIONS (CHILD AND INCAPACITATED ADULT)	CALEA Accreditation Standard: N/A	Section 6	
	Rescinds:		
Section Title: INVESTIGATIVE FUNCTIONS		 Angela M. Greene, Chief of Police	

This General Order is for departmental use only and does not apply in any criminal or civil proceeding. This General Order should not be construed as creation of a higher legal standard of safety or care in an evidentiary sense with respect to third party claims. Violations of this General Order will only form the basis for departmental administrative sanctions. Violations of law will form the basis for civil and criminal sanctions in a recognized judicial setting.

I. PURPOSE

The purpose of this General Order is to establish uniform and appropriate response protocols for officers of the Lexington Police when responding to, investigating, or otherwise dealing with incidents involving abuse and neglect or children or incapacitated adults.

II. POLICY

When a Lexington Police Department (“Department”) officer responds to a call alleging that a child or an incapacitated adult has been subjected to sexual or physical abuse and has probable cause to believe that a crime has been committed or responds to a call alleging that a temporary restraining order or preliminary injunction has been violated, the officer has the authority to arrest the person without a warrant.

III. DEFINITIONS

Child Abuse: Virginia Codes § 63.1-248, 16.1228 , defines an abused child as a child or youth less than eighteen (18) years of age who: (a) has been inflicted with physical injury or injuries other than by accidental means, (b) has injuries that are at variance with the history given of them, or (c) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment.

Child Neglect: Virginia Code §18.2-371.1 (contributing to delinquency abuse or neglect). §18.2-371. (abuse or neglect). §18.2-314 (failure to secure medical attention for an injured child)

Incapacitated Adult: Virginia Code §18.2-369, means any person 18 years of age or older who is impaired by reason of mental illness, intellectual disability, physical illness or disability, advanced age or other causes to the extent the adult lacks sufficient understanding or capacity to make, communicate or carry out reasonable decisions concerning his well-being.

Incapacitated Adult Abuse: Virginia Code §18.2-369, means (i) knowing and willful conduct that causes physical injury or pain or (ii) knowing and willful use of physical restraint, including confinement, as punishment, for convenience or as a substitute for treatment, except where such conduct or physical restraint, including confinement, is a part of care or treatment and is in furtherance of the health and safety of the incapacitated person.

Incapacitated Adult Neglect: Virginia Code §18.2-369, means the knowing and willful failure by a responsible person to provide treatment, care, goods or services which results in injury to the health or endangers the safety of an incapacitated adult

Responsible Person: Virginia Code §18.2-369, means a person who has responsibility for the care, custody or control of an incapacitated person by operation of law or who has assumed such responsibility voluntarily, by contract or in fact.

Serious Bodily Injury or Disease: Virginia Code §18.2-369, shall include but not be limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, or (vi) life-threatening internal injuries or conditions, whether or not caused by trauma.

IV. PROCEDURE

A. Child and Incapacitated Adult Suspect Physical Abuse Requirements

1. If an officer suspects the possibility that a child or incapacitated adult is the object of physical abuse, the officer is responsible for obtaining and forwarding the following information:
 - a. Verify the address of the parents/legal guardians and the victim.
 - b. Officers shall complete a report on the matter and contact the Department of Social Services through their toll-free child abuse and neglect hotline (800-552-7096), or Adult Protective Services hotline (888-832-3858).
 - c. Notify the Child Protective Services (CPS) and Juvenile and Domestic Relations Court (JDRC), of: (1) address of parent/legal guardians and victim; (2) nature, location, and extent of injuries; (3) nature and extent of neglect and/or sexual abuse; and (d) any evidence the officer may have observed. Under Virginia Code §63.1-248.6, a copy of the offense report must be sent to Social Services. Officers are mandated reporters.
 - d. Ensure the parents or legal guardians are advised of the investigation.

