9. **CONSENT AGENDA**

f. Approval of a Memorandum of Understanding (MOU) between the City of Sanibel Police Department and the Lee County Department of Children and Families and authorize the City Manager to execute same (no fiscal impact)

MEMORANDUM

April 18, 2011

TO: CITY MANAGER JUDIE ZIMOMRA

FORM: POLICE CHIEF WILLIAM TOMLINSON

RE: MOU / FLORIDA DEPARTMENT OF CHILDREN AND FAMILIES

Staff is requesting City Council authorize the approval of a Memorandum of Understanding (MOU) between the Florida Department of Children and Families and the City of Sanibel, for the purpose of working together during criminal investigations regarding the interviewing of minor children.

This MOU will permit the Florida Department of Children and Families investigators the authority to provide specialized law enforcement support to the Sanibel Police Department.

10/11-084

MEMORANDUM OF UNDERSTANDING/WORKING AGREEMENT

(Name of Law Enforcement Agency)
and the
Department of Children and Families

The agencies named in this document agree to the following:

A. PURPOSE

The purpose of this Memorandum of Understanding is to coordinate services to the families of _____(jurisdiction) through cooperation, collaboration, and the sharing of appropriate information by agencies within this jurisdiction. Specifically, this agreement establishes operational protocols for the join investigation of abuse reports involving criminal allegations in order to:

- provide standard, consistent and thorough investigations;
- maximize the resources through a joint investigative process;
- minimize the number of interviews for children who are victims of abuse or neglect;
- allow for the orderly collection of evidence in the criminal investigative process;
- ensure the provision of appropriate services when deemed necessary for children and their families; and
- provide a forum for on-going communication and resolution of issues involving family safety in this community and foster an effective collaboration among:
    - law enforcement
    - state attorney
    - judiciary
    - guardian ad litem
    - domestic violence providers
    - child protection team/child advocacy centers
    - local school system
    - Department of Juvenile Justice
    - Department of Children and Families (DCF)

B. Definitions

"Abandoned" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. [39.01(1), F.S.]

"Abuse" means any willful act or threatened act that results in any physical, mental, or sexual injury or harm that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. For the purpose of protective investigations, abuse or a child includes the acts or omissions of the parent, legal custodian, caregiver, or other person responsible for the child's welfare. [39.01(2), F.S.]

"Criminal Investigation": An investigation conducted by an appropriate law enforcement agency for the purpose of uncovering evidence which may lead to an individual's prosecution for adult abuse, neglect, or exploitation, or child abuse, neglect, or abandonment, or other appropriate criminal charges.

"Domestic Violence" means any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. [741.28(2), F.S.]

"Emergency Placement – Child": The temporary care of a child who is alleged to be or who has been found to be dependent, pending further disposition, before or after adjudication or after execution of a court order. The placement may be with a relative, non-relative or state licensed home or facility.

"False report" means a report of abuse, neglect, or abandonment of a child to the central abuse hotline, which report is maliciously made for the purpose of: (a)Harassing, embarrassing, or harming another person; (b)Personal financial gain for the reporting person; (c)Acquiring custody of a child; or (d)Personal benefit for the reporting person in any other private dispute involving a child. The term "false report" does not include a report of abuse, neglect, or abandonment of a child made in good faith to the central abuse hotline. [39.01(29), F.S.]

"Family or household member" means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who have a child in common regardless of whether they have been married or have resided together at any time.

"Joint Investigation": Two agencies conducting concurrent criminal and protective investigations.

"Neglect" occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone,

be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering the following services to be provided, when the health of the child so requires: (a)Medical services from a licensed physician, dentist, optometrist, podiatric physician, or other qualified health care provider; or (b)Treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization. Neglect of a child includes acts or omissions. [39.01(44), F.S.]

"Protective investigation" means the acceptance of a report alleging child abuse, abandonment, or neglect, as defined in this chapter, by the central abuse hotline or the acceptance of a report of other dependency by the department; the investigation of each report; the determination of whether action by the court is warranted; the determination of the disposition of each report without court or public agency action when appropriate; and the referral of a child to another public or private agency when appropriate. [39.01(61), F.S.]

C. INVESTIGATIVE PROCUDURES

1. The Department of Children and Families shall immediately notify (name of law enforcement agency) as required by Section 39.301(2), F.S., when a report of known or suspected child abuse, abandonment, or neglect is received and suspected to have occurred in (name of county or city). The (name of law enforcement agency) shall review the report, determine whether a criminal investigation is warranted and notify the local DCF office in _____ County.

2. The Department of Children and Families protective investigator retains the responsibility for notifying the (name of law enforcement agency) as required by Sections 39.301(18), F.S., immediately upon learning during the course of investigation or when providing services that:

a. the immediate safety or well-being of a child is endangered;

b. the family is likely to flee;

c. a child has died as a result of abuse or neglect;

d. a child is the victim of aggravated child abuse as defined in Section 827.03, F.S.

