

# Los Angeles



## *Child Abuse and Neglect Protocol*



INTER-AGENCY COUNCIL ON CHILD ABUSE AND NEGLECT  
(ICAN)

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Keeping Children Safe...

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## **Los Angeles County Child Abuse and Neglect Protocol**

**THIS PROTOCOL IS INTENDED AS A GUIDE TO RECOMMENDED PRACTICES FOR THE IDENTIFICATION, REPORTING, INVESTIGATION, CASE MANAGEMENT, AND PROSECUTION OF CHILD ABUSE AND NEGLECT CASES.**

**JURISDICTIONAL, LOGISTICAL, OR LEGAL CONDITIONS MAY PRECLUDE THE USE OF PARTICULAR PROCEDURES CONTAINED HEREIN. THIS DOCUMENT DOES NOT CREATE ANY LEGAL RIGHTS FOR ANYONE FACING CHARGES OR OTHER PROCEEDINGS ARISING OUT OF ANY EVENT COVERED HEREIN.**

## MISSION STATEMENT

Child abuse and neglect inflict tremendous pain and suffering on victims, families, and the community. The Los Angeles County Child Abuse and Neglect Protocol is promulgated to serve as a guideline for professionals countywide to protect victims of abuse, to maximize successful interventions, to hold abusers responsible and accountable for the harm done, and to prevent new victimizations. By coordinating efforts, both government and community service providers will better

- protect victims and their siblings
- recognize and identify incidents of child abuse and neglect
- respond to and investigate reports of child abuse and neglect
- document statements and collect evidence related to allegations of abuse
- hold abusers accountable for violations of criminal laws prohibiting child abuse and neglect
- lessen emotional trauma to the victims occasioned by repeat interviews, court appearances, medical/psychological examinations, and other governmental interventions
- provide for the physical, emotional, and psychological well-being of child victims, their siblings, and non-offending parents and/or custodians
- promote collaboration and integrated inter-agency investigation and case management



## **AGENCY ROLES AND DESCRIPTIONS**

The following list describes various professionals and organizations that are involved when a child is abused or neglected. This is **not** a list of mandated reporters of child abuse or neglect.

### **Child Protection Hotline [CPH]**

CPH is a section in the Department of Children and Family Services [DCFS]. CPH answers calls reporting suspected child abuse, neglect, and exploitation 24 hours per day, 7 days per week. Professional staff evaluate all calls to determine service needs for children and their families. After assessment, appropriate reports are forwarded to protective services offices throughout the county and/or law enforcement for further investigation. Emergent calls received outside of normal business hours are referred to the Emergency Response Command Post [ERCP] for immediate response. In addition, staff provide child abuse and neglect consultation as well as information and referral services at the same phone number.

In Los Angeles County, DCFS is the designated county welfare department pursuant to Penal Code [PC] §11165.9 and the CPH is the mechanism for making a report of suspected child abuse or neglect.

The CPH telephone number is (800) 540-4000; Telephone Device for the Deaf [TDD] number is (800) 272-6699.

### **Community Care Licensing Division [CCLD]**

CCLD is a regulatory enforcement program whose ultimate responsibility is to protect the health and safety of children and adults who reside in, or spend a portion of their time in, out-of-home care.

### **County Counsel**

As attorney for DCFS, County Counsel assumes the burden of proof at the detention, jurisdictional, disposition, review, and selection and implementation hearings held in the dependency court.

## **Court-Appointed Counsel for Children in Dependency Court**

Welfare and Institutions Code [WIC] §317 requires appointment of counsel for children in any case where it appears to the court that the child would benefit from appointment of counsel. The practice in Los Angeles County is to appoint counsel for children in every case. Counsel for children generally are appointed from one of the law firms under the umbrella of Children's Law Center Los Angeles. Alternatively, counsel may be appointed from a panel of private attorneys available for appointment. In general, counsel for the child is charged with the representation of the child's interest, including the duty to undertake independent investigation on behalf of the child. A primary responsibility of counsel is to advocate for the protection, safety, and physical and emotional wellbeing of the child.

## **Criminal Court**

The criminal court assumes jurisdiction over criminal violations as set forth in the California Penal Code and other related codes. This court adjudicates the guilt of a person charged with a crime. If an accused is found guilty, this court determines the appropriate punishment for the crime committed.

## **Delinquency Court**

The Los Angeles Superior Court Juvenile Division is divided into two component parts: one to handle juvenile delinquency cases and one to handle juvenile dependency cases. The delinquency court assumes jurisdiction over children who have committed criminal violations, infractions, or status offenses. The court adjudicates petitions pursuant to the Welfare and Institutions Code and other related codes. If a petition is sustained, this court determines the appropriate rehabilitative course for the minor.

## **Department of Children and Family Services**

DCFS assumes responsibility for child protective services in the County of Los Angeles. DCFS is vested with the responsibility of investigating allegations of in-home child abuse, neglect, abandonment, exploitation, and caretaker incapacity. In addition, it provides services to children and families within the system. The Children's Social Worker [CSW] has responsibility for investigating abuse and neglect allegations, determining whether a child should be detained from his or her parents or guardians, and whether a petition alleging that the child comes within the jurisdiction of the dependency court should be filed. DCFS works toward reunification of the child with the family whenever possible, and when reunification is not an option, DCFS also works toward a child's permanency by providing adoption and other services. As the public child welfare agency for Los Angeles County [the designated county welfare department], DCFS

provides a wide range of services including emergency response, family maintenance, family reunification, permanent placement, concurrent planning, and adoption services.

### **Department of Corrections and Rehabilitation [DCR]-- Parole**

The California Department of Corrections and Rehabilitation operates all state prisons, oversees correctional facilities, and supervises all parolees released from that system. After being paroled, an offender remains under the supervision of parole staff. This "conditional release" provides an extra measure of control over the offender's behavior. The term of parole is based upon the crime, the period of time served, and the parolee's behavior. Before being paroled, an offender agrees to abide by certain conditions. Those who are violent or predatory may be directed to stay away from certain individuals or locations. If the parolee fails to adhere to these conditions, parole can be revoked and the parolee can be sent back to prison.

### **Division of Juvenile Justice [DJJ] (formerly California Youth Authority)**

The DJJ (under the DCR) has jurisdiction over all educational training and treatment institutions established and maintained in the State as correctional schools for delinquent wards of the juvenile court. The DJJ works closely with law enforcement, the courts, prosecutors, probation and a broad spectrum of public and private agencies concerned with problems of youth.

### **Dependency Court**

The dependency court adjudicates cases involving children who have suffered or are at risk of suffering physical, sexual, or emotional abuse, neglect, or exploitation at the hands of their parents or legal guardians. It is charged with enforcing, interpreting, and administering juvenile court law, while overseeing each case as it proceeds through the dependency system. The legal process is intended to protect children, preserve and strengthen families where possible, and provide children with legal permanence.

### **Educators**

Educators have regular contact with children outside the home and they are often the first persons to whom children disclose abuse or neglect. As mandated reporters school employees are now actively involved in the identification and reporting of suspected abuse or neglect. After a report has been made, it is important that school personnel provide consistent and structured support for the child.

## **Inter-Agency Council on Child Abuse and Neglect [ICAN]**

ICAN is the county agency mandated by the Los Angeles County Board of Supervisors to coordinate services for the prevention, identification, and treatment of child abuse or neglect. ICAN's activities are carried out through a variety of committees comprised of both public- and private-sector professionals with expertise in child abuse and neglect.

## **ICAN Child Abduction and Reunification Task Force**

The Los Angeles County Child Abduction and Reunification Task Force is a multi-disciplinary team that addresses child abduction and reunification. The goal of the task force is to reduce trauma to children and their families by providing free counseling through community mental health centers. The task force has developed expertise in the abduction and reunification of court-dependent children. Find the Children is the coordinating agency for the task force and is responsible for holding monthly meetings.

## **ICAN Adolescent/Teen Suicide Death Review Team [CASRT]**

CASRT was instituted by the Los Angeles County Office of Education [LACOE] in partnership with the Los Angeles Unified School District [LAUSD] and the Los Angeles Department of Mental Health [DMH]. The multi-agency team meets monthly to review cases of suicides committed by children and adolescents under age 18. The team studies warning signs, risk factors and protective factors involved in the suicides for the purpose of furthering the adoption of the goals and objectives of the National Strategy of Suicide Prevention. Findings of the team are featured in the annual ICAN Child Death Review Team Data Report. The team sponsors awareness and "gatekeeper" training as well as engaging in discussions centering around policy issues related to suicide prevention. Recommendations from the team are formulated to encourage systems to be responsive in implementing prevention strategies designed to reduce the incidence of suicide deaths of our youth.

## **ICAN Child Death Review Team**

The ICAN Child Death Review Team is a multi-agency committee of various professionals formed pursuant to PC §11166.7 and coordinated by ICAN. The team meets monthly to review deaths of children in the county. The goals of the team include identifying child deaths and developing preventive interventions. The monthly meetings are confidential by law.

## **Juvenile Dependency Mediation Court**

Juvenile dependency mediation is an alternate dispute resolution program within the juvenile court. Mediation provides a formal, non-adversarial forum conducted by highly trained professionals to assist the parties in reaching a mutual agreement on dependency issues before the court.

## **Law Enforcement**

Los Angeles County's public safety agencies are diverse in size and responsibility. Law enforcement services are provided by city police departments or by the Los Angeles County Sheriff's Department. In addition, other county, state, federal, school police, probation, and prosecutorial agencies provide specific law enforcement services to county residents and visitors. State law or agency policy requires most members of these agencies to receive reports and to take action when they learn that a child under age 18 is the victim of suspected child abuse or neglect.

Law enforcement agencies whose responsibilities include the criminal investigation of child abuse are also diverse in administrative structure. Many agencies have investigative units or detective bureaus comprised of one or two investigators who generally handle child abuse cases. Investigators also may be assigned other crimes to investigate in addition to child abuse allegations. Other agencies may be structured with many investigators who specialize exclusively in child abuse matters including child homicide.

Not all law enforcement agencies in the county have as a primary responsibility the investigation of crime. Many agencies rarely become involved in an incident of child abuse or a child welfare issue and must rely on another agency to complete an investigation and assume control over protective custody issues.

## **Los Angeles Child Advocates Office -- Court Appointed Special Advocates [CASA]**

As provided in WIC §§100-109, CASA serves the needs of children in the dependency court system by providing the best possible information to the hearing officers making decisions about the child's future. The CASA recruits, trains, supervises, and supports community volunteers who investigate the circumstances of the child, facilitate the provision of services, monitor compliance with the orders of the court, and advocate in the court and in the community for the best interests of the child.

## **Medical Professionals**

Medical professionals are responsible for providing a comprehensive examination of a child and to treat any illness or injury the child may suffer. They also collect critical forensic evidence, both visually and physically, to help corroborate the child's account of the abuse or neglect. Moreover, medical professionals who provide services to abused children must perform additional tasks mandated by the state, and they must be available to testify to their findings in court.

## **Mental Health Professionals**

A mental health professional's primary goal is to facilitate healing for the child who has been victimized and may include working with family members to negotiate changes in the child's environment, including family relationships. A mental health professional also helps to minimize re-traumatization of the child who is a witness during the legal process.

## **Multi-Disciplinary Interview Centers [MDIC]**

An MDIC is host to the Multi-Disciplinary Interview Team [MDIT] and is both a place and a process that provides for a coordinated, child-sensitive investigation of child sexual abuse, physical abuse, and neglect cases by professionals from many disciplines and agencies. The MDIT method emphasizes improving agency coordination, sharing information, reducing the number of child interviews, and ultimately aiding in the prosecution of the suspect. Within this context, a team approach reduces system-related trauma to the child. Often MDICs can provide a child-sensitive, collaborative interview for other types of cases in which a child witnesses a violent crime.

An MDIT must have three or more people and usually includes, but is not limited to, a medical professional, a mental health professional, a trained child forensic interview specialist, and representatives from law enforcement, DCFS, a prosecuting agency, the Victim-Witness Program or other child advocates, or public education professionals. Peer review, case review and case tracking are vital elements of the MDIC process.

## **Probation Department**

The probation department recommends and enforces court-ordered sanctions for probationers, including the detention of juvenile offenders and the arrest of adult offenders; prevents and reduces criminal activity by developing and implementing strategies from early intervention through supervision.

## **Prosecutors**

A **City Attorney** or **City Prosecutor** has jurisdiction for prosecution of misdemeanors and infractions committed within the city boundaries.

The **District Attorney** has jurisdiction for prosecution of all felonies committed in Los Angeles County and misdemeanors committed in cities which do not have a criminal city attorney.

The **Attorney General** has jurisdiction over cases in which the District Attorney's Office has declared a conflict of interest or has been recused. The office also handles criminal appeals.

The **United States Attorney** has jurisdiction over federal offenses.

## **Public Defender/Alternate Public Defender**

The Public Defender, upon request of the defendant or upon order of the court, represents any person who is not financially able to retain counsel, and who is charged with the commission of a crime or an act which constitutes juvenile delinquency.

## **Regional Centers**

Regional Centers coordinate services for people with developmental disabilities. There are 21 Regional Centers in California operated by private, non-profit corporations which contract with the State Department of Developmental Services. Los Angeles County has seven Regional Centers.

## **Sexual Assault Felony Enforcement [SAFE] Team**

The SAFE Team is a multi-jurisdictional law enforcement task force administered by the U.S. Department of Justice and the FBI. It is comprised of federal, state, and local law enforcement officers, who investigate major child exploitation cases, Internet pornography cases, child sexual assault rings, and any sexual assault cases referred for special handling. These officers, deputies, and agents are available for advice and consultation.

## MULTI-DISCIPLINARY APPROACH

Abused children benefit when professionals coordinate their efforts to investigate cases and protect the children involved. A multi-disciplinary approach does not require a formal center. It does require that the professionals make efforts to communicate from the earliest opportunity, coordinate investigations, limit repeat interviews by different agencies and by multiple interviewers, and continue to share information throughout the pendency of the case. All agencies involved in the investigation of child abuse are encouraged to use a multi-disciplinary approach whenever possible, including the use of MDICs where available. The goal of this approach is to reduce trauma to the child, improve coordination of service delivery, ensure forensic defensibility of services [i.e., medical and interview components], and enhance the courts' ability to protect communities.

Multi-disciplinary team professionals should view their function as part of a team. The team must consist of three or more people and usually includes, but is not limited to, a member of law enforcement, a CSW, a prosecutor, a child advocate, a medical professional, a mental health representative, and a public education professional. [WIC §18951(d)] While the individual effort of each professional is crucial, the child benefits most when all professionals coordinate with each other.

The team should identify one member to conduct the primary, forensic interview with the child. Preference should be given to a trained forensic interview specialist.

In geographic areas where there are no multi-disciplinary centers, or a multi-disciplinary team approach is not feasible, all agencies are urged to make efforts to limit the number of interviews and reduce trauma to the child victim to the extent possible.

When a formal multi-disciplinary approach is used, all agencies should communicate and coordinate actions on cases arising out of the same events. WIC §830 allows for the disclosure of confidential juvenile court records among team members. However, pursuant to Brady v. Maryland, 373 U.S. 83 (1963), if a member of the prosecution team is present when potentially exculpatory confidential information is disclosed, that information must be provided to the defense during criminal discovery.

There are a number of established multi-disciplinary centers and resources for forensic examinations in Los Angeles County. [See Index of Appendices] A list of centers for California is available at the California Institute on Human Services, Inc.—Child Abuse Training and Technical Assistance Center (CATTa) or the California Network of Child Advocacy Centers websites.



## **MANDATORY REPORTING OF CHILD ABUSE AND NEGLECT**

Because children are among the most defenseless victims of crime, the law provides special protection for them. A key legal protection is the requirement that people involved in certain occupations must report suspected child abuse to law enforcement or DCFS. In Los Angeles County, the designated county welfare department is DCFS. The mandatory reporting statutes appear at PC §11164 et seq.

**It is important to recognize that not all criminal acts require a mandatory report. Criminal acts which do not appear on this list must still be investigated and prosecuted where evidence warrants. In addition, children who are subject to acts which do not require a mandatory report may benefit by intervention from DCFS.**

The following is a summary of the statutes.

### **Mandated Reporter Occupations**

#### **Mandated Reporters {PC §11165.7}**

- teacher
- instructional aide
- teacher's aide or teacher's assistant employed by any public or private school
- classified employee of any public school
- administrative officer or supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school
- administrator of any public or private day camp
- administrator or employee of a public or private youth center, youth recreation program or youth organization
- administrator or employee of a public or private organization whose duties require direct contact and supervision of children
- employee of a county office of education or the California Department of Education whose duties require direct contact with children on a regular basis
- licensee, administrator, or employee of a licensed community care or child day care facility
- headstart teacher
- licensing worker or licensing evaluator employed by a licensing agency

as defined in PC §11165.11

- public assistance worker
- employee of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of a residential care facility
- social worker, probation officer, or parole officer
- employee of a school district police or security department
- administrator or presenter of, or counselor in a child abuse prevention program in any public or private school
- district attorney investigator, inspector or local child support agency caseworkers<sup>1</sup>
- peace officer
- firefighter, except voluntary firefighter
- physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker
- any other person who is currently licensed under Div. 2 Business and Professions Code [B&P] §500 including but not limited to, research psychoanalyst, speech pathologist and audiologist, opticians, occupational therapist, dietitian, physical therapist, vocational nurse, hearing aid dispenser, physician assistant, osteopath, respiratory therapist, pharmacist, veterinarian, acupuncturist, or social worker
- emergency medical technician I or II, paramedic or other person certified pursuant to Div. 2.5 of the Health and Safety Code [H&S], commencing with H&S §1797
- psychological assistant registered pursuant to B&P §2913
- marriage, family and child counselor trainee, as defined in B&P §4980.03(c)
- unlicensed marriage, family and child counselor intern registered under B&P §4980.44
- state or county public health employee who treats a minor for venereal disease or any other condition
- coroner
- medical examiner or any other person who performs autopsies
- commercial film and photographic print processor, which means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for

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<sup>1</sup> unless working with an attorney appointed pursuant to WIC §317 to represent a minor. {PC §11165.7(a)(18)}

compensation, including any employee of such a person; it does not include a person who develops film or makes prints for a public agency<sup>2</sup>

- any person who, for financial compensation, acts as a monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law
- animal control officer, which means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations
- humane society officer, which means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Corporations Code [Corp C] §§14502, 14503
- clergy member, which means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple or recognized religious denomination or organization<sup>3</sup>
- any custodian of records of a clergy member
- employee of any police department, county sheriff's department, county probation department, or county welfare department
- an employee or volunteer of a court-appointed special advocate [CASA] program
- a custodial officer as defined in PC §831.5
- anyone providing services to a minor under WIC §12300.1
- drug and alcohol counselors

### **What to Report -- Mandatory**

All mandated reporters shall report if they have knowledge of or observe a child, defined as any person under age 18, while in their professional capacity or within the scope of the job, and they know or reasonably suspect that the child has been abused or neglected. {PC §11166(a)}

Reasonable suspicion means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. {PC §11166(a)(1)}

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<sup>2</sup> The report by a commercial film or photographic print processor must only be made to law enforcement, not to DCFS. {PC §11166(d)}

<sup>3</sup> Unless disclosure is made during a "penitential communication" as defined in PC §11166(c)(1).

[P]rofessionals . . . must evaluate facts known to them in light of their training and experience to determine whether they have an objectively reasonable suspicion of child abuse. [Citation.] However, nothing in the Act requires professionals . . . to obtain information they would not ordinarily obtain in the course of providing care or treatment. Thus, the duty to report [to a child protective agency] must be premised on information obtained by the [professional] in the ordinary course of providing care and treatment according to standards prevailing in the medical profession. Whether this information creates a reasonable suspicion of reportable child abuse will depend in many instances on application of the [professional's] training and experience, as the act expressly directs. People ex rel. Eichenberger v. Stockton Pregnancy Control Medical Clinic, Inc. (1988) 203 Cal. App. 3d 225, 239-240.

A detailed discussion of reasonable suspicion is included in these materials entitled "Determining Reasonable Suspicion." [See Index of Appendices]

**Reportable child abuse or neglect includes {PC §11165.6}**

- sexual abuse {PC §11165.1}
- physical injury which is inflicted by other than accidental means on a child by another person {PC §11165.6}
- willful cruelty or unjustifiable punishment of a child {PC §11165.3 and PC §273a}
- unlawful corporal punishment or injury {PC §11165.4 and PC §273d}
- neglect {PC §11165.2}
- abuse or neglect in out-of-home care {PC §11165.5}

Each of the categories above is discussed in more detail below.

**Reportable child abuse or neglect does not include {PC §11165.6}**

- a mutual affray between minors
- injury caused by reasonable and necessary force used by a peace officer within the course and scope of his or her employment as a peace officer

**Sexual Abuse** means either sexual assault or sexual exploitation {PC §11165.1}

**Sexual assault** means conduct in violation of one or more of the following sections {PC §11165.1(a)}

- rape {PC §261}
- statutory rape -- unlawful sexual intercourse where one party is under

- age 16 and the other is age 21 or over {PC §261.5(d)}
- rape in concert {PC §264.1}
  - incest {PC §285}
  - sodomy {PC §286}
  - lewd act on a child {PC §288 (a), (b), or (c)(1)}
  - sexual penetration {PC §289}
  - oral copulation {PC §288a}
  - child molestation {PC §647.6}

The conduct described as sexual assault includes, but is not limited to, all of the following {PC §11165.1(b)}

- any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is an emission of semen
- any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person
- any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, unless the act is performed for a valid medical purpose
- intentional touching of the genitals or intimate parts [including the breasts, genital area, groin, inner thighs, and buttocks]<sup>4</sup> or the clothing covering them, of a child or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker responsibilities, interactions with or demonstrations of affection for the child, or acts performed for a valid medical purpose
- intentional masturbation of the perpetrator's genitals in the presence of a child

**Sexual exploitation** refers to any of the following {PC §11165.1(c)}

- preparing, selling or distributing matter depicting a minor engaged in obscene acts {PC §311.2; PC §311.4}
- coercing a child to engage in prostitution or coercing parental consent for a child to engage in prostitution
- depicting a child in or creating, developing or trading photos of minors engaged in obscene sexual conduct {PC §311.3(c); PC §311.3(e)}

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<sup>4</sup> This conduct would include a violation of PC §243.4, sexual battery.

In addition, the law requires a report in the following situations

- any sexual activity where one party is under age 14 and the other party is over age 14, whether the conduct is consensual or not People ex rel. Eichenberger v. Stockton Pregnancy Control Medical Clinic, Inc. (1988) 203 Cal.App.3d 225, 249 Cal.Rptr. 762.
- any sexual activity where both parties are under age 14 and there is a significant difference in their ages, whether the conduct is consensual or not Planned Parenthood Affiliates of California v. Van de Kamp (1986) 181 Cal.App.3d 245, 226 Cal.Rptr. 361.
- The pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse. {PC §11166(a)(1)}

**Physical Abuse** includes a physical injury which is inflicted by other than accidental means on a child by another person. {PC §§11165.6} It also includes willful cruelty or unjustifiable punishment {PC §11165.3}, unlawful corporal punishment or injury {PC §11165.4}, or abuse in out-of-home care {PC §11165.5}.

**Willful cruelty or unjustifiable punishment of a child** means {PC §11165.3}

- any person willfully causing or permitting any child to suffer, or inflicting on the child unjustifiable physical pain or mental suffering
- any person with care or custody of any child, willfully causing or permitting the person or health of the child to be placed in a situation where the child's person or health is endangered

**Unlawful corporal punishment** means {PC §11165.4}

- any person willfully inflicting upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition

**Corporal punishment** does not include

- reasonable and necessary force for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property for purposes of self defense or to obtain possession of weapons or other dangerous objects within the control of the pupil
- the exercise of the degree of physical control authorized by Education Code [Educ C] §44807
- injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer

**Abuse or neglect in out-of-home care** includes {PC §11165.5}

- physical injury inflicted upon a child by another person by other than accidental means
- sexual abuse as defined in PC §11165.1, neglect as defined in PC §11165.2, unlawful corporal injury as defined in PC §11165.4, or the willful cruelty or unjustifiable punishment of a child as defined in PC §11165.3, where the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency

Abuse or neglect in out-of-home care does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

**Neglect** includes {PC §11165.2}

- negligent treatment or maltreatment of a child by someone responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare
- may include both acts and omissions

**Severe neglect** means {PC §11165.2(a)}

- the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive
- those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, [such as willful cruelty or unjustifiable punishment of a child] including the intentional failure to provide adequate food, clothing, shelter or medical care

**General neglect** means {PC §11165.2(b)}

- the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred

**Neglect** does not include {PC §11165.2}

- children receiving treatment by spiritual, cultural, or religious means as provided in WIC §§ 16509 and 16509.1, unless the practices present a

specific danger to the physical or emotional safety of the child. Children do not receive specified medical treatment for religious reasons, shall not, for that reason alone, be considered a neglected child

- an informed and appropriate medical decision made by a parent or guardian after consultation with a physician or physicians who have examined the minor

Evidence of maternal substance abuse merits risk assessment. Maternal substance abuse determined through a positive toxicology screen at the time of delivery of the infant does not, in and of itself, mandate a report, unless other factors are present that indicate risk to the child. These risk factors, alone, could be sufficient to mandate a report even if the toxicology screen is negative. The practitioner shall conduct a needs assessment of the mother and child pursuant to H&S §123605. [See Index of Appendices] If, after that assessment, it is determined that the risk to the child relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, the report shall only be made to a county welfare or probation department, not law enforcement. {PC §11165.13}

**Pediatric Condition Falsification [PCF]** traditionally referred to as Munchausen by Proxy, is a form of child abuse in which a parent, guardian, or caregiver deliberately produces or feigns physical or psychological illness symptoms in a child who is under his or her care. The child is presented for medical treatment and the parent or caregiver fails to acknowledge the deception. PCF often involves physical abuse, neglect, and emotional abuse.

PCF cases are typically complex, difficult to identify and document, and child victims suffer from a wide spectrum of harm. A multi-disciplinary approach is optimal to accurate assessment, diagnosis, and intervention. [See Index of Appendices]

### **Mandatory Reporting Requirement**

Mandatory reporting is governed by the procedure set forth in PC §11166.

In Los Angeles County, once a mandated reporter knows or reasonably suspects child abuse or neglect, the reporter must make a report immediately, or as soon as is practicably possible, by telephone to any police department, sheriff's department, or DCFS.



Notification to school district police or security department *does not* satisfy the reporting requirements of this statute.

A mandated reporter may choose to make this *immediate* telephonic report either to the DCFS Child Protection Hotline at (800) 540-4000 or directly to a police or sheriff's station. *Within 36 hours* after learning of the suspected abuse, the mandated reporter must send a written Suspected Child Abuse Report [SCAR, Form SS8572] to the agency where the report was made.<sup>5</sup> A mandated reporter must make a report, even if the child has died, whether or not the abuse contributed to the death, and even if suspected child abuse was discovered during an autopsy. {PC §11166(a)(2)} [See Index of Appendices]

Failure to report may result in criminal, civil and/or professional liability. Refer to the criminal liability section.

The absence of training does not excuse a mandated reporter from the duty to report. {PC §11166(e)}

### **Additional Reporting Requirements for Health Practitioners Only**

PC §11160 et seq. requires immediate mandatory reports by any health practitioner who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient [victim] when the health practitioner knows or reasonably suspects

- the patient [victim] is suffering from any wound or other physical injury inflicted by his or her own act or by another with a firearm; or
- the patient (victim) is suffering from any wound or other physical injury which is the result of assaultive or abusive conduct.

For this section, *health practitioner* means any of the people listed in the mandatory reporting section, above, who are employed in a health facility, clinic, physician's offices, local or state public health department, or a clinic or other type of facility operated by a local or state public health department.

When a report is made pursuant to the Child Abuse and Neglect Reporting Act {PC §11164 et seq.}, a separate report is not required under this section. {PC §11162.7} The Health Insurance Portability and Accountability Act [HIPAA]

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<sup>5</sup> A medical professional who has performed a forensic examination for a sexual assault can submit the OES 925 or OES Form 930 in lieu of the SCAR form [Form SS8572] for reporting purposes only. {PC §13823.5(c)}

permits and California law requires disclosure of this medical information.

The reporter shall not inform the person suspected or accused of injuring the patient (victim), or that person's attorney, of the whereabouts of the patient. {PC §11163.2(b)}

Individuals who report pursuant to this section {PC §11160 et seq.} receive the same immunity and confidentiality protections as provided by the child abuse reporting statutes {PC § 11164 et seq.}.

### **Coroner's Report**

The duty to report is mandatory when there is a preliminary finding that the manner of death is homicide. The Chief Medical Examiner has discretion to report when the preliminary finding of the manner of death is undetermined. Additional investigation by law enforcement or DCFS may enable the Chief Medical Examiner/Coroner to reclassify the manner of death.

If the manner of death is found to be homicide following a final autopsy, a confirming report must be made to the Child Protection Hotline. Where the final result is undetermined but the Chief Medical Examiner/Coroner believes the death is potentially suspicious of abuse, the coroner has discretion to report this result.

### **What to Report -- Discretionary**

Any mandated reporter who knows or reasonably suspects that mental suffering has been inflicted upon a child or that his or her emotional well-being is endangered in any other way may report the known or suspected instance of child abuse or neglect. {PC §11166.05}

When making a mandatory report under PC §11160 et seq., in domestic violence situations, even if the patient (victim) on whose behalf the report is made is not a child, the reporter is encouraged to list names of minor children in the home and to report to the Child Protection Hotline [CPH].