B. Investigation of Abuse

1. If Child Protective Services (CPS), Adult Protective Services (APS) or a law enforcement agency responds to a complaint of child abuse or neglect and discovers that another agency has also responded to the complaint, the agencies shall coordinate the investigation and keep each other apprised of the progress.
2. CPS or APS, and any other agency involved in a child abuse or incapacitated adult case, shall make, as soon as practicable, a written record, and shall maintain records of all incidents of suspected child abuse or incapacitated adult abuse reported to that person or agency.
3. Records kept under this section shall be identifiable by means of an agency code for child abuse and incapacitated adult abuse. Therefore, records of all abuse cases involving children and an incapacitated adult persons shall be maintained by the department. Upon the receipt of a report concerning the possible occurrence of abuse or neglect, it shall be the duty of the law enforcement agency to investigate and provide CPS or APS with a report.
4. When an officer responds to a call alleging that a child or an incapacitated adult has been subjected to sexual or physical abuse and has probable cause to believe that a crime has been committed or responds to a call alleging that a temporary restraining order or preliminary injunction has been violated, the peace officer has the authority to arrest the person without a warrant.
5. An officer may take, or cause to be taken, a child or an incapacitated adult into protective custody without a court order if there is probable cause to believe that the child or incapacitated adult is abused or neglected, and that the victim will be further subjected to injury if the officer does not immediately remove the victim.
6. When the investigation involves a suspected offender who was acting in their official capacity as an employee of a school district, the investigating officer shall notify the Department of Education or the school district. Also, the investigating officer must coordinate the investigation of the abuse or neglect with any investigation being conducted by the Department of Education or the school district.

C. Interviewing Victims of Abuse

1. It is imperative that victims of abuse be interviewed in an open, honest setting. The child or incapacitated adult must feel safe and comfortable enough to speak freely, or they will not respond. Therefore, identifying a suitable interview site is the most critical aspect of the interviewing process. Depending on the nature of the investigation, the interviewing officer can contact the child at their school, home, or other appropriate location.

2. Project Horizon maintains kits/drawings and other equipment available for investigative purposes. The Child Advocacy Center (CAC) assists in completing interviews of children suspected of abuse. The interviewer should allow the child to describe the incident in their own words and then follow up with non-leading questions. The officer should utilize the drawings to have the child illustrate the places where the child was touched or injured.
3. Child abuse and incapacitated adult injuries require medical attention and formal documentation of evidence. This process enables the uniform collection of evidence and the subsequent testimony of the attending physician.
4. In an effort to collect evidence, protect the welfare of the victim, and to expedite the investigation, the investigating officer shall notify the appropriate medical facility when they are transporting a child abuse victim to the medical facility.
5. Photographs shall be taken to illustrate the injuries received and to be used as evidence in court.
6. Other siblings or family in the family should be interviewed to determine the extent of the problem.
7. If the officer decides that protective custody is needed, the officer shall be guided by the provisions of §§16.1-251, 16.1-252, and 16.1-253. Virginia Code §63.1-248.9 allows an officer to take a child into custody for 72 hours without the prior approval of the parents or guardians under specified circumstances. To meet the letter and spirit of the relevant laws, the officer shall consider the totality of circumstances to include:
 - a. the maltreatment in the home, present or potential;
 - b. evidence of abuse, torture, or neglect by the parent;
 - c. the parents' refusal to obtain needed medical or psychological care of the child;
 - d. evidence that the parents cannot provide for the child's basic needs; and
 - e. a history of prior offenses/allegations in which the child is the victim.

D. Documentation of the Investigation

1. In all instances when an officer is dispatched to an abuse, neglect, sexual assault, assist to Social Services, or other offenses against children or incapacitated adults, the officer shall complete a written report of the incident which includes observations, officer involvement, and disposition of the case.

2. When investigating a reported child or incapacitated adult abuse/neglect case, a police report shall be completed whether the abuse/neglect is founded, unfounded, or reclassified.
3. Officers may reclassify reported child or incapacitated adult abuse or neglect only with permission of a supervisor, and only then when there is no articulable justification for the original report to have been classified as a child or incapacitated adult abuse.
4. Officers responding to a report of alleged offenses involving domestic violence or domestic disturbance shall document the identities of all the children and any information they have concerning the allegation, i.e. what they observed or may have been subjected to.
5. Upon completion of the police investigation, Records or the investigator shall forward a copy of the offense report to Child Protective Services or Adult Protective Services as is appropriate.