3. The protective investigator shall immediately notify, by either telephonic or electronic means, the (name of law enforcement agency) that the Department of Children and Families has learned of a situation covered by Section C.2 of this agreement. A full written report will be delivered to the (name of law enforcement agency) within three working days.

4. As required by Section 39.306, F.S., the (name of law enforcement agency) will assume lead in conducting any potential criminal investigation involving children in cases specified in Section C.2 above. The protective investigation will be coordinated with the criminal investigation. Evidence gathered in criminal investigations will be handled according to the policies and procedures of (name of law enforcement agency).

5. The agencies agree to conduct joint investigations. During the course of such investigations, the agencies agree to share information on an on-going and continuous basis. Both agencies understand that the safety of the victim is of primary concern and that the request for protective investigation by the Department of Children and Families must be responded to by DCF within 24 hours of receipt of the report.

6. If the (name of law enforcement agency) requests that the protective investigator not interview the alleged perpetrator, that request shall be honored. The Department of Children and Families case record must document the date and time of the request, the person making the request and the reason for the request. The (name of law enforcement agency) agrees to advise the DCF when and if a protective interview can be conducted and, when appropriate, share the results of any interview conducted by the (name of law enforcement agency).

7. The Department of Children and Families will be responsible for assessing the immediate safety of the child and taking the necessary actions that will ensure the continued safety of the child. The DCF will also be responsible for determining and implementing necessary services to support the family.

8. In reports that have been determined to be false, as defined in Section 39.01(29), F.S. and Section B of this agreement, the Department of Children and Families will refer to (name of law enforcement agency) such information for a criminal investigation. This referral will be made with the consent of the person who was originally identified as the alleged perpetrator. The DCF will refer all subsequent reports involving children in the same family to (name of law enforcement agency) for all responses during the pending criminal investigation.

9. Unless other wise specified in this written agreement or required by law, all reports of alleged abuse or neglect of a child taken by the DCF Abuse Hotline for the area under the jurisdiction of the law enforcement agency signing this agreement, will be transmitted to the local DCF office in ____ County.

10. The Florida Abuse Hotline shall be responsible, as required by Section 39.201(2)(b), F.S., for transferring all calls with information that a child has been harmed by someone other than a parent, legal custodian, caregiver, or other person responsible for the child's welfare as defined in Chapter 39, to the Sheriff (or other designated law enforcement entity) of the county in which the harm occurred.

a. The Sheriff (or designated law enforcement entity) will be responsible for establishing procedures for accepting such information including any follow-up hard copy report from DCF, and transferring it to any other appropriate law enforcement jurisdiction.

b. The law enforcement agency designated to receive non-caretaker abuse calls for ___ County is (name of law enforcement agency); the phone number is _____. Hard copies of DCF reports documenting child-on-child sexual allegations will be forwarded to (agency, person, address) within 48 hours of receipt.

11. The Department of Children and Families and (name of law enforcement agency) shall develop, implement, and provide training on joint investigative protocols and protocols for the assessment of family violence during abuse investigations and the assessment of abuse during family violence investigations.

D. SHARING OF INFORMATION

1. The Department of Children and Families is recognized as a criminal justice agency for the purpose of child protective investigations, pursuant to Section 943.045, F.S. Pursuant to Section 39.306, F.S., and within statutory guidelines, (name of law enforcement agency) is authorized to share with assigned DCF protective investigators, Florida criminal history and local criminal history information accessed through the Florida Crime Information Center (FCIC) and not otherwise exempt from Section 119.07(1), F.S.

a. Such information may be used only in the furtherance of a specific child protective investigation, including the emergency placement of an endangered child. The agencies will clearly define those investigations specified under this section.

b. Such information will be provided without charge.

c. Such information may be provided by the assigned criminal investigator or through (name of unit or individual).

d. The release of such information will be documented in accordance with applicable Florida Department of Law Enforcement FCIC procedures.

2. Within statutory guidelines, (name of law enforcement agency) will, upon request, provide to the designated child protective investigator a copy of all initial law enforcement reports relating to a domestic violence incident, including a narrative description of the incident, and any subsequent, supplemental, or related reports.

a. Such reports shall be clearly defined as part of this agreement but shall include those in which children are present when family violence occurs.

b. Such reports shall be used only for the purpose of child protective investigations and placement of children under DCF care.

3. Within statutory guidelines, the (name of law enforcement agency) shall develop procedures to allow access to or otherwise share all appropriate local criminal information on an individual under investigation with the assigned protective investigator.

4. During criminal investigations and within statutory guidelines, the Department of Children and Families will provide to the (name of law enforcement agency) copies of protective investigation reports including, when requested prior reports on the child or alleged perpetrator. Any reports shall be provided without cost to the law enforcement agency. Copies of these reports shall include the identity of the reporter which remains confidential pursuant to Section 39.202, F.S.

5. All information, reports, documents, etc., provided under the provisions of this agreement shall retain any confidential status provided under law and shall not be distributed outside the undersigned agencies unless other wise authorized or mandated by law.

Signature	Signature
Title	Title
(Name of Law Enforcement Agency)	Department of Children and Families
Date	Date
Designated Contact	Designated Contact