Another example of a discretionary report is an act of unlawful sexual intercourse, also called statutory rape, when the minor is over age 16 or the suspect is under age 21. Planned Parenthood Affiliates of California v. Van de Kamp (1986) 181 Cal.App.3d 245, 226 Cal.Rptr.361.

While the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse, such a pregnancy may require a referral to the CPH for an assessment of risk for abuse or neglect, especially if the mother is under age 14.

Additionally, any other person [non-mandated reporters] who has knowledge of or observes a child who he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect. {PC §11166(e)}

## **How To Make a Report**

A mandated reporter may choose to make the *immediate* telephonic report either to the county welfare agency at (800) 540-4000 or directly to a police or sheriff's station. {PC §11166.2} In Los Angeles County the designated county welfare department is DCFS.

During the initial contact with law enforcement or DCFS, the mandated reporter should obtain any available referral identification, "tag," department file, or reference number, the DCFS regional office where the case will be referred, and any appropriate phone numbers.

*Within 36 hours* after learning of the suspected abuse or neglect, the mandated reporter must send a written Suspected Child Abuse Report [SCAR, Form SS8572; see Index of Appendices] to the agency where the report was made. {PC §11162.2} If reported to DCFS, the written report can be done online approximately 30 minutes after the call at [www.dcfslacounty.gov](http://www.dcfslacounty.gov) in the "For Mandated Reporters Only" section.

There is no duty to report past incidents of child abuse when the victim has reached the age of 18. However, a reporter may, within his or her discretion, report incidents of past abuse that occurred before the child reached the age of 18. Such reports are encouraged, particularly when the abuser has current access to children. Reporters should be familiar with and abide by their professional confidentiality mandates governing adult patients or clients.

When the alleged perpetrator is not the parent, legal guardian, surrogate parent, or person in the home, DCFS will not respond. Therefore, the case may receive a more expedient response if the law enforcement agency is called directly instead of first calling DCFS.

Mandated reporters, especially from hospital SCAN teams, pediatric units and

emergency departments, are strongly encouraged, but not required, to report to both DCFS and law enforcement to ensure the most efficient response.

## **The Child's Disclosure**

The mandated reporter should not investigate or attempt to obtain a detailed or extensive history of abuse. The reporter should competently perform all duties required under any and all professional guidelines as to the child. Beyond that, the reporter should obtain only enough information to report a "reasonable suspicion" and does not need to provide proof.

The mandated reporter should provide a quiet, private place in which to listen to and document the child's disclosure, and

- communicate with the child in the language most comfortable to the child
- use interpreters, where appropriate
- use open-ended questions
- refrain from making promises to the child
- limit questions to those necessary to complete the required reporting form

Once a disclosure of abuse has been made, while the reporter may continue to provide reassurance to the child, further questions about the abuse should not be asked. If the child continues the disclosure without questioning, permit the child to do so and document all statements made by the child.

Mandated reporters are not required by law to disclose to the child's parent or guardian that they are making a suspected child abuse or neglect report. Disclosure to a parent sometimes interferes with the fact-finding process, compromises the investigation, or endangers the child. If the abuse is familial, the child could be subject to undue influence by the abuser or by another person. An assessment of the risk associated with disclosing the report must be done on a case-by-case basis. Therefore, the reporter is encouraged to defer notification to the child's parent or guardian until DCFS or law enforcement arrives.

The school-based, mandated reporter is not to notify the parent, guardian, or alleged perpetrator when circumstances indicate possible child abuse or a report of suspected child abuse is made. The safety of the child is the primary concern. In rare instances, it is the parent who discloses possible abuse. When a parental disclosure occurs within the context of clinical family services provided on

campus, the decision to inform the parent that a report will be made rests with the licensed professional. Should the professional elect to inform the parent that a report will be made, the professional should document the rationale for this decision in the client record.

### **Communication**

In some cases, the continuity of existing services or care may require close communication among the investigator, the CSW, and the mandated reporter. In other cases, the mandated reporter may become aware of additional information or the need for services for the child and should communicate that information to the investigator and the CSW. The reporter should record the investigator's contact information next to the SCAR number and keep that information for future reference in the event that follow-up communication is necessary.

The investigative agency, upon completion of the investigation, or after there has been a final disposition in the matter, *shall* inform the reporter of the final results of the investigation and any action the agency is taking with regard to the child or family. {PC §11170(b)(2)}

In addition, the investigative agency shall forward to the Department of Justice [DOJ] a written report of every case it investigates of known or suspected child abuse or neglect which is determined not be unfounded, other than cases of general neglect. Before forwarding this report, the agency must conduct an active investigation to determine that the report is not unfounded. If a report previously filed with DOJ subsequently proves to be unfounded, the agency shall notify DOJ in writing of that fact. The written report shall be submitted on a Child Abuse Investigation Report [Form SS8583]. The SCAR [Form SS8572] shall not be submitted for this report. {PC §11169(a)}

At the same time that the investigative agency forwards the Child Abuse Investigation Report to DOJ, the agency shall also notify the suspect in writing that he or she has been reported to the Child Abuse Central Index [CACI]. {PC §11169(b)}.

Agencies shall retain child abuse or neglect investigation reports which result in a Child Abuse Investigation Report to DOJ for at least as long as that information is required to be maintained on CACI. {PC §11169(c)}.

### **Confidentiality** {PC §§11167, 11167.5}

The mandatory reports of child abuse or neglect shall be confidential. Reports

may only be disclosed as provided in PC §11167.5(b), which limits disclosure to agencies or persons including, but not limited to

- DCFS
- law enforcement
- counsel representing a child protective agency
- the prosecutor in a criminal prosecution
- attorneys representing the child
- county counsel
- licensing agencies when abuse is in out-of-home care

None of the professionals who receive reports of child abuse or investigate child abuse may disclose the identity of the reporter, except to authorized personnel, without consent of the reporter or by court order. {PC §11167(d)(2)}

Failure to maintain confidentiality as mandated by law can result in criminal liability. Refer to the criminal liability section below.

## **Immunity**

Mandated reporters are immune from civil or criminal liability for any report required or authorized by the code. All other reporters are immune from civil or criminal liability unless the report was made with reckless disregard for the truth or falsity of the report and the person who reported knew of the reckless disregard. If a reporter is sued, he or she may submit a claim to the State Board of Control for reasonable attorneys' fees and costs. {PC §11172}

The immunity provisions of PC §11172 shall not apply to the submission of a Child Abuse Investigation Report by an investigative agency to DOJ. However, all other immunity provisions available under state or federal law remain unaltered. {PC §11169(d)}

## **Criminal Liability**

Failure to make a mandatory report {PC §11166(b)(2)} and failure to maintain confidentiality of the identity of a reporter {PC §11167.5(a)} are both misdemeanors and are punishable by six months in jail and/or a fine.

## **Internal Agency Procedures for Suspected Child Abuse Reporting**

Agencies should develop, consistent with the mandatory reporting laws, their own internal procedures for handling suspected child abuse reports. Updated copies of the procedures should be reviewed and revised and made available to all mandated reporters within the agency. In order to avoid confusion of responsibility, internal agency procedures should clarify who is responsible for making the report if there are multiple mandated reporters.

When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report. {PC §11166(f)}

The mandated reporter is encouraged to confirm that the team member designated to make the report has in fact made the report.

The reporting duties under this section are individual and no supervisor or administrator may impede or inhibit the reporting duties. No person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article. The internal procedures shall not require any employee required to make reports to disclose his or her identity to the employer. {PC §11166(g)(1) and (2)}

## **Removal of Children from School**

While a school official usually has a duty to inform the child's parent or guardian of the removal of a child from the school, Educ C §48906 states that in cases of suspected child abuse, the school officials are *not* to inform the parents. Instead, the school official shall provide the law enforcement officer with the address and telephone number of the child's parent or guardian.

## **Cross-Reporting Requirement**

Mandatory cross reporting is governed by PC §11166(h) and (i).

Each agency that responds to a report of child abuse or neglect has different responsibilities to carry out. No single agency can address every aspect of the

child's situation. In most circumstances, time is of the essence to protect the child and to preserve evidence. Therefore, a prompt response to the report and a prompt cross report to other agencies are essential for effective investigation and case management. The mandatory reporting statutes require cross reports within specific time periods.

If DCFS receives a report of child abuse or neglect it must cross report to the appropriate law enforcement agency in the jurisdiction where the suspected abuse or neglect occurred. If law enforcement receives the report of child abuse or neglect, it must cross report to DCFS. Both agencies must cross report to the District Attorney. {PC §11166(h) and (i)} In jurisdictions that have a city prosecutor who prosecutes misdemeanors, DCFS and the appropriate law enforcement agency should cross report to the city prosecutor as well as the District Attorney unless the city prosecutor abdicates, in writing, the cross reporting receipt responsibility to the District Attorney.

In April of 2009, the first phase of the electronic Suspected Child Abuse Reports (eSCARs) program began. All Los Angeles County Sheriff's stations, law enforcement agencies outside of Los Angeles County, and the Los Angeles District Attorney's Office receive immediate electronic notification of reports of suspected child abuse from the DCFS Child Protection Hotline. The second phase of this web-based system will be extended to independent law enforcement agencies, LAPD and the Los Angeles City Attorney's Office sometime in 2010. The eSCARs facilitate a timely response to sensitive cases, consolidate reports from multiple mandated reporters, provide case tracking, expedite criminal investigation and enhance prosecution.

According to PC §11165.9, whenever DCFS or law enforcement receives a report of suspected abuse or neglect, even if the agency receiving the report lacks jurisdiction to investigate the case, that agency shall accept the report, whether offered by a mandated reporter or another person or agency, unless the call can be immediately electronically transferred to the proper agency. The agency receiving the report shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction.

If the reported abuse or neglect occurs while the child is being cared for in a child day care facility, involves a child-day-care-licensed staff person, occurs while the child is under the supervision of a community care facility, or involves a community care facility licensee or staff person, law enforcement and DCFS are required to make additional reports to the appropriate licensing agency [as defined in PC §11165.11]. These additional reports shall be made immediately or as soon as practically possible by telephone, fax, or electronic transmission. A written report shall be sent, faxed, or electronically transmitted within 36 hours. Law enforcement and DCFS shall send the licensing agency a copy of investigation reports and any other pertinent materials. {PC §11166.2}



Law enforcement and DCFS shall cross report all cases of child death suspected to be related to child abuse or neglect whether or not the deceased child has any known surviving siblings. {PC §11166.9(k)}

DCFS shall create a record in the Child Welfare Services/Case Management System [CWS/CMS] on all cases of child death suspected to be related to child abuse or neglect, whether or not the deceased child has any known surviving siblings. Upon notification that the death was determined not to be related to child abuse or neglect, DCFS shall enter that information into CWS/CMS. {PC §11166.9(l)}

### **Supplemental Cross Report**

It is the intent of the Legislature that law enforcement and DCFS continue to communicate information learned about subsequent incidents or further disclosures of suspected abuse or neglect. {PC §11166.3}

All subsequent incidents of suspected abuse or neglect shall be cross reported to law enforcement, DCFS, and the District Attorney. Additional disclosures of already-cross-reported information should be discussed among the professionals assigned to the case in the various agencies.

### **How to Make a Cross Report**

In Los Angeles County the designated county welfare agency is DCFS.

Cross reporting is a two-step process.

- Cross report immediately, or as soon as practically possible, to the appropriate agencies in accordance with PC §11166(h) and (i).
- Follow up with a written cross report within 36 hours to any agency to which an immediate report was required by PC §11166(h) or (i). The cross reporter may use the Child Abuse Investigation Report [Form SS8583] or the SCAR [Form SS8572] to make the written cross report or use the online system at [www.dcfslacounty.gov](http://www.dcfslacounty.gov) [See Index of Appendices.]

### **Suggestions to Ensure Appropriate Response to the Initial Report**

All agencies that receive cross reports should immediately or as soon as

practically possible review the reports and respond appropriately.

The CSW should distinguish between making a cross report to law enforcement and actually calling for a law enforcement unit to respond. In addition to making a cross report, the CSW should request that a law enforcement unit respond if the situation warrants an emergent law enforcement response and/or the CSW believes that a crime has occurred.

The law enforcement officer reviewing the cross report from DCFS must determine whether the situation warrants an immediate response. In addition to making its own cross report to DCFS, law enforcement should request that a CSW respond if investigating an incident with potential placement issues.

### **Mandated Reporter Training**

At the time of initial employment, employers shall notify new employees who are mandated reporters that they are mandated reporters, informing them of the duty to report and providing them with copies of PC §§ 11165.7 and 11166. The employee shall sign a form acknowledging this duty and agreeing to comply. {PC §11166.5} The absence of training shall not excuse a mandated reporter from the duty to report. {PC §11165.7(e)}

In addition, employers should provide information on the recognition of signs of suspected child abuse, mandatory reporting laws, and their internal agency reporting procedures. Mandatory reporting law training should be repeated periodically.

Agencies that are unable to provide required training should contact appropriate regional resources for assistance in developing and implementing a training program. The training should be comprehensive and cover all aspects of the mandatory reporting law, the agency's internal policies and procedures for reporting incidents of suspected child abuse, and communication with the investigative agencies that handle the child abuse investigation.

The Department of Children and Family Services [DCFS], Training Division, provides training on mandated reporting to both public and private agencies.

The Los Angeles County Department of Mental Health [DMH] Training Division is also a valuable resource and should be used for training on the signs of suspected child abuse and reporting requirements. In addition, the Los Angeles County Office of Education [LACOE] is a valuable resource for training educators about the signs of suspected child abuse and reporting requirements.



## **INITIAL RESPONSE**

A collaborative approach by law enforcement and DCFS to all child abuse or neglect reports is essential. The initial response to a child abuse report is the most important time to protect the child and to gather evidence. Collaboration is crucial to this effort. All DCFS and law enforcement agents responding to child abuse reports need to work together and share information while adhering to the separate mandates and policies of their respective agencies. DCFS policy requires a concurrent investigation for reports of physical abuse, sexual abuse, severe neglect and some instances of domestic violence. To facilitate more effective collaborative responses, DCFS has begun to co-locate Emergency Response workers at many law enforcement agencies.

All efforts must be directed towards protecting the child and the community through placements and prosecution when appropriate. The best interests of the child can only be served if the child is not further traumatized during the investigation.

### **Mandatory Response by DCFS**

The Child Protection Hotline CSW receives the calls reporting that a child is endangered by abuse, neglect, or exploitation and determines whether the referral warrants an immediate or 5-day response. Certain calls from law enforcement, however, will be given an expedited response. Then the referral is assigned to an Emergency Response CSW who conducts an initial assessment. DCFS policy may require an immediate response in the following situations where the caller alleges:

- the child is a victim of severe abuse, neglect, or exploitation, or is at substantial risk of harm
- the child is in imminent danger due to physical pain, injury, disability, severe emotional harm or death
- the child/victim is 0-24 months of age or under age 5 and the alleged perpetrator has access to the child
- the child is in need of an immediate medical evaluation, and the child's caregiver is not willing to seek medical care for the child
- the child or the family may flee, making the child unavailable for an in-person assessment of the allegations
- the child is ten years of age or younger and is alone or without adequate supervision at the time of the report
- the child, who is the alleged victim of abuse or neglect, is ready for discharge from a hospital, and there is no appropriate caretaker

- the child has significant injuries due to severe physical abuse or neglect
- the child's living conditions are immediately hazardous to his or her health or safety [e.g., a drug lab within or near the home, unlocked or unsecured weapons within the child's reach, accessible drugs/paraphernalia, insect or rodent infestation, human or animal waste within the living area]
- the caller is a law enforcement official with a child in custody and/or requests an immediate response
- the child is an alleged victim of sexual abuse and is likely to have contact with the perpetrator within the next five days
- the child is living in a household where domestic violence is actually taking place at the home at the time of the report
- the child is reported to be suicidal, and the caregiver is not taking appropriate action to protect the child
- the child has died as a result of abuse or neglect, and there are other children who remain in the home
- the child, although a dependent of another county, resides in Los Angeles County and meets one of the above criteria, and, after contacting the other county's child abuse hotline to cross-report the allegations, the other county declines to respond to the referral
- reports of abuse of a disabled child whose disability prevents self-protection, and the alleged perpetrator has access to the child

The CSW who initially responds should ensure that the cross report to law enforcement and the prosecuting agency was made in accordance with the law. Additionally, the CSW should request that a law enforcement unit respond if the situation warrants an emergent law enforcement response and/or the CSW believes that a crime has occurred.

If a CSW is denied entry into a location where child abuse or neglect is suspected, the CSW should determine whether exigent circumstances exist for entry. If not, a search warrant is necessary to enter the home.

Referrals received for children who are not supervised by DCFS and have been abused or neglected in out-of-home care are evaluated out to the appropriate law enforcement agency and cross-reported to the appropriate licensing agency.

### **Emergency Response Children's Social Workers**

The Emergency Response Children's Social Worker has multiple duties including

- making the initial contact with the family
- providing an explanation for the home call
- gathering information and speaking to the appropriate parties
- assessing child risk factors
- assessing the parent or guardian
- observing for behavioral and physical indicators of abuse and neglect to assess the impact on the child(ren)

The CSW is to be concerned with the needs and protection of the child(ren). DCFS has several tools to establish the level of need. These tools include actuarial-based risk assessments, team decision making meetings, a variety of linkages to support services, and assessments of children and caregivers in partnership with community agencies.

When the child's safety cannot be assured in the home of the parent or guardian, the CSW shall initiate a plan for alternate care. CSWs shall evaluate the possibility of a relative placement, including placement with a non-offending parent, in their evaluation, including a review of criminal and child welfare services history. {WIC §§309, 319}

When law enforcement takes a child into protective custody, the CSW completes the placement and detention process. Both child(ren) and parents are counseled about the reasons for placement and the intervention of the court.

If an allegation involves abuse or neglect, siblings and other children in the home should be interviewed. If the allegation involves physical abuse, the children should be visually examined. When disrobing a child for a visual examination, CSWs shall follow the current procedural guide regarding the disrobing of children.

If a child's injury, illness, or abuse is such that the child may be in need of medical assessment or treatment, the CSW must arrange for the child to be seen by a licensed medical practitioner.

DCFS policy requires that medical assessments be completed on victims of physical abuse, children age four and under, and on all non-verbal and/or developmentally delayed children referred for physical abuse when the situation is unclear as to the cause of the injury [which includes cuts, bruises, lesions and other injuries of any type], or when a medical exam is necessary to document the evidence.

### **Immediate Response by Law Enforcement**

Law enforcement officers receive child abuse reports either directly from a citizen complaint or through a mandatory report or cross report. In response, a law

enforcement officer should conduct an initial assessment to determine the immediacy of the response required. Law enforcement officers should be vigilant to situations, conditions, or incidents that suggest that a child's safety or well-being may be in danger, that the basic necessities of life are not being provided by a parent or caretaker, or that a crime may have occurred. By providing high priority to calls for service involving child abuse, law enforcement will help ensure that its efforts are maximized in gathering evidence and preserving the critical testimony required for a successful prosecution.

Priority status should be assigned to incidents of child abuse when

- a child is dead
- the child is hospitalized or receiving emergency medical treatment
- physical evidence or bodily fluids and material can be preserved
- a crime scene requires processing
- shaken baby syndrome<sup>6</sup>, head injuries, burns, fractures, or severe neglect is alleged or uncovered
- DCFS, a school authority, or other mandated reporter requests police intervention
- the suspect is a flight risk, may influence the victim's testimony, may confess to the crime, or poses a significant risk of harm to the victim

Law enforcement officers who respond to take the first report should

- determine whether a crime may have occurred. If so, conduct an investigation regardless of the action taken by DCFS.
- request that a CSW respond if investigating an incident with potential placement issues
- collect all physical evidence relevant to the case including, but not limited to
  - clothing
  - bedding
  - photographs
  - computer hardware and software
  - videotapes
  - sex toys
  - condoms

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<sup>6</sup> "Shaken baby syndrome" is a traditional and commonly used term. However, there is a national trend to use "abusive head trauma" to refer to the constellation of non-accidental head injuries resulting from child abuse. This term is preferred because reference to a "syndrome" is becoming disfavored by many courts.

- blood or bodily fluids
- weapons
- other items which corroborate the child's allegations
- document the crime scene and injuries of the victim and the suspect by photographs or videotape when appropriate

If the initial responding officer is not experienced in child abuse investigation, the officer should obtain only basic information, gather evidence, make independent observations, and make notifications. Pursuant to agency protocol and the circumstances of the incident, more detailed information should be obtained by an experienced child abuse investigator at a later time. Traumatized, uncooperative, or non-conversant victims are examples of child victims who should be interviewed by an experienced child abuse investigator.

When child victims are in police facilities in connection with a criminal or dependency matter, law enforcement shall strive to provide a physical environment that is conducive to effective interviewing. It should be comfortable, adequately furnished, well lit, and not within sight or hearing distance of the accused offender, prisoners, or jail inmates.

Investigators should evaluate each case to determine which are appropriate for early involvement by a prosecutor. When appropriate, investigators should contact prosecuting attorneys so they may be involved early in the child abuse investigation process.

If allegations involving physical abuse and/or neglect are reported, law enforcement is encouraged to visually examine the child. Thoroughness requires that disrobing the child may be necessary, particularly with pre-verbal children.

All agencies are encouraged to develop a policy with suggested practices for the disrobing of children that provides for the least intrusive means to conduct the examination while maintaining privacy and preserving the dignity of the child. Protocols should address issues such as

- the appropriate age at which the examination should be conducted only by a same-sex officer
- how to address visual examinations of pre-verbal and non-verbal children where reasonable cause exists to believe that there may be injuries not readily visible
- how to address examinations and/or interviews for other children residing in the home of a child believed to be a victim of abuse or neglect



It is inappropriate for officers to examine genitalia as part of a sexual assault investigation; however, in certain physical abuse cases it may be appropriate.

When a child who is the victim of child abuse is removed from school by a law enforcement officer, the officer should direct the school official not to disclose the child's removal to the parent or guardian. This is an exception to the school official's general obligation to inform a child's parent or guardian when a child is removed from school by a peace officer under circumstances other than child abuse or neglect.

Pursuant to Educ C §48906, the officer removing the child from the school environment shall obtain the parent or guardian's address and telephone number and shall take immediate steps to notify the parent, guardian, or responsible relative of the child that the child is in custody in a facility authorized by law. The code further states that the officer must disclose the location of the child unless the officer has a reasonable belief that the child would be endangered by such a disclosure or the custody of the child is likely to be disturbed. The officer may refuse to disclose the place where the child is being held for a period not to exceed 24 hours. However, in all cases where a child is taken into custody, WIC §308(a) mandates that the law enforcement officer or social worker take immediate steps to notify the child's parent, guardian, or a responsible relative that the child is in custody and that the child has been placed in a facility authorized by law to care for the child and shall provide a telephone number at which the child may be contacted. The confidentiality of the address of any licensed foster family home in which the child has been placed shall be maintained until the dispositional hearing.

## **Recommendations for Cooperative Field Response**

### **Initial Contact**

All professionals should respond as promptly as possible; however, to the extent possible, an interview should not begin before the other agency has arrived.

Law enforcement and DCFS shall cross report all cases of child death suspected to be related to child abuse or neglect whether or not the deceased child has any known surviving siblings. {PC §11166.9(k)} A report also must be made to the Child Abuse Central Index [CACI]. {PC §11169(b)}

### **Crime Scene Preservation**

All professionals must avoid disturbing potential forensic evidence and are directed to communicate the existence and any location of potential forensic evidence to law enforcement.

Potential forensic evidence may include but is not limited to

- clothing
- bedding
- photographs
- computer hardware and software
- videotapes
- sex toys
- condoms
- blood or bodily fluids
- weapons
- other items which corroborate the child's allegations

## **Medical Needs**

When appropriate, victims of sexual abuse, physical abuse, or neglect should be examined by a medical expert with specialized training as soon as possible. If sexual abuse is believed to have occurred within the last 72 hours, the examination should be immediate. If the child is in protective custody, the medical examination guidelines set forth in WIC §324.5 should be followed.

Law enforcement and DCFS shall strive to identify and use hospitals and medical facilities with staff qualified to conduct physical examinations of children to detect sexual abuse or physical trauma. In partnership DCFS and the Department of Health Services developed a countywide Medical Hub System. All seven Medical Hubs are staffed by experts in forensic evaluation and care. Law enforcement shall continually strive to use service providers with medical and nursing staff willing to offer expert testimony in a judicial setting concerning their findings about a child abuse examination. [See Index of Appendices for a list of Resources for Forensic Evaluation.]

## **Interviews of Victims and Witnesses**

### **General provisions**

Except in unusual circumstances, multiple interviews with child victims and witnesses should be limited. Professionals are encouraged to conduct interviews jointly. Where possible and appropriate, the prosecutor should be included in the investigative interviews to minimize the trauma to the child victim caused by multiple interviews. Interviews should be conducted as follows

- parties contacting a child should introduce themselves, explain their roles, identify other strangers by name, and indicate briefly what the child can expect
- use simple, understandable language
- use open-ended questions, not leading questions during the interviews
- conduct interviews outside the presence of other victims, witnesses and suspects
- conduct interviews with the utmost sensitivity to the child
- build rapport with the child

Law enforcement and DCFS should be aware that certain court proceedings may permit the admissibility of statements and disclosures made by young victims in child abuse cases that are not normally admitted in other types of criminal proceedings. Therefore, all statements should be carefully documented.

Teachers, counselors, school nurses, and others at the child's school can be important sources of information when investigating allegations of possible child abuse. Interviewing the mandated reporter can reveal first-hand information about the child's behavior, appearance, attendance, health [physical and emotional], and interaction between school personnel and the child's parents. This information can provide the investigator with insight into the school employee's concerns and perceptions, allowing a more accurate and objective assessment of the child's actual situation.

### **Interviews of the child conducted at the child's school**

An interview may be conducted on the child's school premises during school hours.

Children interviewed at school have a right to be interviewed in private or to select any adult who is a school staff member to be present at the interview for support. The CSW or law enforcement officer must inform the child of the right to a support person before the interview. The child should be asked outside the presence of any school staff member whether or not the child would like a staff member to be present. It is up to the child whether or not a support person will be present.

The staff member's presence is only to lend support to the child and to allow the child to be comfortable during the interview. The staff member may not participate in the interview and shall not discuss the facts of the case with the child. The staff member is subject to the confidentiality requirements mandated under PC §11167.5.

The selected staff member may decline to be present at the interview. If the staff member does attend the interview at the request of the child, the interview shall be performed at a time during school hours when it does not involve an expense to the school. {PC §11174.3}

### **Victim's right to presence of an advocate**

A victim of sexual assault within the meaning of PC §§243(e), 261, 261.5, 262, 286, 288a, or 289 has a right to have victim advocates and one support person of the victim's choosing present at any interview by law enforcement, district attorneys, or defense attorneys. Before the beginning of an initial interview by law enforcement or district attorneys, a victim shall be notified of this right. The support person may be excluded from an interview if the interviewer determines that his or her presence would be detrimental to the purpose of the interview. The victim advocate may not be excluded. {PC §679.04(b)}

Interviewers should be sensitive to the fact that children can be particularly vulnerable to the possibility of undue influence, coercion, or intimidation by a support person who has a prior relationship with the child or the abuser.

An initial investigation by law enforcement to determine whether a crime has been committed and the identity of the suspects shall not constitute a law enforcement interview for purposes of this section. {PC §679.04(c)}

### **First Responders' Interview with the Suspect**

If necessary, interview the suspect to get his or her account of the incident. Avoid providing the suspect with unnecessary details or the nature of the allegations. Whenever possible, medical or other corroborating evidence should not be disclosed. During the follow-up investigation, a more thorough interview may be conducted by a specially trained investigator.

### **Documentation**

Agencies are required to document their activities in response to child abuse allegations. Each agency must memorialize its actions at each stage of the case to provide an accurate historical record. All relevant information obtained shall be included in the documentation.

## **Temporary Custody and Placement of Children**

Both DCFS and law enforcement have authority to investigate cases of suspected child abuse or neglect and to take children into temporary custody when required. DCFS staff and law enforcement shall work cooperatively in the investigation of suspected child abuse and neglect cases. A CSW should call law enforcement for assistance in taking a child into temporary custody if the situation warrants. If law enforcement assistance is required, both the CSW and the peace officer should be particularly sensitive to any concerns or needs of the child.

While law enforcement and DCFS are encouraged to take a collaborative approach to minimize further trauma to the child, each agency must adhere to its separate mandates. Law enforcement has authority to determine whether a criminal violation has occurred. DCFS has authority to determine whether the child requires protective services.

Law enforcement may, without a warrant, take a child into temporary custody under any of the following circumstances

- when the officer reasonably believes that the child has been abused as defined in WIC §300, and the child has immediate need for medical care, or is in immediate danger of physical or sexual abuse, or the physical environment poses an immediate threat to the child's health and safety. If the child is unattended, the law enforcement officer shall first attempt to contact the child's parent or guardian to determine if the parent or guardian is able to assume custody of the child. If the parent or guardian cannot be located, the law enforcement officer shall notify the CSW to assume custody of the child. {WIC §305(a)}
- when the child is in the hospital and the release of the child to a parent poses an immediate danger to the child's health or safety {WIC §305(b)}
- when the child is a dependent of the juvenile court or the subject of an order made under WIC §319, if the officer reasonably believes the child has left court-ordered placement or has violated other court orders {WIC §305(c)}
- when a child is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care {WIC §305(d)}

A peace officer who takes a child into temporary custody may release the child to the custody of the child's parents or deliver the child to DCFS. In determining the appropriate disposition of the child, the officer shall give preference to the alternative which least interferes with the parents' or guardians' custody of the child, if this alternative is compatible with the safety of the child. The officer shall also consider the needs of the child for the least restrictive environment and the protective needs of the community. {WIC §307} If the child is delivered by law enforcement and placed in the custody of DCFS, DCFS maintains custody of the child while the investigation is pending.

DCFS is authorized to take a child into temporary custody if there is a reasonable belief that the child is described in WIC §300(b) [serious physical harm or illness as a result of lack of adequate supervision, protection, or provision], or WIC §300(g) [lack of care and support, or when physical custody of a child has been voluntarily surrendered under H&S §1255.7 and the child has not been reclaimed within 14 days], and the CSW has reasonable cause to believe that the child has an immediate need for medical care, or is in immediate danger of physical or sexual abuse, or the physical environment poses an immediate threat to the child's health or safety. {WIC §306(a)(2)} In all other situations, the child is taken into custody by law enforcement. The decision to take a child into custody is based on the level of endangerment, not on the category of the allegation as defined in WIC §300.

Before removing the child from the home, the CSW must consider whether there are any reasonable services available to the child's family which would eliminate the need to remove the child from the custody of the parent or guardian. {WIC §§306, 309}.

When a child is placed in the temporary custody of DCFS pursuant to WIC §309(a), the CSW must immediately investigate the circumstances of the child and the facts surrounding the need for change in custody status. According to WIC §309, DCFS must release the child to the custody of the child's parents unless

- the child has no parent, guardian, or responsible relative; or, the child's parent, guardian, or responsible relative is not willing to provide for the child {WIC §309(a)(1)}
- continued detention of the child is a matter of immediate and urgent necessity for the child and there are no reasonable means by which the child may be protected in his or her home {WIC §309(a)(2)}
- there is substantial evidence that a parent, guardian, or custodian of the child is likely to flee the jurisdiction of the court with the child {WIC §309(a)(3)}
- the child has left a placement in which the child was placed by the

court {WIC §309(a)(4)}

If an able and willing relative or non-relative, extended family member, as defined in WIC §§319 & 362.7, is available and requests temporary placement of the child, the CSW shall initiate an emergency assessment of the relative's suitability. Placement may not be made with a relative or non-relative extended family member who has a criminal record. {WIC §309(d)}

The CSW is required to interview a child who is four years of age or older. {WIC §328} However, all verbal children should be interviewed. The CSW shall be particularly sensitive to the needs of the child for privacy, for a support person if requested, and for emotional support.

Every effort should be made to minimize the confusing and sometimes traumatic effect of detention. According to WIC §308, any peace officer or CSW who takes a minor into custody shall

- notify the child's parent, guardian, or responsible relative that the minor is in custody and provide a phone number where the child may be contacted {WIC §308(a)}
- keep the location of the child confidential; it must not be disclosed until authorized by a dependency court judge after a hearing {WIC §308(a)}
- notify a child 10 years of age or older that the child has the right to make at least two telephone calls from the place where the child is being held<sup>7</sup>
- use diligent and reasonable effort to ensure regular telephonic contact between the parent and child of any age, prior to the detention hearing, unless the contact would be detrimental to the child {WIC §308(a)}

In addition, whenever possible, the CSW or law enforcement officer should

- ensure that the child's medication or medical equipment is collected for the child
- make every effort to allow the child to bring along a toy or other transitional object, preferably labeled with the child's name
- explain to the child, using simple, understandable language, what placement decision is being made and the reasons for the decision, in

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<sup>7</sup> One call completed to his or her parent, guardian or a responsible relative; and the other completed call to an attorney. These calls must be made in the presence of a public officer or employee. The calls are at public expense as long as they are local calls. Willful failure to provide these telephone calls is a misdemeanor. {W&I §308(b)}

order to minimize the trauma to the child

Those charged with placement decisions of minor victims should be mindful that placement has a profound impact on the child and on potential prosecution. Placement with unsupportive parents or family members can result in the child recanting or can subject the child to further physical, sexual, or emotional abuse. These family members are not appropriate placement choices for an abused child and every effort should be made not to place a child in the home of a family member who does not support the child's welfare in all respects.

In situations where a child is being placed after the death of a parent, caretaker, or other family member, special consideration should be made regarding the opportunity of a child to attend the funeral. The initial responder should communicate the need to attend a funeral to whomever is charged with temporary custody of the child.

### **Medical Examination of Child in Protective Custody**

Whenever allegations of physical or sexual abuse of a child come to the attention of a local law enforcement agency or DCFS and the child is taken into protective custody, the local law enforcement agency or DCFS may consult, as soon as practically possible, with a medical practitioner who has special training in detecting and treating child abuse injuries and neglect to determine whether a physical examination of a child is appropriate. If deemed appropriate, the local law enforcement agency or DCFS shall cause the child to undergo a physical examination performed by a medical practitioner who has specialized training in detecting child abuse injuries and neglect, and, whenever possible, shall insure that this examination takes place within 72 hours of the time the child was taken into protective custody. In the event the allegations are made while the child is in custody, the physical examination shall be performed within 72 hours of the time the allegations were made. {WIC §324.5(a)} [See Index of Appendices for a list of Resources for Forensic Evaluation.]

If a petition is filed in dependency court, DCFS shall provide the results of the physical examination to the court, to any counsel for the minor, and counsel for the parent or guardian of the minor. Failure to obtain this physical examination shall not be grounds to deny the petition. {WIC §324.5(a)}

DCFS shall, whenever possible, request that any additional examinations to detect child injuries or neglect be performed by the same medical practitioner who performed the examinations described in WIC §324.5(a). If it is not possible to obtain additional medical examinations, DCFS shall insure that future medical practitioners to whom the child is referred for ongoing diagnosis and treatment have specialized training in detecting and treating child abuse injuries and



neglect and have access to the child's medical records covering the current and previous incidents of child abuse. {WIC §324.5(b)} When appropriate, consideration should be given to reviewing complete medical records for the victim. In addition, the practitioner should review available medical records for siblings, when appropriate.

### **Procedures for Transporting a Child**

In most instances, a responding DCFS representative assumes physical control of a child and provides for any subsequent placements. Often, in furtherance of the investigation or to assist DCFS, a law enforcement officer transports a child to a police station, hospital, foster care facility, DCFS facility, family relative, court, domestic violence shelter, or other location specified by a DCFS representative. Whenever a child is transported, the transporting agency should provide the legally required seating equipment and seat belt restraints for each passenger. Victims and witnesses should not be transported with the suspected offender, jail inmates, or persons who would have a negative effect on the outcome of any legal proceeding. While law enforcement assists in the transportation of victims or witnesses, emergency calls must take priority. Efforts should be made to avoid inconvenience to the victim, confinement, or unnecessary exposure to police activities.

## **CHILD DEATH AND POTENTIALLY FATAL CHILD ABUSE INVESTIGATIONS**

Cases involving potentially fatal or fatal child abuse are handled in the same manner as nonfatal instances of abuse. Frequently these cases are identified by medical personnel. Special consideration should be given to support services for surviving siblings.

### **Considerations When There Are Surviving Siblings**

Professionals should ensure that surviving siblings were not victimized. In addition, surviving siblings benefit from referrals for grief and mourning counseling. Finally, surviving siblings should be allowed to attend the funeral of the deceased child, as appropriate.

### **Medical Personnel**

In cases of a fatal or potentially life-threatening injury, where child abuse or neglect is known or suspected, paramedics or other medical professionals should

- immediately contact law enforcement and the Child Protection Hotline
- take note of the child's demeanor and emotional state [if applicable], physical appearance, and clothing
- document all medical intervention given the child by including a full description of all visible injuries, any complaints of pain, all examinations conducted and the location of the examination [i.e., Emergency Department (ED) or crime scene], photographs, charts, test results, and diagnosis or prognosis
- document all statements made by parents, caretakers, or relatives regarding the child's medical history and any explanation for the child's condition including who was responsible for watching the child at the time of the injury, anyone present at the time the injury occurred, and the demeanor of the person making the statement
- document any objects or clothing removed from the child or the immediate area of the scene that may be related to the child's condition or injuries
- document the identity, condition, and current location of any siblings if known
- document the name, identification number of law enforcement and DCFS contact person in addition to recording the SCAR referral number provided by the Child Protection Hotline [CHP]
- obtain the legible copy of the Emergency Medical Technician [EMT]

form and record the RA# in the hospital records

If the initial exam is done at a potential crime scene, care should be exercised to document

- the position of the child upon first observation
- any immediately visible injuries
- the condition of the child's clothing
- the immediate surroundings [including any objects or unusual smells, sounds, sights] presence of drug paraphernalia, signs of alcohol use
- the behavior of the child
- any physical contact initiated by the examiner for treatment purposes
- any relevant measurements [water or air temperature, distance, heights, ventilation system, presence of space heater]
- condition of the sleep surface in cases involving co-sleeping or overlay as contributing causes to the death or injury
- the reasons for immediate transportation of the child by paramedics or EMTs from the potential crime scene and immediate notification to law enforcement personnel of the need to dispatch a unit to maintain the integrity of the potential crime scene for evidence collection purposes

## **Coroner**

A directive issued by the Department of the Coroner regarding the processing of cases in which there is a reasonable suspicion of child abuse and neglect has been in effect since 1999. Investigation of a child abuse case takes priority over the investigation of any other homicide. In order to ensure that a comprehensive investigation is completed, a coroner's pediatric investigator with special training in child abuse and neglect cases is assigned for any case in which the decedent is under the age of fourteen. The assigned investigator is responsible for

- initiating a Child Death Report to DCFS
- locating birth and medical records if immediately available and forwarding them to the Deputy Medical Examiner [DME]
- providing follow-up information to families in deferred cases
- providing follow-up investigation for the DME

It is preferable that before the autopsy be conducted a complete set of photographs and full-body x-rays are taken. The x-rays are referred to the radiologist for an evaluation. If possible, the autopsy should not be conducted

until the evaluation by the radiologist is completed in case additional x-rays are necessary.

The autopsy should be done immediately upon the completion of the investigation. The DME is directed to photograph and document the location, size and color of all injuries. Microscopic sections of injuries and all organs are taken for dating of injuries and for abnormal pathologic findings. The eyes must be submitted to ophthalmologic pathology for evaluation. The brain is submitted in each case to neuropathology for analysis. The DME must request paramedic and complete hospital records, any hospital photographs, the results of any sexual assault tests taken at the treating hospital and copies of all hospital x-rays. When indicated, a sexual assault kit will be collected from the child by the DME prior to washing or photographing the body.

The DME should consult with the investigating law enforcement agency. If the law enforcement agency has not made the required report to DCFS, the DME is directed to do so by immediately calling the Child Protection Hotline.

In instances where the cause of death has been finalized, case files are public records. A hold can be placed upon records

- in deferred cases
- in cases where the law enforcement agency requests a security hold
- in cases where the request is for a child abuse report, medical records or police reports
- in cases where the death occurred in foster care

See Index of Appendices for directive for the Department of the Coroner.

## **Law Enforcement**

Responding officers are responsible for investigating and securing all possible crime scenes for subsequent forensic examination [photographs, collection of biological samples, or fingerprints]. The location of the child upon first observation may not be the location of the abuse. Initial identifying information interviews with parents, caretakers, relatives, or siblings at the scene, and emergency treatment personnel should be conducted expeditiously. Secure and recover any objects, clothing, furniture, weapons, or other instrumentality potentially related to the crime. When siblings are present, notify the Child Protection Hotline [CPH] for investigation of possible risk to the siblings.

Ideally, the investigating officer will be experienced in both child abuse and

homicide investigations. If not, it is recommended that the law enforcement agency employ a collaborative approach between trained investigators in both disciplines within the agency to ensure that the following elements are covered during the investigation

- determine whether prior contacts concerning the child exist involving current or prior abuse of the child or any siblings
- determine whether there are any prior contacts alleging domestic violence in the home, other crimes of violence, weapons offenses, drug offenses, or dependency intervention
- follow-up interviews with medical personnel including EMTs, paramedics, nurses, physicians, hospital social worker, and coroner
- interview the parent(s), caretakers, siblings, other relatives, neighbors, school officials, the family physician, and any mandated reporter regarding the child's history as well as the causes of the child's current injuries
- thoroughly examine all potential crime scenes to ensure proper documentation through forensic crime scene collection including photographs, collection of samples for scientific analysis, and retrieval of all instrumentalities related to the child's current injuries
- obtain current medical records documenting treatment for the presenting injuries, a complete medical history of the child, a recent photo of the child prior to the current injury, DCFS records, dependency court records, and medical records on any siblings who have also suffered prior abuse
- consult forensic pediatric experts regarding allegations of accidental injury, shaken baby syndrome, sudden infant death, birth defects, severe neglect, starvation, failure to thrive, or any special needs of the child [developmental disabilities, visual impairment, hearing deficiency, motor impairment] and obtain opinions from them in writing
- consider using polygraph examinations as an investigative tool to eliminate suspects and elicit additional evidence because any statements made during the course of the exam may be admissible in court
- video tape the suspect's reenactment of the events and/or the scene utilizing the statements given by the suspect
- create a battered-child timeline to reflect when, where, and how previous injuries occurred; the suspect's statements as to how the injuries occurred; who had control of the child and when each person had control; and the medical evidence as to the injuries
- consider whether to request a skeletal trauma series of an injured child for the purpose of revealing old fractures
- locate all previous medical records documenting the child's medical history and the location of treatment

## **District Attorney**

The prosecutor assigned a child fatality case should have received special training and should be assigned to prosecute the case at the filing stage. Every effort should be made to ensure that the same prosecutor handles the case from the filing through sentencing, a process called vertical prosecution. During the prosecution of the case, it is imperative to consult with other legal professionals including county counsel and the attorney for any surviving siblings. If the surviving siblings are anticipated to be called as witnesses, the prosecutor should use the services offered by the advocates of the Victim-Witness Assistance Program who provide counseling referrals, financial assistance, Kid's Court, and court accompaniment. The prosecutor should determine whether a Court-Appointed Special Advocate/guardian ad litem [CASA/GAL] has been appointed in dependency court. [CASAs are discussed in the Victim Services section of this document.]

According to WIC §326.5, the Judicial Council shall adopt a rule of court to comply with the federal Child Abuse Prevention and Treatment Act for the appointment of a guardian ad litem, who may be an attorney or CASA. This should be done in cases in which a petition is filed or prosecution is initiated based upon neglect or abuse of the child. As of April, 2004, no rule has been promulgated.

A multi-disciplinary effort is the preferred method when preparing for the prosecution of these cases. It is fairly common for the investigating officer and the assigned prosecutor to work closely with one another before filing the case to address many of the issues documented above under the Law Enforcement section including contacting experts, preparing a battered-child timeline, and obtaining medical histories. Prosecutors also participate in case presentation before the ICAN Child Death Review Team and assist in the evaluation of child fatality cases.

## **County Counsel**

The Children's Services Division within the Office of County Counsel has an internal child death review team which was created to offer assistance and guidance to an attorney assigned to a child death case. A child death protocol has been established to provide attorneys with office-approved guidelines and procedures. Attorneys handling cases involving a child fatality are expected to be familiar with and follow this protocol. Neither failure to file criminal charges nor dismissal or acquittal on such charges precludes the county counsel from adjudicating the case in dependency court. Vertical prosecution is an important element of the protocol which includes the following tasks

- complete a child death report upon receiving the case; forward a copy to the internal child death review committee
- review the file reports to determine the identity, status, and whereabouts of surviving siblings; seek appropriate court orders or modification of existing orders
- ascertain whether the manner or mode of death is accidental; if investigation is warranted, obtain complete medical statements and expert opinions
- determine whether criminal charges are pending for the purpose of sharing copies of all reports, photographs, caretaker statements, physical evidence findings, polygraph statements, tapes, expert opinions, and lab results with law enforcement and deputy district attorneys
- if criminal charges have been resolved, obtain certified copies of minute orders, dockets, and abstracts of judgment to determine the results of the trial and sentencing
- contact the coroner to obtain a copy of the autopsy report and a death certificate
- consult with the attorney representing any child victim or witness regarding the advisability of an interview and evaluation to determine if the child should testify in chambers, attend the funeral of the deceased child, or attend grief therapy or other available counseling
- if the deceased child was a dependent of the court, the attorney should request an order terminating jurisdiction over that child

## **Protective Orders**

It may be necessary for the court to rule on appropriate contact/no contact orders consistent with maintaining the safety, protection, and well-being of any surviving siblings or any other children living in the home.

If a criminal protective order is issued in the criminal court pursuant to PC §136.2, it has precedence in enforcement over any civil court order against the defendant if the crime charged involves domestic violence as defined in PC §13700. {PC §136.2(h)(2)} [See Index of Appendices for a Summary of Restraining and Protective Orders.]

## **DCFS**

The first priority is the protection and safety of surviving siblings and other children living in the home or in the placement of the deceased child. DCFS will respond to the discovery of a child's death as follows

- **Child Death While Under the Supervision of DCFS**

When a CSW, Supervising CSW, or Duty Supervising CSW becomes aware that a child under the supervision of DCFS has died, the employee shall immediately notify the Child Protection Hotline. If abuse or neglect is suspected, the law enforcement agency in the jurisdiction where the child died shall be notified. {PC §§11164 et seq.}

DCFS shall conduct an investigation into the child's death, assess the safety of any surviving minor siblings or unrelated children residing in the deceased child's home, and coordinate its investigation with law enforcement. All internal follow-up procedures mandated by DCFS policy shall be followed, including reporting the death to the Board of Supervisors, the Children's Services Inspector General, the Chief Administrative Officer, the Presiding Judge of the Juvenile Court, the Commission for Children and Families, County Counsel, and ICAN.

- **Death of a Child Not Under Supervision of DCFS**

When DCFS learns of the death of a child which may possibly be related to abuse or neglect, a referral shall be made to the Child Protection Hotline, and an entry of the death shall be entered in the Child Welfare Services/Case Management System [CWS/CMS], whether the deceased child has any surviving minor siblings or not. DCFS shall immediately cross report the referral to law enforcement and shall conduct an immediate response investigation into the child's death. The first priority of the DCFS investigation should be the assessment of risk to any surviving minor siblings or children residing in the home of the deceased child. All internal follow-up procedures mandated by DCFS policy shall be followed, including a report of the child's death to the Board of Supervisors, the Children's Services Inspector General, the Chief Administrative Officer, the Presiding Judge of the Juvenile Court, the Commission for Children and Families, County Counsel, and ICAN.



## **FOLLOW-UP INVESTIGATION AND CASE MANAGEMENT**

Agencies responding to child abuse or neglect must follow-up promptly to protect the child and the community. The responsibility for follow-up and case management should be assigned to professionals with child abuse training. The assigned professionals should investigate all avenues necessary to protect the child, collect evidence, and initiate appropriate court action promptly.

### **Law Enforcement**

Child abuse investigators encounter many unique issues. In addition, child victims do not always react to abuse in ways that one would commonly expect. As a result, it is imperative that investigators assigned to child abuse or neglect cases receive specialized training to conduct the investigations.

Law enforcement agencies shall send all newly assigned child abuse professionals to training programs in child sexual abuse and exploitation investigation within the first six months of assignment. PC §13516(c) After the initial training, law enforcement agencies are encouraged to provide periodic continuing education.

Once a trained investigator is assigned to the case, the investigator should promptly review all of the previous materials generated about the case and perform an appropriate investigation, including

- if not previously done, conduct non-leading, separate interviews of all victims, witnesses, and suspects and document each interview. Potential witnesses to the abuse or behavior of the child can include
    - neighbors
    - extended family members
    - school personnel
    - peers
    - coaches
    - baby sitters
- \*[See Index of Appendices for the Criminal Child Abuse Investigative Checklist published by the National Center for the Prosecution of Child Abuse]
- collect any corroborating evidence not previously collected by the first responding officer or CSW
  - arrange for appropriate scientific testing
  - arrange for transportation for victims and witnesses where necessary to complete case processing, including but not limited to, interviews with the prosecutor and appearances in court

- work closely with all agencies that have an interest in the child to maximize protection of the child and community safety
- make appropriate referrals to victim advocates

It is the intent of the Legislature that law enforcement and DCFS continue to communicate information learned about subsequent incidents or further disclosures of suspected abuse or neglect. {PC §11166.3}

All subsequent incidents of suspected abuse or neglect shall be cross reported to law enforcement, DCFS, and the District Attorney. Additional disclosures of already-cross-reported information should be discussed among the professionals assigned to the case in the various agencies.

Most child abuse cases should be prosecuted vertically; that is, the same prosecutor handles the case from the filing through final disposition. Investigators should contact the prosecutor promptly, once a suspect is identified, if not sooner. Where possible and appropriate, the prosecutor should be included in the investigative interviews to minimize the trauma to the child victim caused by multiple interviews.

Law enforcement agencies should investigate child abuse and neglect cases as a high priority so that appropriate evidence is gathered and preserved for the prosecutor's filing decision. An investigative packet submitted to a prosecutor should include

- all investigative reports, especially victim, witness, "fresh complaint" or reporting party interviews, suspect statements, and evidence [property reports]
- suspect's criminal history [rap sheets]
- police reports or reports of past abusive or assaultive conduct by the suspect on any person
- medical reports, especially paramedic, hospital records, expert opinions, and results of examinations of the victim and siblings
- forensic reports, which may include blood, hair, DNA, origin of marks, etc.
- photos of body, crime scene, weapon, or instruments
- all relevant documentary evidence, including, but not limited to, birth certificates, magazines, videos, tapes, consent to search, school and dependency records, and DCFS records
- search warrant, search warrant return, and property report
- any information about the status of an open or closed child dependency case or history of DCFS involvement

- any prior abuse reports involving the child
- whether there are any past or existing protective orders concerning the victim or other household members

Upon presentation of the case for criminal filing consideration, include all documentation and reference to all evidence. The prosecutor needs this information to make a filing decision. In addition, it is necessary for legally mandated discovery. Failure to provide complete discovery at the earliest possible time, could result in sanctions including case dismissal.

## **DCFS**

CSWs serve many functions and perform numerous duties when investigating and managing a case assigned to them. After the initial response, a CSW formulates an initial case plan. The California Department of Social Services mandates that a case plan be in place within 30 days of the initial face-to-face contact, initial removal, or dispositional hearing, whichever comes first. The case plan is a written document which is based upon an assessment of the circumstances which required child welfare services intervention. In the plan, the CSW identifies a case plan goal, the case plan participants, the objectives to be achieved, the specific services to be provided, and the case management activities to be performed. Welfare and Institutions Code §16501.1(d) provides a detailed list of the mandated factors to be included in the case plan.

Before removing a child from the home, the CSW must consider whether there are any reasonable services available to the child's family which would eliminate the need to remove the child from the custody of the parent or guardian. {WIC §§306, 309} At this point DCFS uses several assessment strategies such as Team Decision Making Meetings, assessment by community specialists in forensic medicine, substance abuse, mental health and domestic violence, and linkages to public and private support services.

In lieu of filing a petition with the court, or subsequent to the dismissal of a petition already filed, WIC §301 allows the CSW to undertake a six-month program of voluntary supervision of the child. During this time, the parent(s) must agree to participate in a program of child welfare services designed to ameliorate the situation which brought the child within, or created the probability that the child would be within, the jurisdiction of WIC §300. If at any time during the six-month period the family fails to comply with the services being provided, the CSW may file a petition with the juvenile court pursuant to WIC §332.

It is the intent of the Legislature that law enforcement and DCFS continue to communicate information learned about subsequent incidents or further disclosures of suspected abuse or neglect. {PC §11166.3}

All subsequent incidents of suspected abuse or neglect shall be cross reported to law enforcement, DCFS, and the District Attorney. Additional disclosures of

already-cross-reported information should be discussed among the professionals assigned to the case in the various agencies.

Once the petition has been sustained, in lieu of adjudicating the child a dependent, the court may exercise one of the following options

- Terminate jurisdiction at the disposition hearing with an order determining the custody of, and/or visitation with, the child. An order made by the court pursuant to WIC §362.4 continues until modified or terminated by a subsequent order of the superior court, and the order made by the dependency court becomes a part of the family law file or may be used as the basis for opening a family law case. {WIC §362.4}
- Without declaring the child a dependent, order DCFS to provide informal services and supervision for a period of six months, which are designed to keep the family together {WIC §360(b)}. If the family subsequently is unable or unwilling to cooperate with the services being provided, the CSW may file a petition with the juvenile court pursuant to section 332 alleging that a previous petition has been sustained, and that disposition pursuant to WIC §360(b) has been ineffective in ameliorating the situation requiring child welfare services. {WIC §360(c)}

Once a petition has been filed with the court, the case is assigned to a dependency investigator. The dependency investigator prepares an evidentiary report for the court that must contain all matters relevant to jurisdiction and disposition and a recommendation for disposition. The dependency investigator is charged with interviewing all family members in person to gather relevant data. The investigator must identify family strengths, case plan objectives, and the responsibilities and activities required of the CSW, including contacts with the parents and the children.

The report must

- address all of the allegations in the petition and any other apparent problems and possible causes of the abuse or neglect
- address in specific detail the health, safety, and general welfare of the child, which includes all psychological, mental health, behavioral, and educational issues regarding the child
- document all previous child welfare services
- address whether the child meets the criteria of a special-needs child

Note: For purposes of this section, special needs refers to a child who has three or more placements during a 12-month period or who has been detained and has a diagnosis or history, including, but, not limited to behavioral or emotional disorders such as conduct disorder, self-destructive or suicidal behaviors, fire-setting, chronic depression, and/or substance abuse.

- document whether family preservation or other services are appropriate for the family

In the evidentiary report, the CSW must include a factual discussion that addresses the following

- available child protective services to prevent or eliminate the need for the continued placement of the child [WIC §16500 et seq.]
- a plan for the return of the child to the parent, if recommended
- a plan for achieving legal permanency for the child if reunification efforts fail, if recommended
- whether the best interests of the child will be served by granting reasonable visitation rights with the child's grandparents
- whether the child is adoptable and whether termination of parental rights is appropriate
- whether the parent has been advised of the option of a voluntary relinquishment of parental rights, including the option to enter into a post-adoption contract agreement
- an assessment of the appropriateness of a relative placement under WIC §361.4

The CSW may recommend

- the child remain in the home [family maintenance]
- the child return home in the future within statutory time frames [family reunification]
- family reunification services be denied to the family pursuant to WIC §361.5(b), and the child be referred for a selection and implementation hearing to determine a permanent plan of adoption, legal guardianship, or planned permanent living arrangement (PPLA) pursuant to WIC §366.26
- a legal guardianship be established pursuant to WIC §360(a)

If the CSW recommends removing the child from the home, the report must include a discussion of the reasonable efforts made to prevent or eliminate removal and a recommended plan for reuniting the child with the family including a plan for visitation, if appropriate.

Court-ordered family reunification services may be provided for six months, twelve months, but never longer than 18 months. {WIC §§366.21(e), 366.21(f), 366.22} Once the period for reunification has terminated, the court must select a permanent plan for the child under WIC §366.26.

## **SPECIAL AREAS OF CONCERN**

### **Voluntary Surrender of an Infant**

No parent or other person having lawful custody of a child 72 hours old or younger may be prosecuted for a violation of PC §§270, 270.5, 271, or 271a, if he or she voluntarily surrenders physical custody of the child to any designated employee on duty at a public or private hospital or any additional location designated by the county board of supervisors. {PC §271.5(a)}. Each hospital or other designated entity shall identify the class of employees required to take custody of these children. {PC §271.5(b)}

Currently, Los Angeles County has approved County Fire Stations as Safe Surrender locations. A number of municipal fire departments have been sanctioned as Safe Surrender locations, including the City of Los Angeles Fire Department. A Safe Haven logo has been adopted for use in all approved Safe Surrender sites.

When an infant is surrendered pursuant to PC §271.5, the procedures outlined in H&S §1255.7 shall be followed.

The toll-free Safe-Surrender Hotline is (877)BABYSAFE [(877)222-9723] for general information and training. For information on surrendering a child call (877)725-5111. [See Index of Appendices for a summary of the statutes on Safe Surrender.]

### **Child Abduction Cases**

Child abduction cases involve cross-jurisdictional issues covering dependency, criminal, probate, and family law courts. The lawful custodian of the child, not the child, is the victim in a child abduction case. Lawful custody of the child can be held by a number of parties: the parent (unless custody is removed in a court of law); a guardian awarded custody of the child in the probate court; or DCFS, when granted custody of the child in dependency court {WIC §300 et seq.}; or probation, when granted custody of a minor by the juvenile court. {WIC §600 et seq.}

Law enforcement, in particular, should respond quickly in child abduction situations. Allegations made by one parent that the other parent has abducted, concealed, or withheld their child is sufficient for reporting a crime under PC §278.5. There is no requirement under the law that a custody order regarding the child be obtained before this crime can be reported or investigated. All

California parents have a specific legal and inherent right of access to children. When this right is violated -- even by the other parent -- a crime has been committed. Similarly, a DCFS CSW is mandated to seek immediate law enforcement response upon discovering that a dependent child has been removed or withheld from the custody of the dependency court. Although the District Attorney's Office can be of direct assistance in certain child abduction situations, that assistance is only in addition to --and not in place of -- the role of law enforcement to investigate these reports for potential criminal charges.

In cases involving abducted dependent children, the Child Abduction Unit of County Counsel and the Child Abduction Unit of DCFS monitor all cases and provide advice and support to CSWs who have abducted children on their careloads. The Child Abduction Unit of County Counsel prepares information packets regarding all abducted dependent children for submission to the District Attorney's Office for assistance with recovery, prosecution, and Hague applications {FC §3130}. The Child Abduction Unit of DCFS maintains a website that includes photographs and information about abducted dependent children.

In cases where a person has violated a custody order, California law has granted district attorneys the authority to take all actions necessary, using criminal and civil procedures, to locate and return the child and the person who violated the custody order to the court of proper jurisdiction {Family Code [FC] §§3130, 3131}. Child abduction is made a crime under two related statutes which prohibit taking, enticing away, keeping, withholding or concealing a child from the lawful custodian {PC §§ 278, 278.5}. There is no waiting period required prior to making a report and commencing an investigation. Time is of the essence in child abduction cases. The child and the abductor should be entered into the National Crime Information Center database [NCIC] with the child labeled as an "endangered missing."

The Child Abduction Section of the District Attorney's Office, as well as the non-profit organization, Find the Children, maintain websites that include photos and information regarding abducted children. When investigating these cases, every effort should be made to secure photographs of the child and abductor to enhance the search. The photos should be submitted as soon as possible to the District Attorney's Office. The District Attorney's Office should forward copies of the photos to Find the Children for further distribution. The District Attorney website is located at: [www.missingkidsla.com](http://www.missingkidsla.com). The Find the Children website is located at: [www.findthechildren.com](http://www.findthechildren.com).

### **Multi-agency Response Team [MART]**

The goal of MART is to provide an expedited and trained response to special law enforcement referrals to minimize the traumatic effect these crimes have on children and families.

MART is comprised of highly trained Emergency Response CSWs who are out-stationed at both DCFS Regional Offices and within certain Law Enforcement Stations. The team responds to county-wide requests, 24 hours a day from Law Enforcement Agencies (i.e. Specialized Task Forces). In most instances, advance intelligence gathered by law enforcement field agents has determined that children are present and/or are likely to be present in volatile environments where weapons and narcotics are readily accessible, such as:

- Warrant Service-Tactical entries into homes by fully trained and armed L.E. Task Forces. Higher Profile Operations that involve more dangerous felons will have SWAT or SEB flash-bang entries.
- Parole/Probation Sweeps-Multiple agency participation conducting search conditions/compliance checks on known criminal offenders under supervision by Parole or Probation.
- HUD/BOS/City – Nuisance Abatement Teams (NAT)-Multiple agency participation conducting Housing Authority checks. Target loitering tenants, gang/narcotic/weapons affiliated residents and violation of regulation occupants.
- Intelligent Sensitive Investigations-Majority are long-term investigations with requests from Homicide Divisions and those coming from State and Federal L.E. /Prosecution Agencies with a nexus to: human smuggling, child porn rings, terrorism, and organized crime.
- Drug-endangered children [DEC] cases where individuals are manufacturing illicit drugs in the presence of children.

### **Drug-Endangered Children [DEC] Cases**

Los Angeles County has a multi-disciplinary team established to address the problem of drug-endangered children. The multi-disciplinary team consists of a prosecutor, law enforcement officer, and DCFS CSW. The team operates out of the LA IMPACT office in Commerce.

The mission of the team is to investigate and prosecute individuals who manufacture illicit drugs in the presence of children. The CSW, law enforcement officer, and prosecutor are available on-call, 24 hours a day to visit known or suspected methamphetamine laboratories.

Medical services are provided through Huntington Memorial Hospital in Pasadena. Long-term follow-up care is provided through King/Drew Medical Center Children's Hub.



## **Incidents in Out-of Home Care**

If a child is living in, or being cared for in, an out-of-home care environment and child abuse or neglect is suspected, contact the Community Care Licensing Division [CCLD] as soon as possible. [See Index of Appendices for a list of District Offices in the Los Angeles Region.] CCLD is the state regulatory enforcement program responsible for the health and safety of all people in out-of-home care. The three distinct functions of the program are prevention, compliance, and enforcement.

A primary objective is to reduce predictable harm by screening out unqualified applicants through the application phase of the program. The compliance function allows the State to visually inspect the operation of the home or program to ensure that all of the rules are enforced to maximize client safety. A critical element in the compliance phase is providing information and assistance to the licensee, enhancing their ability to remain in compliance. When a facility fails to protect the health and safety of people in their care, corrective action must be taken. The severity of the violation directly impacts the level of enforcement action.

Any time a person is sexually or physically abused, the enforcement action may require closure of the facility. In order to make sure that all residents or consumers being served by a program continue to receive the necessary degree of care mandated for their on-going health and safety, a CCLD representative should be called to the scene to evaluate the situation and take the necessary steps to continue this care.

Facilities licensed by CCLD include but are not limited to

- family child care homes
- day care centers
- foster family homes
- transitional housing placement programs
- group homes
- small family homes
- day care centers of mildly ill children
- infant care centers

## **Native American Children**

The Indian Child Welfare Act [ICWA] is a federal law which regulates placement proceedings involving Native American children. If a child is a member of a

federally-recognized tribe, or eligible for membership in a tribe, under the age of 18, and unmarried, that child's family has rights under the ICWA. These rights apply to child protective cases, adoptions, guardianships, termination of parental rights, foster care proceedings, runaways, truants, and voluntary placement of children. The goal of the act is to strengthen and preserve Native American families and culture. Before the ICWA was passed in 1978, a high percentage of Native American families were broken up because non-tribal agencies removed children from their homes. The high removal rate was caused, in part, by the lack of understanding or acceptance of Native American culture. The ICWA sets minimum standards for the removal of Native American children from their homes.

Children who may be members or eligible to be members of non-federally recognized tribes are not covered under ICWA; however, California law does allow the court to permit the non-federally recognized tribes some participation in the court proceedings. [See Appendix Section].

#### The ICWA

- specifies that placement cases involving reservation-based Native American children be heard in tribal courts
- allows for transfer of other placement cases involving Native American children from state court to tribal court if the parents agree
- permits a child's tribe to be involved in proceedings that remain in state court
- Requires that active efforts be delivered to prevent or eliminate the need for removal of an Indian child, to make it possible for an Indian child to return home and to complete whatever steps are necessary to finalize a permanent plan for an Indian child
- requires testimony of a qualified expert witness when recommending foster care placement or termination of parental rights in an Indian child custody proceeding
- establishes a high burden of proof for findings that result in termination of parental rights
- establishes a preference that Native American children be placed with extended family members, other tribal members, or other Native American families if a child is removed from the home for foster care or adoption

A law enforcement officer may take a child into custody for any reason listed under WIC §305 as addressed in the section discussing Temporary Custody and Placement of the Child. There is no exception under this code section for Native American children.

Welfare and Institutions Code §§305.5 and 306 allow DCFS to receive custody from law enforcement, and to take into and maintain temporary custody of a Native American child with reasonable cause to believe that the child has an immediate need for medical care or is in immediate danger of physical or sexual abuse or the physical environment poses an immediate threat to the child's health and safety. However, before taking a Native American child into custody, as with all children under DCFS investigation, a CSW shall consider whether the child can remain safely in his or her residence. {WIC §306(b)} The CSW must consider the following factors as well as any other relevant factors

- whether there are reasonable services available to the worker which, if provided to the child's parent, guardian, caretaker, or to the minor, would eliminate the need to remove the minor from the custody of his or her parent, guardian, or caretaker {WIC §306(b)(1)}
- whether a referral to public assistance would eliminate the need to take temporary custody of the child. If those services are available, they shall be used {WIC §306(b)(2)}
- whether a non-offending caretaker can provide for and protect the child from abuse and neglect and whether the alleged perpetrator voluntarily agrees to withdraw from the residence, withdraws from the residence, and is likely to remain withdrawn from the residence {WIC §306(b)(3)}

In addition, the ICWA requires a professional to comply with certain notice requirements and allows the tribe to assert its right to custody of the child. If a state agency takes a child into custody for any reason, it must give notice to the child's tribe no later than the next working day. The tribe may then choose to intervene in the state court proceeding or seek a transfer of the case from state court to tribal court. Custody of the child shall be transferred to the tribe within 24 hours of written notice from the tribe. {WIC 305.5(a)} If the case remains in state court, the ICWA's procedural requirements and preferences will apply.

Inquiry for American Indian Heritage should be done for every family served by DCFS. CSWs initially responding to a child abuse investigation are to inquire if a child or family may be of Native American descent. When DCFS responds to a child abuse report and there is written confirmation or compelling information that the parents or child is a member of eligible for membership to a federally recognized tribe, the case is transferred to the department's American Indian Unit. [See Index of Appendices]

## **Special-Needs Children**

Children with special needs can be helped through the trauma of child abuse or neglect with a response which recognizes their particular need. Physical, developmental, and psychiatric conditions are addressed in subsections below.

See the Index of Appendices for a list of special-needs children assistance and advocacy agencies.

Responding personnel who initially encounter a special-needs child should attempt to obtain information regarding how to contact any other professionals who may already be involved in the child's life and initiate contact with those professionals as soon as circumstances permit. Depending on the nature of the handicapping condition, such contact may need to be a high priority. If a handicapping condition is suspected, but not yet confirmed, sensitivity should be used in having the child evaluated by the appropriate professional.

Children with special needs are children who have physical, developmental / cognitive, communicative, and/or mental disabilities.

### **Physical Disabilities**

Physical disabilities may be visible or hidden. They can be caused by Cerebral Palsy, spinal cord injury, stroke, arthritis, muscular dystrophy, amputation, polio or other conditions that make take the form of paralysis, muscle weakness, nerve damage, stiffness of the joints or lack of balance and coordination.

Individuals may use wheel chairs or other mobility aids, such as, crutches, canes, walkers or scooters.

If an organization is involved with the child and the family, make an effort to contact a familiar support person.

### **Cognitive Disability**

#### **Developmental Disability**

A child with a developmental disability is at greater risk for experiencing all types of abuse. Risk factors for children with disabilities have at their root the different way in which society tends to see and treat those with disabilities. Disabling factors affecting the risk to the child can include limited abilities to communicate, limited mobility, compliance behaviors, dependency on care givers and service providers, and cognitive delays

which impact the child's ability to pick up on danger signals. Abuse and neglect among children with disabilities are thought to be up to 10 times more likely than for children without disabilities. In a majority of cases involving all types of abuse, the offender is known to the victim.

Project Heal is a University of Southern California-affiliated program at Childrens Hospital Los Angeles that provides comprehensive mental health treatment services to child and adolescent trauma victims and their families. They have published a booklet for caregivers and providers of children with developmental disabilities in an effort to reduce the risk of abuse.

There are 21 regional centers in California serving more than 150,000 individuals with, or at risk for, developmental disabilities and their families. Area boards have been established to ensure that the legal, civil, and service rights of persons with developmental disabilities are adequately guaranteed. Area boards work within their specific geographic region. Area Board 10 has the monitoring responsibility for Los Angeles County which is divided by general areas and is served by 7 different Regional Centers. [See Index of Appendices]

### Acquired/Traumatic Brain Injury

Caused by external forces applied to the head or may occur suddenly in the course of normal development. Most common causes are auto accidents, falls, acts of violence, sports injuries, "shaken baby", and stroke.

Injuries can affect both the cognitive and physical functioning. Potential disabilities are multiple and may not be confined to one area of the brain.

### Learning Disability

Learning disabilities affect approximately 4 million children in America. Children with learning disabilities have normal intelligence, but may have difficulty in processing information thus if not recognized, can lead to the child falling behind in their education or being non-compliant. Learning disabilities are manifested by significant difficulties in listening, speaking, reading, writing, reasoning, and/or mathematical ability.

## **Communication and Sensor Disability**

### Blind or Vision Disability

Visual impairment can range from slightly impaired to functional blindness. Partially sighted children may have contact lenses, glasses, or other visual

aids which assist them with managing their specific visual problem. When contacting a visually impaired child, take care to ensure that their visual aids are available. In addition to visual aids, children may have assistance dogs or canes. When it is necessary to remove the child from the home, all efforts should be made to accommodate the needs of the child. When an organization is involved with the child and the child's family, make an effort to contact a familiar support person.

### Deaf and Hard of Hearing

Deaf and Hard of Hearing refer to full or partial decrease in the ability to detect or understand sounds. According to the American Academy of Pediatrics, hearing loss is one of the most frequent occurring birth defects. Though, hearing loss can occur at any age. For infants and children, if hearing loss is not detected and treated early, it can impede speech, language and cognitive development if effective communication with the child is not addressed.

Over time such delay can lead to significant educational cost and learning difficulties. States have taken action by creating laws to ensure that children are screened and treated early for hearing loss. The approach to identifying and treating hearing loss in a child is through newborn hearing screening early childhood screening, audiological diagnosis and early intervention. There are different types of hearing loss, conductive (problems with outer or middle ear), sensory (cochlea is not functioning or damaged), and neural (nerve damage between the cochlea to the brain). There various methods to provide early intervention with devices such as hearing aids or cochlear implants. The most effective form of communication with a deaf child or a deaf adult generally is American Sign Language.

In situations of abuse and neglect involving deaf children, intervention should include communication with the child in his or her own language, usually American Sign Language but in some cases “home-sign” is used. During intervention any device the child may currently use such as a hearing aid and any information regarding service providers to that child must be procured as the information will provide further insight into the family situation. A referral should be made to the Deaf Services Units to ensure that appropriate linguistic and cultural services are provided.

### Speech or Language Disability

Speech and language disabilities refer to problems in communication and related areas such as oral motor function. These delays range from simple sound substitutions to the inability to understand or use language or use the oral-motor mechanism for functional speech and feeding. Some causes of speech and language disabilities include hearing loss, neurological disorders, brain injury, mental retardation, drug abuse, physical impairments such as cleft lip or palate, and

vocal abuse or misuse. Frequently, however, the cause is unknown.

Speech disabilities refer to difficulties producing speech sounds or problems with voice quality. They might be characterized by an interruption in the flow or rhythm of speech, such as stuttering, which is called dysfluency. Speech disorders may be problems with the way sounds are formed, called articulation or phonological disorders, or they may be difficulties with the pitch, volume or quality of the voice. There may be a combination of several problems.

A language disability is impairment in the ability to understand and/or use words in context, both verbally and nonverbally. Some characteristics of language disabilities include improper use of words and their meanings, inability to express ideas, inappropriate grammatical patterns, reduced vocabulary and inability to follow directions. One or a combination of these characteristics may occur in children who are affected by language learning disabilities or developmental language delay. Children may hear or see a word but not be able to understand its meaning. They may have trouble getting others to understand what they are trying to communicate.

### **Psychiatric Disability**

Early bonding disturbances are associated with psychosocial and developmental problems in children. Additionally, the rate of child abuse and neglect is higher among children with a disability.

The Los Angeles County Department of Mental Health [DMH] provides mental health services to children with special needs. Referrals may come from any one of the resources involved with the child including the dependency court, Foster Family Network, DCFS, CALWorks, Regional Centers, school systems, care providing agencies, or ACCESS.<sup>8</sup>

Mental health services or interventions may be provided by a clinic directly operated by DMH or by one of its contractors. Intervention includes assessment and evaluation for the purpose of diagnostic clarification, treatment, and/or appropriate referral. If the child is believed to have a diagnosed psychiatric disability, contact the child's mental health professional for assistance.

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<sup>8</sup> The ACCESS Telecommunication Center is the entry point for mental health services in Los Angeles County and provides referral and linkage resources to the Los County Mental Health Plan, gatekeeping and continuing care/placement services. The toll-free ACCESS telephone number is (800)854-7771; in the City of Los Angeles, call (323)666-0950.

An accurate diagnostic process requires a comprehensive assessment. The assessment includes a full history of the child, parents, and family; appropriate evaluation; and psychological testing. The mental health professional should make a speedy referral for thorough assessment and proper treatment. There are many benefits of an early assessment

- identification of needs such as medication and equipment
- differential diagnosis and proper referrals
- preventive intervention to deal with persistent or worsening symptoms, revictimization, suicidal behavior, hospitalization, peer relations, and school problems, as well as delinquency
- identification and communication with the significant people in the child's life
- history of previous services and interventions and the need for continued care

In order to enhance services to the child with mental health concerns, agencies and professionals who work with the same child and family should collaborate and share information. Record keeping and information sharing practices should follow existing professional, ethical, and state standards.

In cases involving a suicide of an adolescent or teen, the ICAN Child and Adolescent Suicide Review Team [CASRT] will conduct a thorough systems review of the events leading up to the suicide.



## **MEDICAL EXAMINATIONS**

The diagnosis of child abuse or neglect has both civil protective and criminal ramifications. Whenever possible, when there is a suspicion of abuse, medical examination of the child should be performed by health care providers with expertise in the area of detecting and diagnosing abuse and neglect. Health care providers who perform these examinations must be prepared to cooperate with law enforcement and DCFS in the investigation of the case and with court proceedings, whether criminal or civil.

Health care providers should take an appropriate history. However, complete investigative interviews should be conducted by DCFS, law enforcement, and/or a trained forensic interview specialist whenever possible. It is appropriate for the health care provider to obtain information necessary to diagnose, make any mandated reports, or complete forensic medical documents. While it is necessary for the health care provider to obtain a medical history, the goal is to avoid leading or suggestive questions. The health care provider should explain to the child why the exam is necessary and observe interaction between the child and caretaker.

If a child or guardian discloses allegations of abuse or neglect in the course of an evaluation for other medical problems, law enforcement or DCFS should be notified immediately. In addition to the necessary medical treatment for the child, sufficient medical information should be obtained in order to assist law enforcement and DCFS to determine if further action, such as removing the child from the home, is required.

This section is intended as an overview for health care professionals who assess child abuse and neglect. It also offers indicators of suspected child abuse and neglect in order to assist the health care practitioner with identification, documentation and treatment. Practitioners seeking direction for reporting requirements should refer to the section on Mandatory Reporting of Child Abuse and Neglect elsewhere in this document. For clarity and organization, this section is divided into three parts: Sexual Abuse, Physical Abuse, and Non-organic Failure to Thrive.

### **Sexual Abuse**

The State of California Emergency Management Agency (CalEMA, formerly Office of Emergency Services) and the California Medical Training Center, at UC Davis, have current information on child abuse investigation, forensic exams and forms. The California Medical Training Center provides specialized training for potential medical examiners. Their website is [www.ucdmc.ucdavis.edu/medtrng/](http://www.ucdmc.ucdavis.edu/medtrng/).

Be aware that a victim of sexual abuse has the right to have a sexual assault victim counselor and a support person of the victim's choosing present at any medical evidentiary or physical examination. The health care provider must notify the victim of this right at the time of the exam. The support person may be excluded from a medical evidentiary or physical examination if the law enforcement officer or health care provider determines that the presence of that person would be detrimental to the purpose of the examination. {PC §264.2}

Pursuant to PC §13823.5(c), sexual assault examinations shall be documented on the forms mandated by CalEMA (formerly OES). Form CalEMA 930 should be used for acute injuries occurring less than 72 hours before the exam. Form CalEMA 925 should be used for examinations which occur more than 72 hours after the sexual act. Due to advances in technology it is expected that the definition of acute injury will be extended beyond 72 hours. Cases close to the 72-hour limit should be referred to an expert in forensic child sexual exams for consultation. [See the Index of Appendices for a list of Recognized Resources for Forensic Examinations.]

## **Physical Abuse**

The type and nature of an injury will not, by itself, indicate whether abuse occurred. Therefore, a comprehensive medical examination is a necessary component of the overall investigative effort by law enforcement and DCFS. Detailed below are significant points the health care provider should consider when performing an examination for physical abuse.

### **History and Assessment**

- interview the parents or guardians separately from each other and from the child
- interview the child alone, if possible
- interview the siblings, separately from each other, the child, and the parents or guardians
- during these interviews, attempt to obtain
  - how the injury occurred
  - where the injury occurred
  - when the injury occurred
  - past medical history (assess if the history is consistent with the injury)
  - past developmental history [assess if the mechanism of the injury is

plausible given the child's developmental level]

- whether there were any delays in seeking medical treatment

## **Physical Examination**

Health care providers need to perform and document a complete head-to-toe evaluation. All areas of the child's body including the genito-urinary and rectal areas, should be examined visually.

### Bruises

- When documenting bruising on a child, it is important to note the location, size, shape, and color of each bruise
- Bruises, in some cases, such as on the genitals, inner thighs, ear, upper lip, or frenulum, are highly unlikely to be accidental
- some features of bruises commonly seen in inflicted trauma include
  - any bruising in an infant who is not yet pulling to stand
  - multiple bruises in different stages of healing
  - bruises having a pattern or discernible shape [such as human hand, human bite, or strap marks]
- dating the approximate age of a bruise after injury can be difficult but, under certain circumstances, estimates can be made
- if bruises exist, rule out bleeding disorders or clotting problems

### Burns

There are three basic types of burns commonly seen in inflicted trauma: scald burns, contact burns, and flame burns. Each type of burn causes certain characteristic injuries

- Scald burns are the most common type of burn seen in children. These are caused by any hot liquid such as water, soup, or grease. There are two types of scald burns--immersion and spill burns
  - Features of immersion burns include
    - child is placed into a container of hot liquid
    - deliberate injuries have uniform depth, unvaried appearance, and burn wound borders are distinct with water line
    - central spared areas on buttocks caused by contact with the cool bottom of the container ["donut" pattern]
    - sparing of flexion areas [e.g. inside of the elbows or back of the

knees not burned]

- "stocking" pattern on feet or "glove" pattern on hands
- Spill burns are characterized by splash marks, varying depth of burn, indistinct borders between burned and unburned skin, and multiple areas of burn as the child struggles to escape the hot liquid. Spill burns may be inflicted or accidental.
- Contact burns are the second leading cause of abusive burns. They occur when a hot solid object contacts the skin.
- Deliberately inflicted burns have clear patterns of the object resulting from prolonged steady contact.
- Prolonged contact results in symmetric, deep imprints with crisp margins. Examples include
  - irons
  - stovetops
  - curling irons
  - cigarette or cigar patterns
  - heating grate patterns
  - spoon burns
- Accidental burns may result in brief contact with a small portion of the hot object. Accidental injuries may lack apparent pattern due to the child's reactive movement away from the object. Accidental burns are more likely to result in small burn areas with slurred margins, usually deeper and more intense in one edge of the burn.
- Flame burns occur when there is direct contact between a flame and skin. Inflicted flame burns cause several extremely deep burns in a limited area of skin.
- For all of the above types of inflicted burns an adult other than the caretaker usually brings the child for medical treatment. Inflicted abuse is more likely if the adult was in the room when the burn occurred.

### Skeletal Injuries

Any type of fracture can be caused by abuse. Some fractures commonly seen in inflicted trauma include

- fractures inconsistent with history given or a child's developmental capabilities
- fractures in a non-ambulating child
- metaphyseal fractures [chip and bucket-handle]
- rib fractures

- scapular fractures
- sternal fractures
- multiple fractures
- fractures of different ages
- complex skull fractures

Some fractures which may be seen in inflicted trauma include

- spinous process fractures
- epiphyseal separations
- vertebral body fracture
- digital fracture
- clavicular fracture
- long bone shaft fracture
- repeated fractures at the same site

### Abusive Head Trauma

Abusive head trauma refers to the constellation of non-accidental head injuries resulting from child abuse.

Some intracranial injuries commonly seen in abusive head trauma include

- serious intracranial injury including subdural hemorrhages or hematomas, subarachnoid hemorrhages, shearing between grey-white matter, cerebral edema, and cerebral contusions
- depressed, comminuted, stellate, or widely separated fractures
- retinal hemorrhages
  - Retinal hemorrhages are usually indicative of abuse; however, there is a significant differential diagnosis that should be considered. Retinal hemorrhages can be seen in falls from significant heights or high speed motor accidents. CPR is unlikely to cause retinal hemorrhage.

Each of the injuries noted above is usually not caused by short falls [those under four feet, often reported from a bed or sofa]. Short falls are more likely to cause simple linear skull fractures or an intracranial epidural hematoma.

## Intra-abdominal Injuries

Intra-abdominal injuries are the second most common cause of death from child abuse. Consider child abuse in any traumatic abdominal injury of undetermined etiology. There may be no external signs of injury as the energy of the traumatic force may be absorbed by the abdominal contents.

## Intrathoracic Injuries

Intrathoracic injuries (i.e. injuries internal to the chest) are less common than head and abdominal injuries. There may be no external signs of trauma. Intrathoracic injuries are usually seen in conjunction with other injuries. Isolated intrathoracic injury from abuse is rare.

## **Some Suggested Diagnostic Tests for Physical Abuse Cases**

- Skeletal survey recommended if child is under age two; consider for child over age two if suggested by history or physical findings including a positive head computerized tomography [CT]; a nuclear bone scan should be considered if there is a high index of suspicion for inflicted trauma and skeletal survey is negative
- Lab tests including complete blood count [CBC], pro-thrombin [PT], partial thromboplastin time [PTT], and platelet count should be considered if petechiae, bruising, intracranial bleeds and/or retinal hemorrhages are present
- Liver function tests, amylase, lipase, blood urea nitrogen [BUN]/creatinine and urinalysis, CBC, PT, PTT in addition to lab tests listed above if there is a suspicion for abdominal trauma; consider surgical consult and further radiographic studies such as abdominal CT or magnetic resonance imaging [MRI]
- Head CT if there is suspicion for head trauma or two or more unexplained fractures in a child under age two; head MRI if the head CT is positive or if the head CT is negative and a high index of suspicion of abuse exists
- A retinal examination for retinal hemorrhages should be performed by an ophthalmologist if there is evidence of intracranial bleeding or there is a high index of suspicion for abuse; evaluate fundus if mental status is altered. Use of a short acting mydriatic agent for thorough exam may be indicated

NOTE: Please be aware of physical findings that may not be the result of physical abuse, e.g. bleeding abnormalities, some folk remedies, and phytophotodermatitis.

## **Non-Organic Failure to Thrive**

Non-Organic Failure to Thrive is suspected when a child is not developing physically, emotionally, and cognitively. Typically the child falls below the fifth percentile in the child's height, weight, and head circumference. The term Non-Organic Failure to Thrive is a diagnosis of exclusion, used when no organic reason for the failure to thrive has been identified. The following recommendations may be used in close and ongoing consultation with a multi-disciplinary team with medical expertise.

### **History**

- review birth history, including pregnancy, maternal complications and birth complications
- review medical history, including previous growth parameters, recurrent infections, chronic medical problems/signs and symptoms of chronic medical problems, feeding difficulties and complete nutritional assessment
- review family history, including growth problems, height and weight of parents
- assess child development and behavior
- review psychosocial history, including number of people in the home, ages of other children, parents' employment, and financial situation

### **Physical Examination**

In addition to a complete physical examination, the examiner should

- identify chronic illness, recognize possible growth-retarding syndromes, and document the signs of malnutrition
- note general appearance; infants may present with certain behaviors, including wide-eyed, wary gaze; strap-hangers position [arms held above the head and flexed at the elbows]; poor suck; crying and arching back when cuddled; and discontinuation of arching and crying behavior when distance is put between examiner and infant
- undress child completely because clothes may give the impression that the child is larger or heavier than the child actually is
- obtain and plot on a growth chart accurate serial anthropometric measurements including weight, height, head circumference, and body mass index
- observe interaction with the caretaker and feeding behavior
- use a multi-disciplinary team approach whenever possible

- order laboratory/radiographic evaluation conservatively, guided by the history and physical exam
- conduct general screening studies as part of health maintenance for the child including CBC, lead level, urinalysis, and tuberculosis [TB] tests
- obtain other appropriate studies, depending on the history and physical exam
- consider a skeletal survey for infants less than one year with signs of malnutrition; if skeletal survey is positive, treat pursuant to Physical Abuse section as indicated above

## **Intervention**

Appropriate intervention requires the use of an experienced multi-disciplinary team. Frequent medical follow-up is essential to ensure effective management. Occasionally, hospitalization is indicated.

Regular home visitation and referrals to appropriate resources are recommended. Coordination between case-management staff and referral agencies ensures compliance and prevents misunderstandings which could complicate the child's condition.

Non-Organic Failure to Thrive may be neglect. Refer to the Mandatory Reporting section of this document.



## **VICTIM SERVICES**

### **Mental Health Services**

Referral to mental health services for all family members is crucial in minimizing the trauma of suspected child abuse and the aftermath. DCFS shall make referrals for mental health services. Law enforcement is encouraged to make referrals to local mental health services where appropriate. Some suggested resources are

- Los Angeles County Department of Mental Health [DMH]
- local rape treatment centers
- other mental health treatment centers

### **Victim Witness Assistance Program**

The Victim Witness Assistance Program [VWAP] provides comprehensive services to victims and witnesses of crime pursuant to PC §13835 et seq. Both the Los Angeles County District Attorney's Office and the Los Angeles City Attorney's Office have such programs. Agencies are encouraged to use advocates for support services throughout all phases of a child abuse evaluation, investigation, prosecution, and dependency court proceeding to ensure the statutory rights of child victims and their families. According to PC §679.02, law enforcement officers shall make available copies of VWAP materials to victims and witnesses.

The VWAP maintains a comprehensive list of written agreements with agencies providing services to victims of family violence and child abuse. The program also refers victims and family members to the agency most able to meet the individual needs. Services include

- advocacy to provide support for the child victim/witness or victim's family member during interviews
- crisis intervention, victim and family needs assessment, resources and referral counseling, emergency financial assistance, restitution assistance, and assistance with filing for Victim of Crime Compensation
- courtroom orientation and accompaniment
- consultation and assistance to DCFS, dependency court, medical, and mental health treatment agencies
- follow-up and post-advocacy services after court proceedings have concluded

- training and technical assistance to all child abuse protocol members

## **Court Appointed Special Advocates [CASA]**

CASA volunteers act as a liaison between dependent children and the dependency court to facilitate provision of services, monitor compliance with the orders of the court, and advocate in the court and in the community for the best interests of the child.

CASA volunteers are recruited, screened, selected, trained, and supervised by the Los Angeles Child Advocates Office. Volunteers are appointed by the juvenile dependency court as sworn officers of the court to assist the court in defining the best interests of a particular child. The Child Advocates Office may be involved only when the dependency court has jurisdiction over the child.

The hearing officer on a case or any party to the case may request appointment of a CASA at, or subsequent to, the detention hearing in dependency court. The appointment is made via a referral form supplied in every courtroom. The form is signed by the hearing officer and forwarded to the Child Advocates Office along with the legal case file. The legal file is reviewed by staff and a determination is made whether the office will accept the case. Once a case is accepted by the program, a CASA is selected and an Order Appointing CASA is sent to the court for the hearing officer's signature. If a case is not accepted, a report will be sent to court informing the court and all parties of the reason the case was not accepted.

The Child Advocates Office accepts children from birth to age 18 for advocacy tasks related to a variety of issues such as permanence, education, medical or psychological treatment, and emancipation. The main criterion is whether there is a need for advocacy for the child. Preference is given to very young children and to children of any age initially received into the court system. Cases in which the primary need is for a mentor or a Big Brother or Sister are not appropriate. When a case has concurrent proceedings in criminal court and the child is a victim or a witness, the CASA volunteer may gather and report information regarding the criminal case to the dependency court.<sup>9</sup> The CASA volunteer may also support and accompany the child to the criminal proceeding.

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<sup>9</sup> WIC §326.5 requires the Judicial Council to adopt a Rule of Court appointing a guardian ad litem, either an attorney or a CASA, for a child who is the subject of a petition filed in dependency court or is an alleged victim of abuse or neglect in a prosecution in criminal court.

## **LEGAL PROCEEDINGS**

### **Criminal Court**

Criminal court assumes jurisdiction over criminal violations. This court adjudicates the guilt of a person charged with a crime. If an accused is found guilty, this court determines the appropriate punishment for the crime committed.

### **Juvenile Court**

There are two court divisions within the juvenile court

#### **Delinquency Court**

Delinquency court assumes jurisdiction over children who have committed criminal violations, infractions, or status offenses. The court adjudicates petitions pursuant to the Welfare and Institutions Code and the Penal Code. If a petition is sustained, this court determines the appropriate rehabilitative course for the minor.

#### **Dependency Court**

Dependency court assumes jurisdiction over a child based upon circumstances related to the protection of children pursuant to the Welfare and Institutions Code. This court adjudicates matters involving the protection of children who have been abused, neglected, exploited, or has no parent or guardian willing or able to provide care for them. If the court finds certain circumstances exist, the child may be declared a dependent child.

Cases within the jurisdiction of the juvenile court include both delinquency cases involving criminal violations committed by minors and dependency cases involving children who need to be protected. Few cases in the delinquency court fall within this protocol. A document entitled *Dual Supervision Cases Memorandum of Understanding Between Los Angeles County Department of Children and Family Services and Los Angeles County Probation Department* delineates responsibility for supervision of children within both the dependency and delinquency court. [See Index of Appendices.]

### **Family Court**

Family court assumes jurisdiction over cases where parents cannot agree about issues or custody and/or visitation.

## **Criminal Case Presentation**

When law enforcement determines, after a complete investigation, that an allegation of child abuse or maltreatment constitutes a violation of a criminal statute, the case should be expeditiously submitted to the appropriate prosecutorial agency. It is the prosecutor's responsibility to determine whether, based upon the available evidence, a criminal prosecution is warranted and feasible.

Prosecutors making a filing decision should be thoroughly familiar with the applicable criminal laws and procedures and should have advanced child abuse and maltreatment training. Prosecutors' offices are encouraged to adopt protocols for the prosecution of these cases that include mandates for specialized training, vertical prosecution by special units or assigned prosecutors, and legal policies guidelines. In prosecutors' offices with established protocols, prosecutors will be guided by their respective office's protocol.

Prosecutorial jurisdiction is as follows

### **City Attorney/City Prosecutor**

A City Attorney's or City Prosecutor's Office assumes jurisdiction for prosecution of misdemeanors and infractions committed within the city boundaries. Some of the cities with prosecuting City Attorneys are: Hawthorne, Inglewood, Long Beach, Los Angeles, Pasadena, Redondo Beach, Santa Monica, and Torrance. The Child Abuse Unit of the Los Angeles City Attorney's Office vertically prosecutes all cases of misdemeanor physical and sexual child abuse within the City of Los Angeles.

### **District Attorney**

The District Attorney's Office assumes jurisdiction for prosecution of all felonies committed in Los Angeles County and misdemeanors committed in cities, which do not have a criminal city attorney. In the Los Angeles County District Attorney's Office, the Sex Crimes Division vertically prosecutes child sexual abuse cases committed in the Central Judicial District. The Family Violence Division vertically prosecutes felony child physical abuse, neglect, and homicides committed in the Central Judicial District. In branch and area offices, specially trained prosecutors in the Victim Impact Program vertically prosecute these cases within their respective jurisdictions. The Child Abduction Section vertically prosecutes all child abductions committed in Los Angeles County.

## **Attorney General**

The Attorney General's Office assumes jurisdiction for cases in which the District Attorney's Office has declared a conflict of interest or has been recused. The office also handles criminal appeals.

## **United States Attorney**

The United States Attorney's Office assumes jurisdiction for federal offenses involving child abuse and exploitation.

## **Criminal Filing Guidelines**

Law enforcement agencies should investigate child abuse and maltreatment cases as a high priority so that appropriate evidence is gathered and preserved for the prosecutor's filing decision. An investigative packet submitted to a prosecutor should include

- all investigative reports, including victim, witness, "fresh complaint" or reporting party interviews, suspect statements, evidence [property reports]
- suspect's criminal history [rap sheets]
- police reports or reports of past abusive or assaultive conduct by the suspect on any party
- medical reports, especially paramedic, hospital records, expert opinions, results of examinations of the victim and siblings
- forensic reports, especially blood, hair, DNA, origin of marks, etc.
- photos of body, crime scene, weapon or instruments
- all relevant documentary evidence, including, but not limited to, birth certificates, magazines, videos, tapes, consent to search, school and dependency records, DCFS records
- search warrant, search warrant return, property report
- any information about the status of an open or closed child dependency case or history of DCFS involvement
- any prior abuse reports involving the child
- whether there are any past or existing protective orders concerning the victim or other household members

In appropriate cases, after reviewing all of the materials, the prosecutor should interview the child to ensure that the child is competent to testify, can recall and recount the details of the event, determine if there is any additional evidence not

previously identified, and to establish rapport with the child. Whenever possible, a multi-disciplinary approach should be employed to minimize the number of interviews and reduce trauma to the child. Before beginning the interview the prosecutor should ensure that the police complied with the mandates of PC §679.04 regarding notification of a victim's right to advocates and/or a support person.

The prosecutor should consider the probability of conviction by an objective fact finder hearing the admissible evidence. The admissible evidence should be of such convincing force that it would warrant conviction of the crime charged by a reasonable and objective fact finder after hearing the evidence and after considering the most plausible, reasonably foreseeable defense inherent in the prosecution evidence. Therefore, if successful prosecution appears unlikely, prosecutors may decline to file charges even when a crime has been committed and the perpetrator is identified.

The prosecutor may request further investigation whenever a filing decision cannot be made based upon the information presented. The law enforcement agency should conduct the requested follow-up investigation promptly. When it is completed, the law enforcement agency should resubmit the case for filing consideration.

Prosecutors have sole discretion to decide whether to file a criminal case. Prosecutors should advise victims of their filing decisions. A victim's opinion regarding prosecution is considered but is not controlling.

The name, age, and current address of a child victim of physical or sexual abuse may be withheld at the request of the victim or the victim's parent or guardian. {Government Code [GC] §6254}. The name of the victim should not be made part of the public record and all references to the name of the victim, the victim's age, and current address should be redacted from all reports provided in the discovery process. Defense counsel may request the information be provided through a formal discovery request to insure that there is appropriate access to information necessary for the preparation of a defense. {PC §§841.5, 293, 293.5}

A decision of a prosecutor not to file a criminal case does not necessarily mean that the child was not believed. A decision not to prosecute only means that the case cannot be proven beyond a reasonable doubt in its current state. A case may be reopened and a filing decision reconsidered if additional evidence is found or circumstances change. At this stage, interaction between the criminal and child protection systems is crucial to ensure protection of the child.

### **Criminal Proceedings In Court**

In all criminal proceedings, the following non-exclusive guidelines will govern the preparation for, and the taking of, child witness testimony

- The court and prosecutors will seek to limit the number of continuances

in each case, except for "good cause" and in compliance with PC §§1050 and 859b(b). Pursuant to PC §861.5, a preliminary hearing may be continued for one court day to accommodate the physical, mental, or emotional needs of a child witness who is 10 years of age or younger.

- The court and prosecutors shall seek a speedy trial in any case involving child witnesses. These cases shall take precedence over other criminal actions. {PC §1048}
- Prosecutors shall listen for specific concerns and fears of the child witness regarding the perpetrator and any other aspect of the case. When appropriate, prosecutors shall seek protective orders pursuant to PC §136.2. Any protective orders issued by the criminal court should be reported to DCFS, to the Dependency Court, and to the Family Court, if applicable, to avoid issuance of conflicting court orders by the dependency court. In the event of multiple protective orders, those issued by the criminal court take precedence in enforcement over any civil court order. {PC §136.2(h) and (i)}
- Pursuant to PC §1328(b), when service of a subpoena is to be made on a minor, service shall be made on the minor's parents, guardian, conservator, or similar fiduciary. If one of them cannot be located with reasonable diligence, then service shall be made on any person having the care or control of the minor or for whom the minor resides or whom the minor is employed. The parent, guardian, conservator, fiduciary, or other specified person should not be served if he or she is the defendant. Service also shall be made also on a minor who is 12 years of age or older.
- Prosecutors, with the assistance of advocates, law enforcement, and CSW shall arrange transportation and assist victims with restitution and victim/witness claims.
- The prosecutor should, as appropriate, file a trial brief to inform the court of special child witness provisions and any other issues particular to the case.
- The assigned prosecutor should arrange to meet the child witness in advance of a hearing in order to establish rapport and communication.
- Prior to a preliminary hearing or trial, prosecutors should arrange a visit to the courthouse for the child witness to familiarize the child with the courtroom environment and staff.<sup>10</sup>
- The assigned prosecutor should prepare the child for the kind of questions that may be asked during both direct and cross examination.

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<sup>10</sup> Prosecutors should be aware that the Los Angeles County Bar Association sponsors a program entitled "Kid's Court" designed to familiarize child witnesses with court procedures. For more information contact the Los Angeles County District Attorney's Sex Crimes Division at (213) 974-1611.

- If the child is a potential witness in more than one forum, especially criminal and dependency courts, the assigned prosecutor should explain the difference to the child witness and the child's parent or guardian.
- Pursuant to PC §868.8, when a crime is committed on a minor under the age of 11 years, the court shall take special precautions to provide for the comfort and support of the minor, and to protect the minor from coercion, intimidation, or undue influence as a witness, including but not limited to, any of the following
  - In the court's discretion, the child may be allowed reasonable breaks from examination during which he or she may leave the courtroom
  - The judge may remove his or her robe if the judge believes the formal attire intimidates the child
  - In the court's discretion, the judge, parties, witnesses, support persons and court personnel may be relocated within the courtroom for the child's comfort
  - In the court's discretion, the taking of the child's testimony may be limited to normal school hours if there is no good cause to take the child's testimony during other hours
- The parents' or guardian's work schedule and convenience should be considered and addressed whenever they are subpoenaed to bring the child witness to court.
- In criminal proceedings, prosecutors should request, when appropriate, a support person of the child's choice be present during testimony. {PC §868.5}
- The prosecutor may, under limited circumstances, request a hearing closed to the public when testimony is by, and/or concerns, a sex crime victim under age sixteen. {PC §§868.7(a), 859.1}
- A witness under age fourteen who was the victim of a violent felony or a sexual offense may, under limited circumstances, testify on closed circuit TV or via videotape. {PC §1347}
- The preliminary hearing testimony of a sexual assault victim who is under age sixteen, or is developmentally disabled, may, upon application and formal notice, be preserved on videotape for use at trial should the witness become statutorily unavailable. {PC §1346}
- The failure to use the CalEMA (formerly OES) sexual assault form or follow its protocol shall not be grounds to exclude evidence, nor shall the court instruct or comment that less weight may be given based on the failure to comply. {PC §13823.12}
- A child under age ten may be asked leading questions during direct examination if the charge is PC §§ 288, 288.5, 273a, or 273d. {Evidence Code [EC] §767(b)} A witness under age fourteen must be asked questions that are worded appropriately for his or her age and



- cognitive development. {EC §765(b)}
- A witness under age fourteen must be protected by the judge from undue harassment or embarrassment, and the undue repetition of questions. {EC §765(b)}
  - The prosecutor shall explain, and the court shall honor, the child victim's right to express views about the case and the perpetrator's sentence and restitution fines or reimbursement. {PC §679.02}

## **Dependency Case Presentation**

The purpose of the juvenile dependency court system is to provide for the protection and safety of the child, the preservation of the family where possible, reunification of the family, or a safe, permanent home if family reunification is not successful. Removal of a child from parental custody is justified only when the safety and protection of the child may not be adequately safeguarded without removal.

DCFS is vested with the responsibility for investigating allegations of child abuse and neglect and for providing services to children and families within the system. The CSW has responsibility for investigating abuse and neglect allegations and determining whether a child should be detained from his or her parents or guardians. The CSW also decides if a petition alleging that the child comes within the jurisdiction of the dependency court should be filed or if a case may be supervised more informally by the CSW and without court supervision. {WIC §§301, 328}

Once a petition is filed, the court appoints an attorney to represent the child's interests in the dependency proceedings. {WIC §317(c)} County Counsel, as attorney for DCFS, assumes the burden of proof at the subsequent detention, jurisdictional, disposition, review, and selection and implementation hearings held in the dependency court.

It is the CSW's responsibility to investigate and prepare reports for the many hearings held in the dependency court. The CSW serves as an impartial arm of the court in preparing reports and in exercising limited discretion in the implementation of the court's visitation orders as well as supervising the child, providing services to the family, and assisting in carrying out the overall purpose of the dependency court law.

There is a direct calendaring system in dependency court with vertical representation of all parties. This system provides continuity and familiarity for the children and their parents throughout the court proceedings.

## **Dependency Proceedings In Court**

### **Initial Hearing**

If the child is detained, the parent or guardian must be advised that his/her child has been taken into protective custody and that a written statement is available that explains the parent's or guardian's procedural rights and the preliminary stages of the dependency investigation and hearing. {WIC §307.4}

A petition to declare a child a dependent must be filed within 48 hours of the child's detention, excluding non-judicial days. A detention hearing is then held before the expiration of the next judicial day. {WIC §§313, 315} The petition must contain a concise statement of facts, separately stated, to support the conclusion that the child is a person within the definition of each of the sections and subdivisions under which the proceedings are being initiated. {WIC §332(f)}

According to WIC §319, a report must be filed by the CSW addressing

- the reasons the child has been removed from the parent's custody
- a description of the services that have been provided to the family, the availability of services, and the referral methods to those services that could facilitate the return of the child
- the need, if any, for continued detention
- if continued detention is recommended, whether there is a parent with whom the child was not residing at the time of detention who could take temporary custody of the child, or if there is a relative or non-relative extended family member [a person who has an established familial or mentoring relationship with the child] able and willing to take custody of the child

Grounds for continued detention include

- a substantial danger to the physical health of the child or the child is suffering severe emotional damage, and there are no reasonable means by which the child's emotional or physical health can be protected without removing the child from the custody of the parent or guardian
- substantial evidence that a parent, guardian, or custodian of the child is likely to flee the jurisdiction of the court
- the child has left a placement in which the child was placed by the dependency court
- the child indicates an unwillingness to return home and has been physically or sexually abused by a person residing in the home {WIC §319}

In any dependency court case, the court shall appoint counsel for the child unless the court finds that the child would not benefit from the appointment of counsel. The practice in Los Angeles County is to appoint counsel for children in every case. A primary responsibility of any counsel appointed to represent a child shall be to advocate for the protection, safety, and physical and emotional well-being of the child. Counsel for the child is charged in general with the representation of the child's interests. Counsel shall make further investigations that are reasonably necessary to ascertain the facts involving the current allegations of child abuse and the interests of the child beyond the scope of juvenile proceedings. {WIC §317(c),(e)}

In any case in which the child is four years of age or older, counsel shall interview the child to determine the child's wishes and to assess the child's well-being. The child's counsel shall advise the court of the wishes of the child and shall not advocate for the return of the child to the parent or guardian if return conflicts with the protection and safety of the child. {WIC §317(e)}

Either the child or counsel for the child, with the informed consent of the child if the child is found by the court to be of sufficient age and maturity to so consent, may invoke the psychotherapist-client privilege, the physician-patient privilege, and the clergyman-penitent privilege. If the child invokes the privilege, counsel may not waive it. However, if counsel invokes the privilege on behalf of the child, the child may waive it. Counsel shall be the holder of these privileges if the child is found by the court not to be of sufficient age and maturity to consent. Counsel for the child shall be given access to all records with regard to the child maintained by a health care facility, health care providers, a physician and surgeon or other health practitioner or a child care custodian as well as access to all records relevant to the case which are maintained by state or local public agencies. {WIC §317(f)}

At any stage in the proceedings, a child advocate may be appointed by the court to represent the interests of a dependent child and shall have the same duties and responsibilities as a guardian ad litem. {WIC §§356.5, 326.5} In Los Angeles County, it is the practice of the court at the Initial Hearing to appoint the child's attorney to serve as the child's CAPTA/GAL.

### **Jurisdictional Hearing**

The purpose of the jurisdictional hearing is to determine whether the child is a person described by §300 and may therefore be adjudged a dependent of the court. {WIC §§355, 356}

The CSW prepares a report for the court which presents all of the information gathered in the assessment and investigation of the case and outlines the

jurisdictional facts and dispositional recommendations. The report carefully weighs and incorporates all available information and sets forth reasons for the recommendations. The court is authorized to receive and consider the reports and recommendations of the CSW in determining whether the child is within the jurisdiction of the court. {WIC §§355, 358(b), 358.1}

The CSW's report should include

- interviews of all parties [including the child] and witnesses
- investigative reports
- police reports/photographs
- school reports
- criminal histories [rap sheets]
- medical records
- psychological records, if appropriate
- forensic reports
- other documentary evidence
- a plan, if appropriate, for the return of the child to his or her parents and for achieving legal permanence for the child if reunification efforts fail ["concurrent planning"]
- whether visitation of the child with his or her grandparents will be in the best interests of the child
- whether the child would be appropriate for adoptive planning
- whether the parent has been advised of his or her option to relinquish the child voluntarily, including the option to enter into a post-adoption contract agreement
- the appropriateness of any relative placement pursuant to WIC §361.3
- the appropriateness of placement with any nonrelative, extended family member as defined in WIC §362.7 {WIC §358.1}

The CSW must understand the goals of child welfare services, assessments, and service plans and use the process to attain those goals.

County Counsel maintains communication with the CSW, the child's attorney, the prosecuting attorney from criminal court, if applicable, and should assure the child's familiarity with the courtroom and the judge. County Counsel has access to a child in dependency proceedings with the consent of the child's attorney. The child's attorney generally is present during the interview. Under WIC §350(b), provision may be made to take the child's testimony in chambers and outside the presence of the child's parent(s), where the specific criteria are met.

Trial issues should be narrowed and stipulations regarding the child's testimony

agreed to where appropriate. Settlement of the case should be explored in good faith. However, the child has a legitimate interest in trying the issues of fact.

County Counsel and the child's attorney should be familiar with child development and phrase questions during testimony with sensitivity to the child's age, emotional stability, and developmental level. Objections should be made appropriately.

If the child is a potential witness in more than one forum, especially criminal and dependency courts, then the child's dependency court attorney shall explain the differences to the child. Any party to the dependency proceedings also may seek appointment of a CASA/GAL to assist with preparing the child for testimony and to accompany the child to court proceedings.

The child's attorney should seek protective orders as necessary. Any protective orders issued by the dependency court should be reported to a prosecutor handling a concurrent criminal case to assure that orders between the two courts remain consistent. County Counsel, the child's attorney, and the CSW should coordinate with prosecutors in criminal court to reduce trauma to children from repetitive interviews and court appearances and to coordinate counseling services if the child is a potential victim or witness in both criminal and dependency proceedings.

## **Disposition Hearing**

If the court finds that the child is a person described by WIC §300, the court conducts a disposition hearing to determine the proper disposition for the case {WIC §358(a)}. The CSW must prepare a social study of the child prior to every disposition hearing which includes all relevant information about the child and family and a recommendation for disposition. The CSW may recommend that the child remain in the home of the child's parent with family maintenance services, or that the child be removed from parental custody and either

- a plan be implemented for the reunification of the family
- reunification services not be provided to the parent[s] if one or more of the grounds under WIC §361.5(b) applies

In addition, the CSW has the option to recommend a voluntary legal guardianship be ordered pursuant to WIC §360(a).

If the recommendation is to remove the child from parental custody, the report must address possible placement with a relative, provided that the placement will be in the best interest of the child and will facilitate reunification, if reunification has been recommended. {WIC §281.5}

The court may continue the disposition hearing to a date not to exceed 10 court

days if the child is detained or, if the child is not detained, to a date not to exceed 30 calendar days from the date of the jurisdictional findings pursuant to WIC §356. The court may for good cause continue the hearing for an additional 15 calendar days if the child is not detained. {WIC §358}

In any case in which DCFS will be providing services to the family, it is required that the report prepared by the CSW include a child welfare services case plan. The case plan has been found by the legislature to be the "foundation and central unifying tool in child welfare services." {WIC §16501.1} The plan is designed to assure that the child receive proper services and that the parents and other caretakers receive services as appropriate. The plan must be updated as the needs of the family require, at least every six months. {WIC §16501.1(d)}

The case plan must

- be based on an assessment of the circumstances requiring the child welfare services intervention
- identify specific goals and the appropriateness of the services planned to meet those goals
- identify the original allegations of the petition and the reasons for declaring the child a dependent
- include a schedule of the contacts the social worker has had with the child, the child's family and/or other caretakers [the frequency of the contacts are to be within state-mandated guidelines]
- if the child is in an out-of-home placement, include the frequency of contact between the child and the child's parents
- include provisions for development and maintenance of sibling relationships pursuant to WIC §16002
- if the child is in a non-relative home, foster family home, group home, or other child care institution that is either a substantial distance from the home of the parent or is out of state, specify the reasons such placement is in the child's best interest
- if the child is not placed in the home, or if parental rights have been terminated and adoption is the plan, consider the appropriateness of unsupervised sibling visitation
- if the goal is reunification and out-of-home services are used, describe the reunification services as well as the services to be provided concurrently to achieve legal permanence for the child if reunification fails
- if the child has been in out-of-home placement for at least 12 months, and the goal is not adoptive planning, document the reasons termination of parental rights is not in the child's best interest
- reflect that the parent and/or guardian has participated in the

development of the case plan, received a copy of the plan, and has signed it

- if the goal is permanent placement, document efforts to locate a permanent home {WIC §16501.1}

A copy of the case plan should be attached to each court report.

The court may make any and all reasonable orders for the care, supervision, custody, conduct, maintenance, and support of the child, including medical treatment, subject to the further order of the court. {WIC §362(a)} If the court removes the child from the physical custody of the child's parent(s), it must make findings by clear and convincing evidence that there exists a substantial danger to the physical health, safety, protection, or physical or emotional well-being of the child, and there are no reasonable means by which the child may be protected without removing the child from the parent(s) physical custody. In making its determination, the court may consider the option of removing an offending parent from the home and/or a "non-offending" parent's plan to protect the child in the future. {WIC §361(c)(1)}

## **Periodic Review Hearings**

### Family Maintenance

Every case in which an order is made placing a child under the supervision of the juvenile court and in which the child is not removed from the physical custody of the parent(s) shall be continued to a specific date not to exceed six months after the date of the original disposition hearing. {WIC §364(a)} The CSW must prepare a report which addresses the services provided to the family and the progress the family has made in eliminating the conditions which initially required court supervision. The CSW must also make a recommendation regarding the necessity of continued supervision. {WIC §364(b)}

### Family Reunifications/Status Reviews, and Permanency Hearing (Update Written and on Shared Drive, but awaiting Governor's signature on AB706)

Status review and permanency hearings for children who are placed out of their homes are governed by WIC §§366.21(e), (f), 366.22, and 366.3. The WIC §366.21(e) hearing is held six months from the date of the disposition hearing. For this hearing, the CSW must file a report with the court that addresses whether a child may be returned home safely.

- If return of the child would create a substantial risk of detriment to the child, the court must not return the child.
- If the court finds there is a substantial likelihood that the child who was

under the age of three years on the date of the initial removal, or was a member of a sibling group described in WIC §361.5(a)(3), may be returned in the next six months the court may continue family reunification services to the 12-month permanency hearing.

- If the child was under the age of three years on the date of the initial removal or is a member of a sibling group described in WIC §361.5(a)(3), and the parent has not complied with the case plan, the court may terminate family reunification services and set the case for a selection and implementation hearing pursuant to WIC §366.26 within 120 days.
- If the child is over the age of three years and is not returned home, reunification services are continued for six months to the permanency hearing pursuant to WIC §366.21(f).
- If the child was removed initially under WIC §300(g) and the whereabouts of the parent is still unknown, or the parent has failed to contact and visit the child for six months, or the parent has been convicted of a felony indicating parental unfitness, the court may terminate reunification services and set the case for a selection and implementation hearing within 120 days. {WIC §366.21(e)}

At the 12-month permanency hearing {WIC §366.21(f)}, the court must return the child to the physical custody of his/her parent unless, by a preponderance of the evidence, it finds that return of the child would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the child. The failure of the parent to participate regularly and make substantive progress in court-ordered treatment programs is on its face evidence that return of the child would be detrimental. If the child cannot be returned home, the court must terminate reunification services unless it finds that there is a substantial probability that the child will be returned to his or her parent and safely maintained in the physical custody of his or her parent within the 18-month time frame or that DCFS has not provided the parent with reasonable services. If reunification services are terminated, the court sets a selection and implementation hearing within 120 days. {WIC §§366.21(e), 366.21(g)(1)}

The 18-month permanency hearing must be held within 18 months of the original removal of the child from the physical custody of the parent. The procedures at the 18-month permanency hearing are essentially the same as those at the 12-month permanency hearing. However, if the child cannot be safely returned to parental custody, the court must develop a permanent plan for the child and set a selection and implementation hearing within 120 days, unless the permanent plan is planned permanent living arrangement (PPLA). {WIC §366.22}

### **Selection and Implementation Hearing {WIC §366.26}**

At the selection and implementation hearing, the court must do one of the



following

- terminate parental rights and order the child be placed for adoption
- without permanently terminating parental rights, identify adoption as the permanent plan and order that efforts be made to locate an appropriate adoptive family for the child and continue the case up to 180 days for further efforts to locate an adoptive home
- without permanently terminating parental rights, appoint a legal guardian for the child
- order that the child be placed in planned permanent living arrangement (PPLA), subject to regular review by the juvenile court {WIC §§366.26, 366.3}

Return of the child to the parent is not an option at this hearing.

The court terminates jurisdiction upon the adoption of the child and may continue or terminate jurisdiction following the establishment of a legal guardianship. The court must maintain jurisdiction over a child placed in planned permanent living arrangement (PPLA). When the court maintains jurisdiction over the child, it conducts a status review of the permanent plan every six months until the child achieves legal permanency, reaches the age of 18 or in some circumstances, until the age of 21 {WIC §§366.3, 303}. Before terminating jurisdiction over a child who has reached the age of majority, the court will assure the conditions set forth in WIC §391 are addressed in the court report:

- information on the child's family history including whereabouts of any siblings if appropriate
- social security card, birth certificate, health and education summary, identification card, proof of citizenship or residence
- assistance in completing application for Medi-Cal or other health insurance; referral to transitional housing or assistance in obtaining other housing; and, assistance in finding employment or other financial support
- assistance in applying for admission to college or to a vocational training program or other educational institution and assistance with financial aid where appropriate
- assistance in maintaining relationships with individuals who are important to the child.

## **Juvenile Dependency Mediation**

Juvenile Dependency Mediation Court is an alternative dispute resolution

program within the juvenile court that provides a formal, non-adversarial process.

Early resolution of dependency cases in mediation serves to reduce stress to children and families and allows for expedient case management and significant savings of court adjudication time.

Bench officers and attorneys for the parties have the option of requesting mediation. Once ordered, court rules and policies require all parties to attend.

The goals of mediation include the following

- reach a settlement or mediated agreement designed to protect the child from future acts of abuse or neglect
- reduce trauma and promote harmony among the parties
- orient the parent and the child to ways in which the legal and mediation processes blend
- bring parties and professionals together to ensure their understanding of the issues in the case and the reasons for intervention
- seek early resolution, improved calendar management, and more effective use of agency resources and staff time to define issues and avoid trial
- commence family treatment and counseling or permanency planning as soon as possible
- clarify roles of the participants and preserve the rights of parties during the mediation process and subsequent proceedings
- file a case plan reflecting the parties' commitment to a mutually acceptable resolution
- enhance the administration of justice and relieve court congestion by making a prompt determination whether a case may be resolved by mediation or should be returned to the court

A case may be referred to mediation at any stage of the dependency proceedings. Cases referred for mediation are calendared by appointment, and all parties, attorneys, and CSW are mandated to participate in the process. The social study report prepared by the CSW for the hearing shall be utilized at the mediation.

The mediation conference is conducted in private and is a confidential proceeding. The only exceptions to the confidentiality requirement are the social study report and any information which meets the requirements of mandatory child abuse reporting.

Initially, the attorneys and CWS meet with the mediator concerning their perceptions of the issues in dispute and the areas of potential agreement. The parties are not present during this phase of the conference. Prior to finalizing the written agreement and case plan, the mediator will meet with the parties, counsel and others. The mediator has discretion to meet as a group or individually.

If the formal mediation conference does not result in an agreement, the case will be returned to the assigned court for trial setting and other necessary orders.

### **Family Law Proceedings in Court (Not Reviewed—should be)**

One of the goals of family court is to ensure that the welfare of a child is protected in situations where the child's parents have divorced or physically separated. This includes making appropriate custody and visitation orders for children whose parents disagree as to these arrangements. These judicial orders are governed by the California Family Code, which includes provisions regarding the consideration of child abuse allegations in making child custody determinations. Allegations of child abuse trigger specific procedures that must be followed before any final custody or visitation order can be made.

### **Family Court Duty to Evaluate Child Abuse Allegations**

The Family Code [FC] sets forth that it is the public policy of this state to assure that the health, safety, and welfare of children shall be the court's primary concern in determining the best interest of children when making any orders regarding the physical or legal custody or visitation of children. {FC §3020(a)}

Family Code §3011 provides family courts with specific instructions on when and how to consider allegations of child abuse. The court shall consider, among other things, any history of abuse by one parent or any other person seeking custody against any child to whom the child is related by blood or affinity or with whom the child has had a caretaking relationship, no matter how temporary. {FC §3011(b)(1)}

Any reference in this section to abuse against a child has the same definition as child abuse under PC §11165.6. {FC §3011(b)(3)} A court may limit consideration of child abuse allegations to those situations where substantial, independent corroboration exists. This corroboration can include written reports by law enforcement agencies, child protective services or other social welfare agencies, courts, medical facilities, or other public agencies or private nonprofit organizations providing services to victims of sexual assault or domestic violence. {FC §3011(b)(3)}

If allegations of child sexual abuse are made during a child custody proceeding and the court has concerns regarding the child's safety, the court may take any reasonable, temporary steps as the court, in its discretion, deems appropriate under the circumstances to protect the child's safety until an investigation can be completed. {FC §3027(a)} If allegations of child sexual abuse are made during a child custody proceeding, the court may request that the local child welfare services agency conduct an investigation of the allegations pursuant to Section 328 of the Welfare and Institutions Code. {FC § 3027(b)}

## **Child Custody Evaluator**

In order to assist in the investigation of allegations of child abuse, the court may appoint a child custody evaluator. {FC §3111} This position is also referred to in family court as a child custody investigator. The qualifications for this position are defined in FC §3110.5. The current minimum requirements for such a position involve specific domestic violence training, and education, experience, and training that includes knowledge of the psychological and developmental needs of children and parent-child relationships. {FC §3110.5(b)(2)}

The duties assigned to this position are detailed in the Family Law Rules section of the California Rules of Court [CRC]. A child custody evaluator is directed to consider the health, safety, welfare, and best interest of the child. {CRC §1257.3(d)(2)(A)} This must be done within an overall duty to maintain objectivity, provide balanced information for both parties, and control for bias. {CRC §1257.3(h)(1)}

The role of a child custody evaluator includes a specific assessment of child abuse and neglect. This assessment may include the following

- interviewing all parties
- reviewing pertinent documents, including police reports
- collecting relevant corroborating information or documents as permitted by law
- obtaining information from multiple sources when possible
- consulting with other experts to develop information that is beyond the evaluator's scope of practice or area of expertise {CRC §1257.3(e)(2)}

The position of child custody evaluator is not specifically listed as a mandated reporter pursuant to PC §11165.7. However, many evaluators will, in fact, be mandated reporters due to their background or qualifications. Recognizing this, the California Rules of Court state that child custody evaluators must inform the parties of the evaluator's reporting requirements, including, but not limited to,

suspected child abuse and neglect and threats to harm one's self or another person. {CRC §1257.3(h)(8)} Child custody evaluators are encouraged to report any known or reasonably suspected instance of child abuse or neglect to law enforcement and/or DCFS.

A child custody evaluator may examine a case that has been referred to DCFS. Within certain limitations, DCFS is allowed to release dependency case records to family court investigators. This is true whether or not such an investigation resulted in a petition being filed in dependency court. {WIC §827(k)} However, if a petition is filed in dependency court on behalf of the child, no other division of any superior court may hear custody proceedings relating to the child during pendency of the juvenile court's jurisdiction. {WIC §304}

During the evaluation process, the parties may attempt to resolve any custody dispute themselves. This is often done with the assistance of the Family Conciliation Court where the proceedings are confidential. {FC §§1830, 1831}

Once the evaluator has completed the investigation, and assuming no settlement is possible, the court may issue custody orders considering the best interests of the child. {FC §3020} The report may be received in evidence upon stipulation of all parties and is competent evidence as to all matters contained in the report. {FC§3111(c)} If the parties do not stipulate to the evaluator's report, the evaluator shall be available for cross- examination. {FC §3115}

Given the consequences of child abuse allegations in this forum, false accusations may be dealt with severely. If the court determines that a false accusation of child abuse has been deliberately made by one of the parties, the court has the authority to impose both monetary sanctions and limitations on custody. {FC §§3027, 3027.5} In addition, a motion for reconsideration of an existing custody order must be granted when the motion is based on the fact that one parent was convicted of a crime involving falsely accusing the other parent of child abuse. {FC §3022.5}

## COMMUNICATION

Recognizing that the goal of the system is to protect children, all agencies are encouraged to share information to the extent permitted by law. All agencies, whether investigative, protective, dependency, or prosecution are to exchange information with each other in accordance with policy and WIC §827(j). All agencies are encouraged to participate in the County's Family and Child Index when it is available.

It is the intent of the Legislature that law enforcement and DCFS continue to communicate information learned about subsequent incidents or further disclosures of suspected abuse or neglect. {PC §11166.3}

All subsequent incidents of suspected abuse or neglect shall be cross reported to law enforcement, DCFS, and the District Attorney. Additional disclosures of already-cross-reported information should be discussed among the professionals assigned to the case in the various agencies.

Communication is essential when disciplines work together on a specific case involving a child victim or witness. The lack of such communication leaves individual professionals with a one-dimensional view of the case. State law allows for sharing of information among members of multi-disciplinary teams in child abuse cases. {WIC §827(j)}

Significant information should be shared in order to

- ensure child safety
- minimize traumatization
- generate an appropriate response
- provide for effective long-term planning

Many of the documents and proceedings relating to minors are confidential by statute, case law, and/or court order. Dependency court proceedings and records are confidential. {WIC §§827, 346} However, criminal court proceedings are not confidential. Where the crime involves a sexual offense, the victim's identity can remain confidential upon request and not be disclosed on any public records. {PC §293} Furthermore, the victim may, at the judge's discretion, be addressed as Jane or John Doe in court records and in court. {PC §293.5}

For the purpose of coordinating healthcare services and medical treatment to a minor, a provider of healthcare may disclose medical information to a county social worker, a probation officer, or any other person who is legally authorized to have custody or care of the minor. {CC § 56.103 (a)}

If the provider of healthcare determines that the disclosure of medical information concerning the diagnosis and treatment of a mental health condition of a minor is reasonably necessary for the purpose of assisting in coordinating the treatment and care of the minor that information may be disclosed. This disclosure does not apply to psychotherapy notes. {CC § 56.103 (e)}

“Minor” means a minor taken into temporary custody or as to whom a petition has been filed with the court, or who has been adjudged to be a dependent child or ward of the Juvenile Court pursuant to WIC §§ 300 or 601. {CC § 56.103 (g)}

Medical information disclosed under this section may not be further disclosed by the recipient unless for the purpose of coordinating the healthcare services and medical treatment of the minor and is authorized by law. [See also WIC § 5328.04]

### **Family and Children's Index [FCI]**

FCI is an interagency data information system that ties together basic information about children and their families that have been identified as at-risk for abuse and neglect. The system permits authorized professionals from participating agencies to share basic information with a partner agency concerning a child or family meeting the above criteria. The statutory authority under which participating agencies are able to share information is found in WIC §18961.5. This statute authorizes counties to establish a computerized database system within the county to allow specified provider agencies to share specific identifying information regarding families at-risk of child abuse or neglect for the purpose of forming multi-disciplinary teams. Provider agencies are defined as governmental or other agencies that have as one of their purposes the prevention, identification, management, or treatment of child abuse and neglect. A plan to extend and enhance the FCI is underway. County departments currently participating:

- Los Angeles Sheriff's Department
- DCFS
- Department of Public Social Services
- Department of Probation
- Los Angeles County Department of Mental Health [DMH]
- District Attorney
- Department of Health Services

## **PROTOCOL DISSEMINATION, TRAINING, AND REVIEW**

Agencies are encouraged to adopt policies in accordance with the principles set forth in this document. Each agency's policy will control its response to child abuse and neglect.

### **Protocol Dissemination**

Each agency should make a copy of this protocol readily available to all individuals who take part in child abuse reporting, treatment, case management, investigation, or prosecution.

### **Protocol and General Training**

Training is crucial to improving the child abuse system in Los Angeles County. Every agency which takes part in child abuse reporting, treatment, case management, investigation, prosecution, or which otherwise deals with child abuse should develop and implement intra-agency training on this protocol. Such training should involve a thorough review of the policies and principles set forth in this document. Protocol training should be incorporated both into training for new professionals working in the child abuse arena as well as into continuing education training as appropriate for each discipline.

Protocol training should encompass not only training on the protocol document itself, but also training on the roles and responsibilities of the particular agency or discipline. Additionally, multi-disciplinary training should be developed and implemented for attendees from different agencies and disciplines who work together on child abuse cases.

### **Protocol Review**

This protocol is intended to be a working document and should be amended to implement necessary changes that arise over time. A Protocol Review Committee should be formed with representatives from each agency to review the protocol bi-annually, evaluate suggestions for changes, and revise the protocol as appropriate.



## APPENDICES

- 1) Abbreviations
- 2) Recognized Resources for Forensic Evaluation
- 3) Restraining and Protective Orders
- 4) Determining Reasonable Suspicion
- 5) Pediatric Condition Falsification (Munchausen by Proxy)
- 6) Suspected Child Abuse Report [form SS8572]
- 7) Child Abuse Investigation Report [form SS8583]
- 8) Safely Surrendered Newborns
- 9) Special Needs Children -- Assistance and Advocacy Agencies
- 10) List of Community Care Licensing Divisions
- 11) Regional Centers Serving Los Angeles County
- 12) Los Angeles County American Indian Child Abuse Protocol (ICWA)
- 13) Dual Supervision Cases MOU
- 14) Directive for the Department of the Coroner
- 15) Hospital Protocol for Evaluating and Reporting Cases Involving Prenatal Drug/Alcohol Exposure
- 16) Criminal Child Abuse Investigative Checklist from the National Center for Prosecution of Child Abuse

## 1. Abbreviations

B&P	Business and Professions Code
CACI	Child Abuse Central Index
CSART	ICAN Child and Adolescent Suicide Review Team
CalEMA	California Emergency Management Agency (formerly Office of Emergency Services)
CASA	Court-Appointed Special Advocate
CC	Civil Code
CCLD	Community Care Licensing Division
CPH	Child Protection Hotline
CRC	California Rules of Court
CSW	Children's Social Worker
CWS/CMS	Child Welfare Services/Case Management System
DA	District Attorney
DCFS	Department of Children and Family Services
DEC	Drug-Endangered Children
DME	Deputy Medical Examiner
DMH	Los Angeles County Department of Mental Health
DOJ	Department of Justice
EC	Evidence Code
Educ C	Education Code
EMT	Emergency Medical Technician
FC	Family Code
GAL	Guardian ad Litem
GC	Government Code
H&S	Health and Safety Code
ICAN	Inter-Agency Council on Child Abuse and Neglect

ICWA	Indian Child Welfare Act
LACOE	Los Angeles County Office of Education
LA IMPACT	Los Angeles Inter-Agency Metropolitan Police Apprehension Crime Task Force
MART	Multi-agency Response Team
PC	Penal Code
SAFE	Sexual Assault Felony Enforcement Team
SCAR	Suspected Child Abuse Report
WIC	Welfare and Institutions Code

## **2. Recognized Resources for Forensic Evaluation**

**Recognized Resources for Forensic Evaluation**

<b>AGENCY PHONE CONTACT</b>	<b>Hours: 24/7</b>	<b>Appoint -ment</b>	<b>Sexual Abuse &lt;14</b>	<b>Sexual Abuse &gt;14</b>	<b>Physical Abuse</b>	<b>Neglect</b>	<b>Failure to Thrive</b>	<b>Forensic Interview</b>
Abuse & Violence Intervention Center, Miller Children's Hospital 562-933-0590								✓
Childrens Hospital LA (*DCFS Hub) 323-361-4977 x14977		✓	✓	✓	✓	✓	✓	✓
Child Crisis Center, Harbor-UCLA (*DCFS Hub) 310-222-3567		✓	✓	✓	✓	✓	✓	✓
Children's Assault Treatment Services [CATS]-Northridge Hospital-Sherman Way Campus 818-908-8632	✓	✓	✓	✓				
Children's Center of the Antelope Valley SART Team Antelope Valley Hospital 661-949-1206	✓	✓		✓				
Cal-SAFE SART Team Citrus Valley Medical/Queen of Angels Hospital 310-266-776 (office)	✓		✓	✓				
High Desert Health System (DCFS Hub) 661-945-8353		✓	✓	✓	✓	✓	✓	✓
King/Drew Medical Center (*DCFS Hub) 310-668-4000		✓	✓	✓	✓			✓
LAC+USC Medical Center Violence Intervention Program (*DCFS Hub) 323-226-3961 323-226-3031 (after hours)	✓	✓	✓	✓	✓	✓	✓	✓
LAC+USC VIP Satellite (El Monte) (*DCFS Hub) 323-226-3691 (same as above)		✓	✓	✓	✓	✓	✓	✓
Long Beach Community Hospital SART Team 562-430-6220	✓		✓	✓				

Continued

Olive View/UCLA Medical Center (*DCFS Hub) 818-364-4680		✓	✓	✓	✓	✓	✓	
Pomona Valley Hospital SART 562-430-6220 (office) 562-497-0147 (acute 24/7)	✓		✓	✓				
Stuart House/Rape Treatment Center – UCLA/Santa Monica Hospital 310-319-4000 Acute 310-319-4248 Non-Acute	✓	✓	✓	✓				✓
Redondo Beach Woman’s Wellness Center SART Little Company of Mary 562-430-6220 (office) 562-497-0147 (acute 24/7)	✓			✓				
San Pedro Hospital/ittle Company of Mary Hospital SART 562-430-6220 (office) 562-497-0147 (acute 24/7)	✓		✓	✓				
Reagan Medical Center – UCLA Mattel Children’s Hospital 310-825-9111	✓	✓			✓	✓	✓	
Whittier SART Team Presbyterian Intercommunity Hospital 562-430-6220 (office) 562-497-0147 (acute 24/7)	✓		✓	✓				

\*DCFS Medical Hubs all have forensic experts in child abuse as well as sexual assault.

### **3. Restraining and Protective Orders**



Type of Order	Statutory Authority ^	Grounds for Issuance/Enforcement	Expiration	Criminal Charges for Violation
Emergency Protective Order (EPO)* ‡	FC 6240-6273	Reasonable grounds to believe that an adult or child is in danger of domestic violence. Applicant - Law Enforcement	5 court days up to 7 total days from the date of issuance.	PC 273.6
Domestic Violence Prevention Order (DVPO)* ‡	FC 6300-6388	Reasonable proof of a recent past act or acts of abuse and victim expresses fear; parties are in domestic relationship. Applicant – Victim	After a hearing, the order is good for a period of up to 5 years, and may be renewed.	PC 273.6
Stalking: EPO* ‡	PC 646.91	Reasonable grounds to believe that a person is in immediate and present danger of being stalked. Applicant - Law Enforcement	5 court days up to 7 total days from the date of issuance.	PC 166, 646.9
Stalking: Order Post Conviction	PC 646.9(k)	Seriousness of facts before the court, probability of future violations, and the safety of the victim and his or her immediate family. Issued by sentencing court.	Up to 10 years.	PC 646.9(b)
Criminal Court Protective Orders* ‡†	PC 136.2	Reasonable cause to believe that actual intimidation has occurred or is reasonably likely to occur. Applicant – District Attorney	Up to 10 years PC 273.5(i); but see <i>People v. Stone</i> †	PC 136.1, 166(c)(1)
Civil Harassment Restraining Orders* ‡	CCP 527, 527.6	Clear and convincing evidence that unlawful harassment exists. Applicant - Victim	TRO available for 15 days, and following a hearing, an injunction is valid for up to 3 years, and may be renewed.	PC 273.6, PC 166(a)(4)
Workplace Violence Protective Orders*	CCP 527.8	Clear and convincing evidence that the defendant engaged in unlawful violence or made a credible threat of violence upon an employee. Applicant - Employer	TRO available for 15 days, and following a hearing, an injunction is valid for up to 3 years, and may be renewed.	PC 273.6
Foreign State and Tribal Orders	Full faith and credit per FC 6401-6404	Jurisdiction must authorize a person to seek enforcement of a valid foreign or tribal order.		Enforced using California procedure. See FC 6402.
Elder Abuse Protective Orders*	WIC 15657.03	Reasonable proof of past acts of abuse of the petitioning elder or dependent adult. See WIC 15610.07. Applicant - Victim	TRO available per CCP 527. After a hearing, an order is valid for up to 3 years, and may be renewed.	PC 273.6
Dependency Court	WIC 213.5 (a) – (l)	Proof by application and any attachments, additional declarations or documentary evidence, file, or testimony. Criminal court is only court which may issue a contrary order.	<i>Ex parte</i> TRO available WIC 213.5 (a) – (c) for 15 or 20 days. After hearing, expiration determined by court up to 3 years	PC 273.6

\* These orders contain gun restrictions on the restrained party pursuant to PC 12021(g)(1-2). For Foreign State or Tribal Orders, gun restrictions are enforceable if the issuing court had the authority to prohibit such action.

‡These orders contain mandatory arrest provisions for violating the order pursuant to PC 836(c)(1).

†*People v. Stone* (2004) 123 Cal. App. 4th. 153. *Stone* held that 136.2's application is limited to the pendency of a criminal proceeding. Such orders may be issued only by courts with jurisdiction over the criminal proceeding, and only to victims or witnesses who have suffered harm, intimidation or dissuasion.

†Criminal Court Protective Orders take precedence over any other order outstanding against the defendant.

Protective/Restraining Order forms may be obtained at [www.courtinfo.ca.gov/forms](http://www.courtinfo.ca.gov/forms)

FC = Family Code PC = Penal Code CCP = Code of Civil Procedure WIC = Welfare and Institutions Code

## 4. Determining Reasonable Suspicion

## Suggested Guidelines for the Mandated Reporter

### Introduction

The law provides special protection for children because they are among the most defenseless victims of crime. A key legal protection is the requirement that people involved in certain occupations, known as mandated reporters, must report suspected child abuse to law enforcement and/or the Department of Children and Family Services [DCFS]. The objective of reporting suspected child abuse is to protect the child, prevent further abuse or neglect of the child and other children in the home, and begin treatment of the entire family. The infliction of injury, rather than the degree of that injury, is the determinant for intervention. There is a significant chance that a parent or caretaker who begins inflicting minor injuries will cause more severe or even fatal injuries to the child.

All mandated reporters shall report if they have knowledge of or observe a child, defined as any person under age 18, while in their professional capacity or within the scope of the job, and they know or reasonably suspect that the child has been abused. Reasonable suspicion means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse. {PC §11 166(a)} "Professionals must evaluate facts known to them in light of their training and experience to determine whether they have an objectively reasonable suspicion of child abuse." People ex rel. Eichenberger v. Stockton Pregnancy Control Medical Clinic, Inc., 203 Cal. App. 3d 255, 239-240 (1988).

This document may assist mandated reporters in making a determination of reasonable suspicion. Because each mandated reporter determines reasonable suspicion based on his or her own training and experience, not every factor in this document will apply to every professional; nor is this document intended to encourage professionals to exceed their scope of practice. These guidelines are prepared to be used in conjunction with the Los Angeles County Child Abuse Protocol.

The mandated reporter should not conduct an investigation. Once he or she determines reasonable suspicion of abuse or neglect exists, the only obligation is to file a report. It is the job of law enforcement, DCFS, and the courts to determine whether or not child abuse has in fact occurred. When a well-meaning mandatory reporter seeks more information than necessary to determine reasonable suspicion, it can inadvertently impact a future investigation. For example, repeated detailed questioning of the child may influence future disclosures or potential testimony. In addition, such a premature investigation may signal a parent to make up explanations or destroy evidence. Any of these situations could doom the child to future abuse.

It is important that the mandated reporter not let denial, fear, or ignorance of the law interfere with providing help to the child and family. Reporting suspected child abuse simply initiates an investigation by trained professionals. At the very least, a professional will evaluate the child's situation. Even if child abuse is not substantiated, but it is determined that the child is at risk, recommendations for counseling and other social service resources can be made to help the child and parent. In addition, multiple reports on a family or child can be identified in a centralized database. For ease, this document uses the term "parent"; however be mindful that it might be a guardian or other caretaker.

**The reporting protocol described in this document is not exhaustive. All reporters must be familiar with and refer to the Child Abuse Reporting Act {Penal Code §11164 et seq.} When reporters are unsure about making reports, they are encouraged to report in order to ensure the protection of the child through an appropriate investigation.**

## **How to Use This Document**

This document is divided by recognized categories of child abuse to help the mandated reporter develop a clear understanding of a given situation and to assist with decision-making. The categories of child abuse are divided into sections: **Definition, Red Flags, Behavioral Indicators** and **Clarifying Questions**. Be aware that the lists and questions included here are not exhaustive. Reporters may observe additional potential signs of child abuse that raise a reasonable suspicion alone or in combination with other factors. This document is not intended to be all-inclusive. When a reporter has developed a reasonable suspicion of child abuse based on that reporter's professional training and experience, a report should be made whether or not the relevant situation is addressed by this document.

**Definitions**, when given, are summaries of categories of child abuse defined in the Penal Code.

**Red Flags** are objective signs and symptoms that heighten a concern for the possibility of child abuse. As with the behavioral indicators, red flags must be taken together with other signs or symptoms. For example:

*A child fell out of a second story window sustaining few or no injuries. However, a search of medical records shows a prior accident(s), or the parent/caretaker reports not seeing the accident happen.*

In this scenario, the nature of the accident by itself is only concerning and not necessarily suspicious. The additional information about the prior accident(s), or that the parent did not see what happened, may raise

concerns of possible neglect. In such a case, a mandated reporter should make a report for suspected child abuse or neglect so that an investigation can be initiated.

**Behavioral Indicators** are behaviors that can be observed in a child or parent that may be indicative that the child is a victim of child abuse or the parent is an abuser.

Because children react differently to being abused, there is no single reaction that can be clearly associated with child abuse. There are, however, a number of possible behaviors that have been consistently correlated with abuse. While some of these behaviors may appear more often with one type of abuse than another, they may overlap. The presence of behavioral indicators alone may not be sufficient for reasonable suspicion to prompt a mandatory report. Behavioral indicators are signals to look further to determine if red flags are present or to ask clarifying questions.

**Clarifying Questions** are questions that may be asked of a child or a parent to gain additional information that may be used to determine if reasonable suspicion exists. Questions should be limited to those necessary to determine if reasonable suspicion exists, not to conduct a full-scale investigation.

In some situations, these questions are asked when a mandated reporter is concerned about, but does not yet suspect child abuse. These questions can help a mandated reporter make more accurate assessments in determining whether there is reasonable suspicion of child abuse. This is part of an assessment to determine reasonable suspicion, not an investigation.

Mandated reporters should consider all red flags and behavioral indicators in light of their own professional training and experience.

## **Physical Abuse**

### **1) Definition**

A physical injury to a child inflicted by other than accidental means on a child by another person. Corporal punishment or injury willfully inflicted resulting in a traumatic condition is also reported as child abuse. 'Child Abuse' does not mean a mutual physical contact between minors. {P.C. §§11164-11174.3}

**Children under the age of five years, especially those less than six months are at highest risk for physical abuse.**

## 2) **Red Flags**

- a) Repeated injuries within a short period of time
- b) Scattered history of many accidents, visits to different doctors, or frequent moves
- c) Several hospitals visited in different areas
- d) Injuries found mostly on head and face
- e) Old fractures found on x-ray, without reasonable explanation
- f) Injuries found on physical exam or x-ray which parent did not report
- g) Unexplained bruises
- h) Odd markings
- i) Very rough handling of child
- j) Parent or child gives differing explanations of injury
- k) Inaccurate disclosure of factors surrounding the injury such as dates, times, or causes

## 3) **Behavioral Indicators**

### **Child:**

- a) Very anxious
- b) Treatment sought for or report made of a problem and existing marks or bruises are not mentioned
- c) Accuses a specific person of the injury

### **Parent:**

- a) Describes an accident inconsistent with injuries
- b) Each parent has a different version of what happened, or the child's version is inconsistent with the parents' version.
- c) Vague about the circumstances of the accident
- d) Claims an infant (less than 6 months old) inflicted an injury on him- or herself
- e) Blames the accident on another person. (Effort should be made only to identify this person so that law enforcement or DCFS can later investigate)
- f) Waited a significant amount of time before reporting the accident or bringing the child in for treatment
- g) Makes threats to child, for instance, "...you'll get a whipping with the belt..."
- h) Hits or slaps child
- i) Attributes unbelievable feats to child
- j) Demonstrates inappropriate awareness of severity of situation (either over-reaction or under-reaction)

#### 4) Clarifying Questions

- a) Clarifying Questions
- b) What is the parent's explanation of what happened?
- c) What is the child's explanation of what happened?
- d) Did someone witness the incident?  
What information can the witness provide?
- d) Who brought the child to the hospital?  
What information can the person provide?
- e) Is there a previous history of abuse/neglect/DCFS involvement?
- f) Are there prior similar incidents?  
If so, how many and when?
- g) Where was the parent when the incident occurred?  
Could the parent see or hear the child?
- h) Is the parent's explanation consistent with the child's explanation or the situation?

#### Sexual Abuse

##### 1) Definition

**Sexual abuse** means either sexual assault or sexual exploitation {PC §11165.1}

- a) Sexual assault includes violations of the following crimes {PC §11165.1(a)}
  - Rape {PC §261}
  - Statutory rape -- sexual intercourse where one party is under age 16 & the other is age 21 or over {PC §261.5(d)}
  - Rape in concert {PC §264.1}
  - Incest {PC §285}
  - Sodomy {PC §286}
  - Lewd act on a child {PC §288 (a), (b), or (c)(1)}
  - Sexual penetration {PC §289}
  - Oral copulation {PC §288a}
  - Child annoying {PC §647.6}

The conduct amounting to sexual assault includes, but is not limited to {PC §11165.1(b)}

- any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is an emission of semen
- any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person

- any intrusion by one person into the genitals or anal opening of another person, including the use of any body part or object for this purpose, unless the act is performed for a valid medical purpose
  - intentional touching of the genitals or intimate parts (including the breasts, genital area, groin, inner thighs, and buttocks) or the clothing covering them, of a child or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker responsibilities, interactions with or demonstrations of affection for the child, or acts performed for a valid medical purpose
  - intentional masturbation in the presence of a child
- b) Sexual exploitation includes {PC §11165.1(c)}
- preparing, selling, or distributing matter depicting a minor engaged in obscene acts
  - coercing a child to engage in prostitution or coercing parental consent for a child to engage in prostitution
  - depicting a child in or creating, developing, or trading photos of minors engaged in obscene sexual conduct

## 2) **Red Flags**

- a) Oral report of abuse made by the child, parent or third party
- b) Pregnancy (in and of itself is not reasonable suspicion, the circumstances, for example, the age of the mother and father, must be evaluated)
- c) Sexually transmitted diseases
- d) Genital or anal injuries consistent with sexual abuse
- e) Difficulty walking or sitting
- f) Pain, swelling, or itching in the genital area
- g) Sophisticated knowledge of sexual behavior or terminology
- h) Poor self-esteem
- i) Discomfort with peers
- j) Substance abuse
- k) Self-mutilation
- l) Wariness of physical contact



### **3) Behavioral Indicators**

#### **Of Children Generally:**

- a) Detailed and age-inappropriate understanding of sexual behavior
- b) Inappropriate, unusual, or aggressive sexual behavior with peers/toys
- c) Compulsive indiscrete masturbation
- d) Excessive curiosity about sexual matters
- e) Seductive behavior with classmates, teachers, or others
- f) Excessive concern about homosexuality
- g) Fear of parent or of going home
- h) Noticeable change in behavior, for instance, sleep disturbances, significant change in disposition or demeanor, drop in grades, or changed attitude toward school
- i) Regressive behavior, for instance, bedwetting
- j) Sexual acting out
- k) Seductive behavior

#### **Of Child Under Age 5:**

- a) Bed wetting (enuresis-non-organic)
- b) Fecal soiling
- c) Fears/phobias
- d) Overly compulsive behavior
- e) School problems or significant change in school performance Age-inappropriate behavior (pseudomaturity or regressive behaviors)
- f) Inability to concentrate
- g) Drastic behavior changes
- h) Sleep disturbances
- i) Speech disorders

#### **Of School-Age Child or Adolescent:**

- a) Withdrawal
- b) Chronic fatigue
- c) Clinical depression or apathy
- d) Overly compliant behavior
- e) Poor peer relations, inability to make friends
- f) Acting out, runaway, aggressive, antisocial, or delinquent behavior
- g) Alcohol or drug abuse
- h) Excessive promiscuity, prostitution
- i) School problems, negative changes in school performance
- j) Refusal to dress for physical education
- k) Fear of showers or restrooms
- l) Fear of home situation

#### 4) Clarifying Questions

Only appropriately trained professionals should perform interviews of sexual abuse victims. Often a mandated reporter who has not received training in interviewing victims of child abuse will hear the disclosure first. In these situations, the following guidelines are strongly suggested:

- a) The mandated reporter should provide a quiet, private place in which to listen and document any disclosures
- b) **At no time** should the mandated reporter assume an investigative role or attempt to obtain a detailed or extensive history of the abuse. The reporter should **only** obtain sufficient information so as to enable the report to form a reasonable suspicion
- c) Questions should be open-ended, and the child should not be given promises that cannot be guaranteed
- d) While the reporter may continue to provide reassurance to the child, further questions about abuse should not be asked once the disclosure has been made
- e) Questions should be limited to those necessary to complete the required reporting form

#### Neglect

##### 1) Definition

- a) **GENERAL NEGLECT** is the negligent failure by a parent that causes or permits the child to be placed in a situation where his or her person or health is endangered. This definition includes severe malnutrition, failure to provide adequate food, clothing, shelter, medical or dental care, supervision issues or leaving young children without supervision. General neglect includes both emotional and physical abuse.
- b) **SEVERE NEGLECT** means the negligent treatment or maltreatment of a child by a parent failing to protect the child from severe malnutrition or medically diagnosed non-organic failure to thrive, situations where the parent willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered. This includes the intentional failure to provide adequate food, clothing, shelter or medical care, not due to a lack of resources.
- c) **NON-ORGANIC FAILURE TO THRIVE (NOFTT)** is defined as a patient with a height and/or weight below the fifth (5th) percentile when plotted on a standardized growth chart, or a fall of two (2)

percentiles of height and/or weight on growth chart curves. The origin of NOFTT may have a

psychosocial component such as low income, unfamiliarity with how to properly prepare formula, inability to buy food, and environmental or parental neglect.

## 2) Red Flags

- a) Consistently hungry, tired, or dirty
- b) Unattended medical problems
- c) Developmental delay
- d) Poor social relations with peers
- e) Erratic school attendance
- f) Inadequate supervision
- g) Low self-esteem
- h) Lacking medical or dental care
- i) Dirty, poor personal hygiene, dressed inappropriately for weather
- j) Evidence of poor supervision, left home alone
- k) Home conditions:
  - unsanitary
  - lack heating or plumbing
  - hazardous
  - inadequate sleeping arrangements
  - poor nutritional quality of food
  - poor food quality
  - unprepared meals
  - spoiled food in the refrigerator/cupboards

## 3) Behavioral Indicators

### Of Child:

- a) Always sleepy or hungry
- b) Depression, withdrawn, or apathetic
- c) Antisocial, destructive behaviors

## 4) Clarifying Questions

- a) What is the parent's explanation of what happened?
- b) What is the child's explanation of what happened?
- c) Did someone witness the incident?  
What information can the witness provide?
- d) Who brought the child to the hospital?  
What information can the person provide?

- e) Is there a previous history of abuse/neglect/DCFS involvement?
- f) Are there prior similar incidents?  
If so, how many and when?

## **Emotional Abuse**

**Reasonable Suspicion of emotional abuse is not a Mandated Report. It is a discretionary report.**

### **1) Definition**

**EMOTIONAL ABUSE** is defined as repetitive, verbally assaultive behavior towards a child. This can include belittling, screaming, threats, blaming, and sarcasm, and may also include constant family discord, witnessed spousal abuse, and unpredictable reactions. The abuse may scar and incapacitate a child emotionally, behaviorally, and intellectually.

### **2) Red Flags**

- a) Very controlling behavior by the parent
- b) Depressed child
- c) Child has unreasonably high expectations of self
- d) Isolated child
- e) Trouble developing relationships with peers
- f) Behavioral Indicators

### **3) Behavioral Indicators**

#### **Of Child:**

- a) Withdrawn, depressed apathetic
- b) Clingy and forms indiscriminate attachments
- c) Acts out and is a behavior problem
- d) Exhibits exaggerated fear
- e) Overly rigid in conforming to instructions of authority figures
- f) Uncontrolled urination or bowel movements
- g) Suffers from sleep, speech, or eating disorders
- h) Pays inordinate attention to details
- i) Exhibits little or no verbal or physical communication with others
- j) Makes statements like, "Mommy or Daddy always tells me I'm bad," or makes other disclosures about parental behaviors which may indicate emotional abuse
- k) Experiences substance abuse problems

## **Of Parents:**

- a) Places unreasonable or impossible expectations that do not consider the child's developmental capacity
- b) Child is used as a pawn in marital conflicts
- c) Child is used to satisfy ego needs of the parent/caretaker and is too young to understand
- d) Child is objectified, for instance, referred to as "it" by the parent

## **4) Clarifying Questions**

We provide no specific questions that one would ask regarding emotional abuse. The crucial factors include the objective observations of the parent-child interaction and any disclosures the child makes.

## **Fatal Child Abuse**

### **1) Definition**

Fatal child abuse involves situations where caregiver abuse or neglect is a significant or primary "cause of death," specifically where a case was reportable independent of the death where indicia of abuse or neglect was serious enough for report of suspicion even if the child had not died.

### **2) Red Flags**

- a) Parent abuse or neglect through commission or omission
- b) Abuse or neglect factors are reportable independent of the death
- c) Child deceased
- d) Death must be reported even if no surviving children remain in the home

### **3) Behavioral Indicators**

Fatal child abuse determination is highly variable, that is, subject to judgment of the medical examiner or coroner. It includes cases on a long spectrum or continuum from obvious caregiver-homicide to malnutrition to delay in seeking medical care. Death or fatality is coded various ways by law enforcement, the coroner, and other professionals. Homicide requires proof of intent that can be difficult to establish. Assault on a child leading to death, however, does not require intent to kill in order to establish a criminal case.

Factors to consider include:

- Fatal injury inflicted with "intent" to seriously harm or kill
- Caretaker suspect
- History consistent with child abuse
- Suicide
- SIDS, Abusive Head Trauma (Shaken Baby Syndrome) or Co-sleeping

**4) Clarifying Questions**

- a) What is the parent's explanation of what happened?
- b) Did someone witness the incident?  
What information can the witness provide?
- c) Who brought the child to the hospital?  
What information can the person provide?
- d) Is there a previous history of abuse/neglect/DCFS involvement?
- e) Are there prior similar incidents?  
If so, how many and when?
- f) Where was the parent when the incident occurred?  
Could the parent see or hear the child?
- g) Is the parent explanation consistent with the situation?

**Munchausen by Proxy or Pediatric Condition Falsification**

For information on Munchausen by Proxy refer to the Index of Appendices of the Los Angeles County Child Abuse Protocol.

**Accidents (Preventable Injuries)**

**1) Definition**

Accidents or preventable injuries are generally not reportable as suspected child abuse. However, if this is a repeat injury, a pattern is emerging, or the parents do not seem to understand when an attempt to educate them is made, a report may be indicated. In these situations, a report may be appropriate as neglect, severe neglect or child endangerment. Report of an accident may even be a cover story to hide child abuse.

Depending on the circumstances involving preventable injuries, if risk factors are present the Child Protection Hotline will take a report.

## **2) Burns, Falls, Ingestions and Near Drowning**

### **a) General Clarifying Questions**

- 1) What is the parent's explanation of what happened?
- 2) What is the child's explanation of what happened?
- 3) Did someone witness the incident?  
What information can the witness provide?
- 4) Who brought the child to the hospital  
What information can the person provide?
- 5) Is there a previous history of abuse/neglect/DCFS involvement?
- 6) Are there prior similar incidents?  
If so, how many and when?
- 7) Where was the parent when the incident occurred?  
Could the parent see or hear the child?
- 8) Is the parent's explanation consistent with the child's explanation or the situation?
- 9) How long was the child left alone?
- 10) Did the injury occur as the result of action or inaction by the parent?
- 11) What is the physical, mental, emotional ability of the parent?

### **b) Specific Clarifying Questions for Ingestions**

- 1) Did the parent know the child was consuming medication, poison, or drugs?
- 2) How accessible was the medication or substance?
- 3) How much was consumed?

## **3) Car Seats/Seat Belts/Bicycle Helmets**

It is a violation of the California Vehicle Code for a parent to fail to properly restrain minors in the vehicle. Failure to properly restrain a child in a car seat endangers the child and should be reported/cross-reported whether or not an injury occurs as a result of the lack of proper restraint.

### **a) Clarifying Questions**

- 1) Why were the seat belts not used?
- 2) Is the parent aware of and willing to comply with the law regarding the use of seat belts and car seats for children?
- 3) Has the parent been referred to a resource that can provide a temporary or free car seat?

## **5. Pediatric Condition Falsification (Munchausen by Proxy)**



## Factitious and Falsification Forms of Child Abuse

***Munchausen by Proxy (MBP)*** is a form of child abuse in which a parent/guardian/caregiver deliberately produces or feigns physical or psychological symptoms in a child who is under their care. The child is presented for medical treatment and the parent or caregiver fails to acknowledge the deception. MBP often involves physical abuse, neglect, and emotional abuse. Some definitions of MBP include a statement that the intent is to gain attention and to meet self-serving psychological needs.

### Definitional Issues:

The term Munchausen Syndrome by Proxy came into broad use following the work of Dr. Roy Meadow (1977) in identifying fabrication of illness in another person. Since then, hundreds of cases have been identified around the world and reported in the professional literature. There have been discrepancies in the application of the terms Munchausen by Proxy, Munchausen Syndrome by Proxy, Factitious Disorder by Proxy and other terms by the various medical, mental health, child protection, and legal agencies involved in assessing, investigating, and prosecuting these cases. The term Munchausen by Proxy has been used to refer to the child's victimization, the parent's disorder, and/or the interactional dynamics. A task force of the American Professional Society on the Abuse of Children (APSAC) undertook the exploration of MBP in 1995 and published a position paper on definitional issues in 1998. The intent was to identify the components of MBP (the victimization of the child and identification of the psychological motivation) and the characteristics of the psychiatric difficulty of the parent

The following definitions assist in distinguishing the terms that could be applied to the abuse and the perpetrator:

***Pediatric Condition (illness, impairment, or symptom) falsification (PCF)*** is a form of child maltreatment in which an adult falsifies physical and/or psychological signs and/or symptoms in a victim, causing the victim to be regarded as ill or impaired by others. ***A child who is subjected to this behavior is a victim of child abuse by PCF*** (Diagnostic and Statistical Manual of Mental Disorders DSM-IV p. 682).

***Factitious Disorder by Proxy (FDP)*** is a psychiatric disorder which applies to a person who intentionally falsifies history, signs, or symptoms in a child to meet their own self-serving psychological needs. The motivation is primarily internally driven by the need for attention or recognition that results from being seen as the devoted parent of a sick child and/or the need to covertly manipulate or deceive authority figures. External incentives may also be present. ***This diagnosis applies to the perpetrator and is coded as Factitious Disorder not Otherwise Specified 300.19*** (DSM-IV p.475). In official psychiatric nomenclature, FDP has replaced the term MBP (1994).

**NOTE:** "MBP" is used in this protocol as Pediatric Condition Falsification has not yet gained widespread recognition and use, however, use of PCF" when reporting is encouraged as it does not require that the pediatrician or other reporter identify the suspected perpetrator's intent of psychological/psychiatric difficulty or diagnosis.

## Commonly Accepted Diagnostic Criteria

- A parent or caregiver fabricates symptoms of illness in a child
- The child is presented for medical assessment and care, usually persistently, often resulting in multiple medical procedures and hospitalizations
- The perpetrator denies the etiology of the child's illness
- Symptoms of illness abate upon separation of the child from the perpetrator (Possible exceptions: when the child has suffered permanent damage as a result of the abuse; child is actively colluding with the parent; child has developed a psychiatric disorder)

Actual induction of illness is not required for a diagnosis of MBP or PCF. Severe harm or death could result from the caregiver's false reporting of symptoms alone.

MBP/PCF may include the deliberate withholding of medication or treatment from a child with a genuine illness, i.e. a child with a chronic condition such as asthma. In these situations medications or treatments are surreptitiously withheld with the purpose of exacerbating the child's condition. In these situations the perpetrator is fabricating compliance with the prescribed medical regimen.

***The single biggest reason for failing to recognize MBP/PCF, is the failure to consider it in the differential diagnosis***

***The emphasis in the evaluation of children should be on assessing and articulating the harm to the child, not on the specific diagnosis of MBP or Factitious Disorder by Proxy. The label applied to the abuse is not the critical issue-articulating the harm the child has suffered and potentially may suffer, should be the focus.*** Mandated reporters are not required to determine the intent of the parent/caregiver (i.e. to kill the child, to receive financial gain, to gain recognition as an exceptionally caring parent) in reporting reasonable suspicion. The focus during assessment should be on the behavior of the perpetrator that results in harm to the child, rather than the intent. This is important because there continues to be discussion regarding the scope of what should be included in this disorder. Use of the term Pediatric Condition Falsification allows the reporter to identify the child's victimization without establishing the motivation(s) of the perpetrator. Intent is relevant when issues regarding treatment and reunification are addressed in dependency court and in the criminal justice setting.

## Spectrum of Harm Experienced by Victims

Children who are victims of MBP/PCF suffer a spectrum of harm, whether the symptoms of illness are simulated or produced. Producing illness in a child, i.e. by administering poisons or, introducing feces into a catheter to produce infection, is obviously harmful. The risks associated with falsely reporting symptoms may not be as evident to those unfamiliar with this form of abuse. False reporting of symptoms or faking of an illness (i.e. placing one's own blood in a child's diaper and falsely reporting the child is passing bloody urine) can lead an unsuspecting health care provider to order unnecessary clinical studies, to prescribe unnecessary medications, and to perform procedures and surgeries that in retrospect are found to have been unnecessary. All of these medical treatments and procedures have associated risks, some more serious than others. Medical personnel unwittingly act as agents of harm. The psychological, developmental, and emotional harm child victims suffer can also be profound.

Children may suffer:

- Death
- Complications of surgery
- Side effects of drugs
- Side effects of medical tests
- Temporary and permanent disfigurement from medical procedures
- Temporary and permanent impairment from medical procedures
- Fear
- Pain and suffering
- Loss of normal attachment to parent/caregiver
- Loss of normal developmental experiences (i.e. kept out of school)
- Loss of normal social experiences

## **Presentation**

Hundreds of cases have been reported in the medical literature. The most common symptom presentations have been:

- neurologic (seizures)
- hematologic (bleeding)
- respiratory (apnea)
- gastrointestinal (vomiting and diarrhea)
- fever
- rash

However, cases have been reported with a vast array of both presenting problems and methods by which caregivers may simulate or produce illness. Illnesses such as cystic fibrosis and cancer have been faked. No list of presentations should be considered complete.

## **Differential Diagnosis**

The differential diagnosis and assessment process takes into account the many possibilities for parental persistence regarding the child's illness:

- Other medical diseases
- Psychogenic illness
- Vulnerable Child Syndrome
- Malingering (by proxy)
- Overanxious parent/caregiver
- Doctor shopping
- Parent/caregiver with delusional disorder

## Diagnostic Pointers for MBP/PCF

The overarching feature is a medical history and clinical picture that do not make sense. Discrepancies among the reported history, clinical findings, and the general health of the child should raise concern about MBP/PCF. Specific cues to be considered in the differential diagnosis include:

- \* Inconsistent histories from different observers.
- Persistent or recurrent illness that cannot be explained, i.e. symptoms are illogical, improbable, or are inconsistent with known pathophysiology-the physical exam and results of investigations don't explain the child's symptoms
- Illness(s) are unresponsive to treatment-symptoms fail to respond to conventional, effective therapies
- Reporting of new symptoms upon resolution of previous problems
- Symptoms/signs are associated with the presence of the parent/caregiver
- Unusual or unexplained illness or death in other children
- History of unusual illness in parent/caregiver

## Evaluation and Assessment of Possible MBP/PCF Cases

These cases present complex medical, psychological, social, and legal issues. An interdisciplinary approach to evaluation and case management is optimal. A coordinated, systematic approach to the evaluation is recommended. Assessment of possible MBP/PCF cases is often done during an inpatient stay. Components of an evaluation commonly include:

- Familiarity with this form of abuse by those involved in the evaluation
- Extensive review of previous medical records
- Baseline toxicology studies with repeats if sudden, unusual events
- Physiological recordings
- Interviews of parents/caregivers for medical and social history
- Interview of child
- Additional clinical studies when indicated, for differential diagnosis
- Observation of child under controlled circumstances (usually inpatient hospitalization or placement out of home)
- Interviews with collaterals (i.e. previous physicians and other health care providers, teachers, grandparents, day care provider, etc.) for external verification of history/symptoms

Assuring the safety of the child while the assessment is proceeding is critical. Contrary to other forms of abuse, children who are victims of pediatric condition falsification are at **significant risk during hospitalizations**. Rosenberg (1987) reported that in 70 % of cases involving produced illnesses, the inductions took place in hospitals.

Evaluations of these cases often require tremendous resources to collect and assimilate the data and to monitor the safety of the child during the process. A multidisciplinary team in a hospital setting may include a pediatrician, medical subspecialists, a hospital social worker, psychiatry team member, nursing, child development specialist, nutrition services, one or

more members of the hospital's child protection team, and others. Consultation with the hospital's risk management department, media relations representative, and attorney may also be helpful when dealing with issues such as covert video surveillance and threats by the suspected perpetrators to involve the media or file a civil action.

Physicians and hospital staff who are concerned that a child may be a victim should consult with a member of the hospital's child protection team or seek consultation with another pediatric facility or professional with expertise in this area.

In cases where concerns arise about possible illness fabrication and a comprehensive evaluation has not yet taken place, review of medical records by a knowledgeable professional may assist law enforcement and/or DCFS staff, or a physician, to determine if there is sufficient basis to undertake an inpatient evaluation and/or separation.

### **Special Issues for School Personnel**

Teachers, school nurses, attendance personnel, social workers, and others in the school system are important sources of information about a child when an evaluation of possible illness fabrication is underway. Information about the child's attendance, school health records, parental reports of medical/health problems, educational testing, and staff observations of health and behavioral issues are relevant.

School personnel may raise concerns regarding illness fabrication if they observe discrepancies between the parent's reports of health problems in the child and their observations of the child's health. Contact with the child's health care provider to clarify the child's diagnosis, health status, and implications for school attendance and participation in school activities and to inform the provider of observations of the child in the school setting is recommended.

### **References**

"Definitional Issues in Munchausen by Proxy", Cathernine C. Ayoub, Ed.D. and Randell Alexander, M.D., Ph.D., *The APSAC Advisor*, v.11 n. 1, 1998

Rosenberg, D.: Web of deceit: A literature review of Munchausen syndrome by proxy. *Child Abuse and Neglect*. 11:547, 1987

## **6. Suspected Child Abuse Report**



## **7. Child Abuse Investigation Report**



**CHILD ABUSE INVESTIGATION REPORT  
DEPARTMENT OF JUSTICE (DOJ) FORM SS 8583  
Guidelines for Use and Completion of Form SS 8583**

(For Specific Requirements Refer to the Child Abuse Reporting Law, California Penal Code Section 11165 through 11174.5)

**For immediate information on potential suspects/victims, please contact the Child Abuse Unit at (916) 227-3285.**

**Who Must Report**

**Interagency Reporting**

- . Any police or sheriff's department, county welfare department, or county probation department (if designated by the county to receive mandated reports) must report every suspected incident of child abuse it receives to:
  - . the law enforcement agency having jurisdiction over the case
  - . the agency responsible for investigations under Welfare and Institutions Code Section 300
  - . the district attorney's office

**DOJ Reporting**

- . An agency must report every incident of suspected child abuse for which it conducts an active investigation and determines not to be unfounded to DOJ on the Form SS 8583.

*NOTE: Reports are not accepted from non-California agencies.*

**What Incidents Must Not Be Reported**

**Interagency Reporting**

- . Incidents specifically exempted under cooperative arrangements with other agencies in your jurisdiction.

**DOJ Reporting**

- . Unfounded reports - Reports that are determined to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect, as defined in Section 11165.6 PC (Section 11165.12 PC).
- . Acts of nonexploitive, consensual sexual behavior between minors under the age of 14 years who are of similar age.
- . Acts of negligence by a pregnant woman or other person(s) which adversely affect the well-being of a fetus.
- . Past abuse of a child who is an adult at the time of disclosure.
- . Child stealing, as defined in Sections 277 PC and 278 PC, unless it involves sexual abuse, physical abuse, mental/emotional abuse, and/or severe neglect.
- . Reasonable and necessary force by school employees to quell a disturbance threatening physical injury to person or damage to property (Section 11165.4 PC).
- . Statutory rape, as defined in Section 261.5 PC, except Section 261.5(d) PC (Statutes of 1997).
- . Mutual fights between minors (Section 11165.6 PC).

**What Incidents Must Be Reported**

- . Abuse of a minor child, i.e., a person under the age of 18 years, involving any one of the below abuse types:

**Interagency Reporting**

- . sexual abuse
- . physical abuse
- . general neglect
- . mental/emotional abuse
- . severe neglect

*(Refer to Section 11165.1 through 11165.6 PC for citations and definitions)*

**DOJ Reporting**

- . All of the above, excluding general neglect.
- . Deaths of minors resulting from abuse or neglect.

**When Must the Report be Submitted**

**Interagency Reporting**

- . Telephone notification - immediately or as soon as practical.
- . Written notification - within 36 hours of receiving information concerning the incident.
- . When an agency takes a report for which it lacks jurisdiction the agency shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction.

**DOJ Reporting**

- . A Form SS 8583 must be submitted after an active investigation has been conducted and the incident has been determined not to be unfounded. DOJ defines "active investigation" as: the activities of an agency in response to a report of known or suspected child abuse. For purposes of reporting information to the Child Abuse Central Index, the activities shall include, at a minimum: assessing the nature and seriousness of the suspected abuse; conducting interviews of the victim(s), and any known suspect(s) and witness(es); gathering and preserving evidence; determining whether the incident is substantiated, inconclusive or unfounded; and preparing a report that will be retained in the files of the investigating agency.

*NOTE: No other form will be accepted in lieu of the Form SS 8583.*

The suspect(s) must be notified in writing that he/she has been reported to the Child Abuse Central Index per PC Section 11169(b).

**What Information is Required**

**General Instructions**

- . All information blocks contained on the Form SS 8583 should be completed by the investigating agency. If information is not available, indicate "UNK" in the applicable information block.

**Specific Instructions**

INFORMATION BLOCKS ON THE FORM SS 8583 WHICH ARE SHADED GRAY MUST BE COMPLETED. **THE SUBMITTED FORM WILL BE RETURNED TO THE CONTRIBUTOR WITHOUT FURTHER DEPARTMENT OF JUSTICE ACTION IF THE CONTRIBUTOR FAILS TO COMPLETE ANY OF THE FOLLOWING ITEMS:** the agency name and type, the agency's report number or case name; the action taken by the investigating agency; the specific type of abuse; the victim's name, birthdate or approximate age, and gender; and the suspect's name and birthdate or approximate age, and gender. If the suspect is not known, UNKNOWN must be entered. Verification must be provided that an active investigation was conducted, that victim(s), and any known suspect(s), and witness(es) were contacted. An explanation must be provided if these contacts were not made. Verification must be provided that the suspect was given written notification that he/she has been reported to the Child Abuse Central Index per Section 11169(b) PC. An explanation must be provided if there was no notification.

Section A, "INVESTIGATING AGENCY," information block 10. "ACTION TAKEN" or 10A. "SUPPLEMENTAL INFORMATION" must be completed in accordance with the following definitions (Check one of the boxes):

<p align="center">①</p> <p>10. ACTION TAKEN (check only one box):</p> <p><input type="checkbox"/> (1) SUBSTANTIATED (Credible evidence of abuse)</p> <p><input type="checkbox"/> (2) INCONCLUSIVE (Insufficient evidence of abuse, not unfounded)</p>	<p align="center">a</p> <p>10A. SUPPLEMENTAL INFORMATION (Attach copy of original report)</p> <p><input type="checkbox"/> (a) INCONCLUSIVE</p> <p><input type="checkbox"/> (b) UNFOUNDED (false report, accidental, improbable)</p> <p align="center">c</p>
---	---

**10. ACTION TAKEN**

- ① SUBSTANTIATED - Acts determined, based upon some credible evidence, to constitute child abuse or neglect, as defined in Section 11165.6 PC.
- ② INCONCLUSIVE - Acts determined not to be unfounded, but there is insufficient evidence to determine whether child abuse or neglect, as defined in Section 11165.6 PC, has occurred.

**10A. SUPPLEMENTAL INFORMATION** - Only use this section to update information previously submitted on Form SS 8583.

- a INCONCLUSIVE - A previously submitted Form SS 8583 indicated as "SUBSTANTIATED" is being reclassified to "INCONCLUSIVE."
- b UNFOUNDED - A previously submitted Form SS 8583 indicated as "SUBSTANTIATED," "UNSUBSTANTIATED" or "INCONCLUSIVE" is being reclassified to "UNFOUNDED."
- c ADDITIONAL INFORMATION - Supplementary information is being provided for a previously submitted Form SS 8583.

**Where To Send The Report Form SS 8583  
(For DOJ reporting only)**

Department of Justice  
Bureau of Criminal Information and Analysis  
P. O. Box 903387  
Sacramento, CA 94203-3870  
ATTENTION: Child Abuse Unit

**REMEMBER**

Submit completed Form SS 8583 to DOJ as soon as possible after completion of the investigation because the case information may contribute to the success of another investigation. It is essential that the report be complete, accurate and timely to provide the maximum benefit in protecting children and identifying and prosecuting suspects. If you have questions about DOJ REPORTING or need a victim or suspect name check, call the DOJ Child Abuse Unit at (916) 227-3285 or CALNET 498-3285.

# CHILD ABUSE INVESTIGATION REPORT

To be Completed by Investigating Child Protective Agency Pursuant to Penal Code Section 11169 (SHADED AREAS MUST BE COMPLETED)

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FOR DOJ USE ONLY

A. INVESTIGATING AGENCY

1. INVESTIGATING AGENCY (Enter complete name and check type): <input type="checkbox"/> POLICE <input type="checkbox"/> WELFARE <input type="checkbox"/> SHERIFF <input type="checkbox"/> PROBATION	2. AGENCY REPORT NO./CASE NAME:
3. AGENCY ADDRESS: Street City Zip Code	4. AGENCY TELEPHONE: ( ) EXT: ( )
5. NAME OF INVESTIGATING PARTY: TITLE	6. DATE REPORT COMPLETED: MO DA YR
7. AGENCY CROSS-REPORTED TO:	8. PERSON CROSS-REPORTED TO:
9. DATE CROSS-REPORTED: MO DA YR	
10. ACTION TAKEN (check only one box): <input type="checkbox"/> (1) SUBSTANTIATED (Credible evidence of abuse) <input type="checkbox"/> (2) INCONCLUSIVE (Insufficient evidence of abuse, not unfounded)	10A. SUPPLEMENTAL INFORMATION (Attach copy of original report.) <input type="checkbox"/> (a) INCONCLUSIVE <input type="checkbox"/> (c) ADDITIONAL INFORMATION <input type="checkbox"/> (b) UNFOUNDED (false report, accidental, improbable)
11. Active investigation conducted per PC 11169(a)? <input type="checkbox"/> Yes <input type="checkbox"/> No*    Victim(s) contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No*    Suspect(s) contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No* <input type="checkbox"/> No Suspects Witness(es) contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No* <input type="checkbox"/> No witnesses    *Explain in comments field A.12.	
12. COMMENTS:	

B. INCIDENT INFORMATION

1. DATE OF INCIDENT: MO DA YR	2. TIME OF INCIDENT:	3. LOCATION OF INCIDENT:
4. NAME OF PARTY REPORTING INCIDENT: TITLE:	5. EMPLOYER: ( )	6. TELEPHONE: ( )
7. TYPE OF ABUSE (check one or more): <input type="checkbox"/> (1) PHYSICAL <input type="checkbox"/> (2) MENTAL <input type="checkbox"/> (3) SEXUAL <input type="checkbox"/> (4) SEVERE NEGLECT <input type="checkbox"/> (5) GENERAL NEGLECT		
8. IF ABUSE OCCURRED IN OUT-OF-HOME CARE, CHECK TYPE <input type="checkbox"/> (1) FAMILY DAY CARE <input type="checkbox"/> (2) CHILD CARE CENTER <input type="checkbox"/> (3) FOSTER FAMILY HOME <input type="checkbox"/> (4) SMALL FAMILY HOME <input type="checkbox"/> (5) GROUP HOME OR INSTITUTION-Enter name and address:		

VICTIMS

1. NAME: Last First Middle AKA	D O B MO DA YR	APPROX. AGE:	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE *
ADDRESS: Street City Zip Code	DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO			
PRESENT LOCATION OF VICTIM:	TELEPHONE NUMBER:	IS VICTIM DEVELOPMENTALLY DISABLED [4512(a) W&I]? <input type="checkbox"/> YES <input type="checkbox"/> NO		
NATURE OF INJURIES:				
2. NAME: Last First Middle AKA				
D O B MO DA YR				
APPROX. AGE:				
<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE				
RACE *				
ADDRESS: Street City Zip Code				
DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO				
PRESENT LOCATION OF VICTIM:				
TELEPHONE NUMBER:				
IS VICTIM DEVELOPMENTALLY DISABLED [4512(a) W&I]? <input type="checkbox"/> YES <input type="checkbox"/> NO				
NATURE OF INJURIES:				

C. INVOLVED PARTIES

SUSPECTS

1. NAME: Last First Middle AKA	D O B MO DA YR	APPROX. AGE:	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE *
ADDRESS: Street City Zip Code	HGT	WGT	EYES	HAIR
SOCIAL SECURITY NUMBER: DRIVER'S LICENSE NUMBER:				
RELATIONSHIP TO VICTIM: <input type="checkbox"/> (1) PARENT/STEPPARENT <input type="checkbox"/> (2) SIBLING <input type="checkbox"/> (3) OTHER RELATIVE <input type="checkbox"/> (4) FRIEND/ACQUAINTANCE <input type="checkbox"/> (5) STRANGER				
Suspect given written notice per PC 11169(b) <input type="checkbox"/> Yes <input type="checkbox"/> No    Date notice given: MO DA YR    If notice not given, explain in comments field A.12.				
2. NAME: Last First Middle AKA				
D O B MO DA YR				
APPROX. AGE:				
<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE				
RACE *				
ADDRESS: Street City Zip Code				
HGT				
WGT				
EYES				
HAIR				
SOCIAL SECURITY NUMBER: DRIVER'S LICENSE NUMBER:				
RELATIONSHIP TO VICTIM: <input type="checkbox"/> (1) PARENT/STEPPARENT <input type="checkbox"/> (2) SIBLING <input type="checkbox"/> (3) OTHER RELATIVE <input type="checkbox"/> (4) FRIEND/ACQUAINTANCE <input type="checkbox"/> (5) STRANGER				
Suspect given written notice per PC 11169(b) <input type="checkbox"/> Yes <input type="checkbox"/> No    Date notice given: MO DA YR    If notice not given, explain in comments field A.12.				

OTHER

1. NAME: Last First Middle	<input type="checkbox"/> (1) PARENT/STEPPARENT <input type="checkbox"/> (2) SIBLING	D O B MO DA YR	APPROX. AGE:	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE *
2. NAME: Last First Middle	<input type="checkbox"/> (1) PARENT/STEPPARENT <input type="checkbox"/> (2) SIBLING	D O B MO DA YR	APPROX. AGE:	<input type="checkbox"/> MALE <input type="checkbox"/> FEMALE	RACE *

\*RACE CODES: W-White, B-Black, H-Hispanic, I-American Indian, F-Filipino, P-Pacific Islander, C-Chinese, J-Japanese, A-Other Asian, Z-Asian Indian, D-Cambodian, G-Guamanian, U-Hawaiian, K-Korean, L-Laotian, S-Samoan, V-Vietnamese, O-Other, X-Unknown     CHECK HERE IF ADDITIONAL SHEET(S) IS ATTACHED.

## **8. Safely Surrendered Newborns**

The Safe Haven for Newborns law established with the passage of Senate Bill 1368 on September 28, 2000 has the overarching goal of saving the lives of newborn children at risk of being discarded by their parent. The intent of the law is to provide the option to the parent of safely, and by implication anonymously, surrendering the newborn to any employee on duty at a public or private hospital emergency room or any additional location designated through a resolution by the Board of Supervisors. The principal inducement to the parent is the decriminalization of the act of abandonment if performed in the prescribed manner. The legislation directly impacted sections of the Penal Code (PC), Health and Safety Code (H&S) and Welfare and Institutions Code (WIC).

## **Penal Code**

The legislation added Section 271.5 to the Penal Code stating that the following would **not** constitute a violation of any of the criminal statutes referencing child abandonment or failure to provide support for a child:

- A parent or other person having lawful custody of a child 72 hours old or younger;
- Voluntarily surrenders physical custody of the child;
- To any employee on duty at a public or private hospital emergency room or any additional location designated by the county board of supervisors by resolution.

Currently, Los Angeles County has approved 157 County Fire Stations as Safe Surrender locations. A number of municipal fire departments have also been sanctioned as Safe Surrender locations, including the City of Los Angeles Fire Department. A Safe Haven logo has been adopted for use at all approved Safe Surrender sites.

## **Health and Safety Code**

The legislation added Section 1255.7 to the Health and Safety Code. This section does the following:

1255.7(a)(1) H&S: The section is cross-referenced to 271.5 PC which states that each hospital or other designated entity identified to take custody of safely surrendered infants is responsible for designating the classes of employees required to take custody of these children. It further requires the employee receiving the infant to place a coded, confidential ankle bracelet on the child and make a good faith effort to provide the parent or other person surrendering the child a copy of the confidential ankle bracelet identification in order to facilitate reclaiming the child (should the surrendering party seek to reclaim custody of the surrendered infant at a later date).

1255.7(a)(2) H&S: The person designated to receive the infant shall make a good faith effort to provide the surrendering party a medical information questionnaire. The questionnaire may be declined, accepted and filled out at the time of surrender or accepted with an envelope and mailed in later. The questionnaire shall not require any identifying information about the child or the parent or the surrendering party; identification is established only through the confidential code on the ankle bracelet. The purpose of the questionnaire is to establish a family medical history. A notice is required to be included in the questionnaire stating the importance of family medical history in providing treatment for some illnesses. The notice also states that "sometimes relatives are needed for life-saving treatments".

1255.7(b) H&S: The person accepting physical custody of the child is mandated to provide a medical screening examination and any necessary medical care to the child; consent of the parent or other relative is not required.

1255.7(c) H&S: The person accepting physical custody of the child is required to notify child protective services that a child has been safely surrendered to them under this section as soon as possible, but in no event later than 48 hours after taking custody of the child.

1255.7(d) H&S: The child protective services agency is directed to assume temporary custody of the child pursuant to Section 300(c) of the Welfare and Institutions Code. The child protective agency is then directed to immediately investigate the circumstances of the case pursuant to 311 WIC and immediately notify the State Department of Social Services of each surrendered child upon taking temporary custody.

- Section 311 WIC requires that prior to a minor child being retained in custody, a petition pursuant to 332 WIC be filed with the clerk of the juvenile court setting a detention hearing for the child. *Due diligence must be employed to locate the parent or guardian of the child for purposes of providing notice of the time and place of the detention hearing.*
- Section 332WIC mandates the contents of a petition to commence dependency proceedings in juvenile court.

1255.7(e) H&S: If the person who voluntarily surrendered the infant to the hospital staff returns while the child is still in the physical custody of the hospital and prior to the filing of a 300WIC petition, the hospital staff are mandated to either return the child to the surrendering person or contact a child protective agency "if a health practitioner knows or reasonably suspects that the child has been the victim of child abuse or neglect." The voluntary surrendering of the infant is not alone a sufficient basis for reporting child abuse or neglect.

1255.7(f) H&S: If a petition is filed under (d) of this section and the surrendering party seeks to reclaim the infant within 14 days of the voluntary surrender of the child, the child welfare agency is mandated to:

- Verify the identity of the person seeking to reclaim the child;
- Conduct an assessment of the person's circumstances and ability to parent;
- The assessment must enable the child welfare agency to conclude that continued detention is not necessary for the protection of the child {319(a)-(d)WIC};
- If none of the conditions requiring continued detention exist, then the child welfare agency is mandated to request that the juvenile court dismiss the petition for dependency and order the release of the child to the surrendering party.

1255.7(g) H&S: The person or entity taking physical custody of the child voluntarily surrendered pursuant to this section is protected from civil, criminal or administrative liability for accepting and caring for the child in the good faith belief that they were acting under the auspices of this section. This immunity applies in instances where aspects of the section were not complied with including, but not limited to, instances where the child is older than 72 hours or when the person surrendering the child did not have lawful physical custody of the infant. Immunity is not extended to liability resulting from personal injury or wrongful death, including, but not limited to, injury resulting from medical malpractice.

## **Welfare and Institutions Code**

Several sections of the Welfare and Institutions Code have been amended as a result of this legislation.

300(g) WIC: Section 300WIC generally establishes circumstances under which a child comes under the jurisdiction of the juvenile court for purposes of determining whether or not the child is a dependent child of the court. Jurisdiction is now established under the amendment to (g) when physical custody of a child has been voluntarily surrendered under Section 1255.7H&S and the child has not been reclaimed within 14 days.

309(a)(5) WIC: In a case in which a child has been taken into temporary custody, a social worker is directed to immediately investigate the circumstances surrounding the child's being taken into custody. The section directs that attempts to maintain the child with the child's family through the provision of services are preferred. In fact, the social worker is directed to immediately release the child to the custody of the child's parent, guardian or responsible relative unless certain conditions specified within the section exist. The amendment adds (a)(5) to the list of conditions creating the presumption of continued detention in situations where physical custody of the child was voluntarily surrendered pursuant to 1255.7H&S and not reclaimed during the 14-day waiting period.

361.5(b)(g) WIC: The section generally concerns mandated reunification services that the juvenile court orders for the families of children declared dependents of the court. Under (b), reunification services need not be provided if the court finds by clear and convincing evidence the one of the enumerated circumstances exist. The legislation amended (b)(9) to include voluntarily surrendered infants pursuant to 1255.7H&S.

14005.24WIC: The section establishes a process to ensure that each child voluntarily surrendered under the statute shall be determined eligible for benefits.

SEC. 6.5: The State Department of Social Services is mandated to report to the legislature on a yearly basis beginning on or before January 1, 2003 on the effect of the Safe Haven legislation. Information requested by the legislature includes the number of parents or legal guardians voluntarily surrendering children under the terms of this act whom are eventually located and contacted by social workers (g).

### **LA COUNTYSAFE SURRENDER HOTLINE:**

**(877) 725-5111 for assistance when surrendering a baby**  
**(877) 222-9723 or (877) BABYSAFE for general information and training on the law**

## **9. Special Needs Children – Assistance and Advocacy Agencies**

**Blind Children's Center**  
4120 Marathon  
Los Angeles, CA  
Phone: (323) 664-2153  
[www.blindchildrenscenter.org](http://www.blindchildrenscenter.org)

**Braille Institute**  
3450 Cahuenga Blvd.  
Phone: (323) 851-6122  
Fax: (323) 851-6961  
[www.brailleinstitute.org](http://www.brailleinstitute.org)

**Center for the Partially Sighted**  
12301 Wilshire Blvd., Ste. 600  
Los Angeles, CA 90025  
Phone: (310) 458-3501  
Fax: (310) 458-8179

*South Bay Satellite*  
3537 Torrance Blvd., Ste. 18  
Torrance, CA 90503  
[info@low-vision.org](mailto:info@low-vision.org)

**Developmental Disabilities Board Area 10**  
Los Angeles County  
411 North Central Ave., Ste. 620  
Glendale, CA 91203-2020  
Phone: (818) 543-4631  
[www.boardarea10.org](http://www.boardarea10.org)

**Foundation for the Junior Blind**  
5300 Angeles Vista Blvd.  
Los Angeles, CA 90043  
Phone: (323) 295-4555  
Fax: (323) 296-0424  
[www.juniorblind.org](http://www.juniorblind.org)

**Institute for Families**  
Childrens Hospital Los Angeles  
(323) 361-4649  
[www.instituteforfamilies.org](http://www.instituteforfamilies.org)

**John Tracy Clinic**  
806 W. Adams Blvd.  
Los Angeles, CA  
Phone: (213) 748-5481  
[www.johntracyclinic.org](http://www.johntracyclinic.org)

**Mental Health Advocacy Services, Inc.**  
650 South Spring Street, Ste. 807  
Los Angeles, CA 90014  
Phone: (213) 623-1419  
[www.mhas-la.org/](http://www.mhas-la.org/)

**Office of Human Rights & Advocacy Services** (State of California  
Department of Developmental Services)  
1600 Ninth Street, Room 204  
Sacramento, CA 95814  
(916) 654-1888  
[www.dds.ca.gov/ConsumerCorner/Home.cfm](http://www.dds.ca.gov/ConsumerCorner/Home.cfm)

**Protection and Advcoacy, Inc.**  
3580 Wilshire Blvd., Suite 902  
Los Angeles, CA 90010  
Phone: (213) 427-8747  
[www.disabilityrights.org](http://www.disabilityrights.org)

**Project Heal**  
USC-Affiliated Program  
Childrens Hospital Los Agneles  
P.O. Box 54700, MS#115  
Los Angeles, CA 90027  
Phone: (323) 669-2350 ext. 3813  
[www.uscucedd@chla.usc.edu](mailto:www.uscucedd@chla.usc.edu)



**10. Community Care Licensing District Offices**

## **Local Community Care Licensing Offices**

Los Angeles Northwest Child Care  
6167 Bristol Parkway Suite 400  
Culver City, CA 90230  
(310) 377-4333 phone  
(310) 377-4360 fax

Los Angeles Child Care East  
1000 Corporate Center Dr. Suite 200A  
Monterey Park, CA 91754  
(323) 981-3350 Phone  
(323) 981-3355 fax

Los Angeles and Tri-Coastal Counties Children's Residential Program Regional  
Office 1000 Corporate Center Dr. Suite 200A  
Monterey Park, CA 91754  
(323) 981-3300 phone  
(323) 981-3425 fax

Los Angeles Metro and Valley Children's Residential Program Regional Office  
6167 Bristol Parkway Suite 400  
Culver City, CA 90230  
(310) 568-1807 phone  
(310) 417-3680 fax

**11. Regional Centers Serving Los Angeles County**

**Eastern Los Angeles Regional Center**

1000 S. Fremont Avenue  
P.O. Box 7916  
Alhambra, CA 91802-7916  
Phone: (626) 299-4700  
Fax: (626) 281-1 163  
Executive Director: Gloria Wong  
Areas Served: East Los Angeles,  
Northeast Los Angeles, Whittier District  
and Alhambra Health Districts

**Harbor Regional Center**

21231 Hawthorne Blvd.  
Torrance, CA 90503  
Phone: (310) 540-1711  
Fax: (310) 540-9538  
Executive Director: Patricia Del Monico  
Areas Served: Bellflower, Harbor, Long  
Beach, and Torrance Health Districts

**Lanterman Regional Center**

3303 Wilshire Blvd., Ste 700  
Los Angeles, CA 90010  
Phone: (213) 383-1300  
Fax: (213) 383-6526  
Executive Director: Diane Anand  
Area Served: Pasadena, Hollywood,  
Wilshire, Central Los Angeles,  
Glendale/Foothill Health Districts

**North Los Angeles County Regional Center**

15400 Sherman Way, Ste. 170  
Van Nuys, CA 91406  
Phone: (818) 778-1900  
Fax: (818) 756-6140  
Executive Director: George Stevens  
Areas Served: San Fernando, Antelope  
Valley, Santa Clarita, Conejo Health  
Districts

**San Gabriel/Pomona Regional Center**

761 Corporate Center Drive  
Pomona, CA 91768  
Phone: (909) 620-7722  
Fax: (909) 622-5123  
Executive Director: Keith Penman  
Area Served: Foothill, El Monte and  
Pomona Health Districts

**South Central Los Angeles Regional Center**

650 West Adams Blvd., #200  
Los Angeles, CA 90007  
Phone: (213) 734-1884  
Fax: (213) 730-2286  
Executive Director: Dexter A. Henderson  
Area Served: Compton, San Antonio,  
South Los Angeles, Southeast Los  
Angeles, and Southwest Los Angeles  
Health Districts

**Westside Regional Center**

5901 Green Valley Circle, #320  
Culver City, CA 90230  
Phone: (310) 258-4000  
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Executive Director: Michael Danneker  
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Monica West Health Districts

12. **Los Angeles County American Indian Child Abuse  
Protocol**

The purpose of this section is to increase awareness concerning the issues that affect American Indian children in Los Angeles County. This section will assist professionals working with American Indian families to recognize the special government-to-government relationship among members of tribes and the federal government. It is important that County workers are knowledgeable, understand, and implement the Indian Child Welfare Act (ICWA) when working with American Indian children and their families. The Indian Child Welfare Act of 1978 was designed to help ensure that Indian children were placed in Indian homes where they could learn more about their cultural heritage and community. The following are some frequently asked questions concerning ICWA.

### **What is the Indian Child Welfare Act?**

The Indian Child Welfare Act (ICWA) is a federal law, which regulates placement proceedings involving Indian children. If a child is a member of a tribe or eligible for membership in a tribe, that family has the right to protection under the ICWA. These rights apply to any child protective cases, adoption, guardianships, termination of parental rights action, foster care proceedings, runaway/truancy matter, or voluntary placement of children.

### **When was this law passed?**

The ICWA was created in 1978 by the federal government in order to reestablish tribal authority over the welfare and placement of American Indian children. The goal of the act when it was passed in 1978 was to strengthen and preserve American Indian families and culture.

### **Why was this law passed?**

Before the ICWA was passed, a very high percentage of Indian families were broken up because non-tribal agencies removed children from their homes. One reason for the high removal rate was because state officials did not understand or accept Indian culture. Today, the ICWA sets minimum standards for the removal of Indian children from their homes.

### **Who does it apply to?**

The law applies to American Indian children who are unmarried and under age eighteen. The child must be either a member of a federally recognized Indian tribe or must be eligible for membership in a federally recognized Indian tribe. ICWA does not apply to non-federally recognized tribes, and they are not entitled to notice of proceedings. However, under state Indian child law, the court *may* permit the child's non-federally recognized tribe to participate in the child custody proceeding upon request of the tribe. This is limited to one tribe that the child has the most significant contact with.

### **What does the law do?**

The ICWA specifies that placement cases involving reservation based Indian children be heard in tribal courts, allows for transfer of other placement cases

involving Indian children from state to tribal court if the parents agree, and permits a child's tribe to be involved in proceedings that remain in state court. It requires testimony from expert witnesses who are familiar with Indian culture before a child can be removed from his/her home and establishes a high burden of proof for findings that result in termination of parental rights. If a child is removed, either for foster care or adoption, the law establishes a preference that Indian children be placed with extended family members, other tribal members, or other Indian families. These requirements are for federally recognized cases only.

Although ICWA does not apply to non-federally recognized tribes, California law does permit the court discretion to allow them to be present at the hearing, address the court, request and receive notice of hearings, request to examine court documents relating to the proceeding, present relevant information to the court, submit written reports and recommendations, and perform other duties and responsibilities as requested and approved by the court.

#### **What if the child is not living on the reservation does the ICWA still apply?**

Yes. The ICWA has a notice requirement. This means that if a state takes a child into custody, it must give notice to the child's tribe, whenever the child may be in the U.S. The tribe may choose to intervene in the state court proceeding or seek a transfer of the case from state to tribal court. If the case remains in state court, ICWA's procedural requirements and preferences will apply.

#### **Who decides who is a member of a tribe?**

The law does not require a specific blood quantum as the criteria for membership; it leaves it up to each American Indian tribe to make such determinations on their own.

A variety of issues and problems are identified with delivering ICWA services in Los Angeles. Indian children are not always identified as Indian by child welfare workers and courts. This has led to recent court cases on the subject, and the development of relatively unfavorable "existing Indian family" doctrine by California courts. The courts hold that ICWA applies only if there is an Indian family enrolled in a tribe; those who are not enrolled, even though eligible and having enrolled relatives are not subject to ICWA provisions that direct that such children should be placed with Indian relatives, or tribal relations, or in an Indian home. Emerging out of California case law, the existing family doctrine dictates that the ICWA be triggered only when the children come from an existing Indian family, meaning that the family must be found to have significant social, cultural, or political relationship with the tribe. This is to be decided by the state court. The use of this type of standard clearly undermines the purpose of the Indian Child Welfare Act and is a serious threat to urban American Indian children. To clarify the situation, in 1999 the California State Legislature passed Assembly Bill 65, which stated that when the tribe determines that the person is over 18 and eligible for membership this shall constitute significant political affiliation with the tribe. This returns the power of determining who is Indian to the tribes.

Many social workers, lawyers, and judges have little experience or understanding of ICWA or of federal and tribal government relations based on treaties, legislation, and legal precedent. Consequently, judges, social workers, and lawyers sometimes see ICWA as a violation of individual rights, as discriminatory, and possibly as a violation of constitutional law.

In 1995, over 3 million children were reported victims of child abuse and neglect nationwide. Tribes reported over 8,000 cases of child abuse, 19,000 cases of child neglect, and 4,000 cases of sexual abuse. The data on urban American Indian children in Los Angeles County are difficult to obtain. However, the American Indian Unit reports that:

- 8 Indian children and families are in the system
- 134 Indian children are placed in the homes of Indian relatives (32%)
- 79 Indian children placed in the homes of non-Indian relatives (19%)
- 24 Indian children are in Indian foster homes (6%)
- 123 are in non-Indian foster homes or group homes (29%)
- 58 Indian children are with their parents (14%)

When a charge is made about abuse or neglect of a child, the Department of Children and Family Services sends social workers to investigate. If the family self-declares that they are American Indian, the case is forwarded to the American Indian Unit, a division of the Department. If allegations are proven true they provide services, through contract agencies, to ameliorate the situation. If the child is imminent danger he/she is placed in a foster home, and services are provided through contract agencies in an attempt to reunify the family. If a case goes to court, it is primarily transferred to one judge with an understanding of ICWA. The family must self-declare American Indian heritage to be considered as an ICWA case. The tribe is notified and may choose to intervene at this time. American Indian cases are generally treated the same as other cases in the county court system, except 1) the tribe is notified and 2) the burden of proof is different. To take an American Indian child away from the biological parents, abuse must be proved beyond a reasonable doubt, whereas in general cases the burden of proof is a preponderance of the evidence. If the parents do not receive services or if the situation does not improve, the cases move to the Adoptions Department, and the children are placed in an adoptive home. The following problems have been identified by advocates for the American Indian community:

- County agencies are culturally insensitive to the needs of American Indian families. There needs to be ongoing training particularly since there is a high turnover.
- There is misidentification or lack of identification of American Indian children. It is critical that American Indian children be identified as early as possible. Any professional who may come into contact with the family should ask if either parent is American Indian. One should not assume their ethnicity nor assume that the previous worker took responsibility because the family and/or child has been identified as a particular ethnic group. Not every worker who



comes into contact with the child and family may know about ICWA and as a result, may not understand the importance of identifying Indian children.

- The County is unaware of the legal nature of the relationship with Indian children. The special legal status is ignored. American Indians are members of sovereign nations and have a unique
- There is a lack of Indian foster homes.

The County system must implement ICWA to protect and preserve American Indian families. The County system must also continue to provide ongoing cultural competency trainings and utilize Los Angeles County's existing American Indian service delivery system to meet the needs of American Indian children and families.

**13. Dual Supervision Cases MOU**



JUVENILE DIVISION

## The Superior Court

201 CENTRE PLAZA DRIVE, SUITE 3  
MONTEREY PARK, CALIFORNIA 91754-2158

TELEPHONE  
(213) 526-6377

July 9, 1999

CHAMBERS OF  
MICHAEL NASH  
PRESIDING JUDGE

**TO:** All Participants in the Los Angeles County Juvenile Justice System

**FROM:** Presiding Judge Michael Nash  
Juvenile Court

**SUBJECT: MEMORANDUM OF UNDERSTANDING ON DUAL  
SUPERVISION CASES**

Attached hereto is a Memorandum of Understanding (MOU) between the Department of Children and Family Services (DCFS) and the Probation Department (Probation) which outlines each Department's responsibilities for the supervision of dependent children who are placed on informal supervision by the Delinquency Court pursuant to Welfare and Institutions Code sections 654 or 725 (a) after the Court has received a joint assessment pursuant to the protocol we developed pursuant to Welfare and Institutions Code section 241.1.

This MOU is effective prospectively as of July 1, 1999. All children who are placed on the dual supervision status on July 1 and after should receive the benefits of this MOU. Included among the outlined responsibilities are reporting obligations to both the Delinquency and Dependency Courts.

This MOU is the latest of our continuing efforts to create communication, cooperation, and coordination between the Delinquency and Dependency systems. It is significant because it creates a defined mechanism for social workers and probation officers to work together to provide services to dependent children who are at the highest risk of becoming wards of the Court in the Delinquency system. Further, by defining the responsibilities of the two systems in this process, it establishes a standard by which each system can be held accountable for failing to meet their responsibilities toward these at-risk children.

MN:ns  
Attachment

**DUAL SUPERVISION CASES  
MEMORANDUM OF UNDERSTANDING BETWEEN  
LOS ANGELES COUNTY  
DEPARTMENT OF CHILDREN AND FAMILY SERVICES  
AND  
LOS ANGELES COUNTY PROBATION DEPARTMENT**

**PURPOSE:**

The Memorandum of Understanding (MOU) between the Department of Children and Family Services (DCFS) and the Probation Department outlines the responsibilities for the supervision of dependent children who are also on probation under Sections 654 or 725(a) of the Welfare and Institutions Code.

**GOALS:**

The goal in establishing this agreement is to provide consistent quality services which provide for the protection and safety of both the child and the community. Delineation of the departments' responsibility will ensure that needs are addressed in all areas.

**PROCEDURES FOR DUAL SUPERVISION CASES:**

When an active 300 WIC child is placed on probation, without Delinquency Court wardship, under either 654 WIC or 725 (a) WIC, the child receives dual supervision by the Department of Children and Family Services and the Probation Department. The Department of Children and Family Services remains the lead agency responsible for planning and treatment for such children. The Probation Department enforces conditions of probation related to any delinquent behavior and prepares all reports required by the Delinquency Court.

Treatment and guidance is to be consistent with the best interest of each child while considering accountability for behavior and protection of the community. The following procedures shall be followed to assure proper notification and coordination of efforts to meet the needs of dual supervision children.

- If the child who is the subject of a delinquency filing is not a current Dependent Child of the Court and the DPO feels that the child comes within 300 WIC, an order for a 241.1 WIC joint assessment shall be sought. If the joint recommendation is for dual supervision under 725 (a) WIC or 654.2 WIC the Department of Children And Family Services will file a 300 WIC petition or initiate a Voluntary Family Maintenance Contract or Voluntary Family Reunification Contract.

- ❑ When a dependent child is placed on non-court informal probation supervision as the result of a Section 652 WIC referral, the investigating DPO shall send a copy of the arrest report and 654 WIC contract to the CSW. The CSW shall be notified within five court days when the case is assigned to a supervision DPO.
- ❑ When a Delinquency Court petition results in an order for dual supervision under 654.2 WIC or 725(a) WIC, the investigating DPO shall transmit a copy of the minute order by facsimile to the CSW upon receipt of the order from court. The case shall be transferred to a supervision DPO within five court days of the court order. The supervision DPO will consult with the assigned CSW within five court days of receiving the case to plan and coordinate services for dual supervision.
- ❑ The DPO shall inform the CSW within two court days of learning of any new referrals for law violations. Information regarding the handling of such referrals is shared as it becomes available - i.e. the filing of a petition, rejection by the District Attorney, court dates, etc. The DPO is responsible for reporting violations to Delinquency Court.
- ❑ DPO and CSW will consult with each other when preparing a court report. and/or case plan. The DPO will write the six month report and any other reports required for the Delinquency Court and include information provided by the CSW. The CSW will write any reports required by the Dependency Court and include information provided by the DPO. The CSW will provide a case summary memo to the DPO for a child placed on non-court informal supervision under 654 WIC.
- ❑ In the event of disagreement between the DPO and CSW regarding appropriate handling of violations, the respective supervisors will mediate a settlement.
- ❑ If the DPO is unable to contact the CSW, the DPO shall contact the Dependency Court Liaison Office at (323) 526-6705. If the CSW is unable to contact the DPO, the CSW shall contact Probation Juvenile Headquarters at (562) 940-3522.

## **DEPARTMENTAL RESPONSIBILITIES FOR CASES UNDER JOINT SUPERVISION**

The CSW on dual supervision cases remains responsible for all child safety issues and the comprehensive services normally provided by DCFS, including:

- medical care
- mental health services
- dental care
- visitation between the child and family
- educational services
- emancipation planning
- placement services
- investigation of child abuse allegations

The DPO assumes responsibility for monitoring:

- community service
- substance abuse counseling or treatment
- collection of restitution
- other conditions of probation ordered by Delinquency Court not included in duties encompassed by the CSW

Joint efforts of the CSW and DPO should focus on preventing further delinquent acts or behavior that might cause a minor to move from the Dependency to the Delinquency system. The DPO and CSW are encouraged to work together to see that needed services are provided for children regardless of who has the responsibility as delineated in this memorandum.

Whenever possible, the DPO and CSW are encouraged to make joint home calls. There shall be monthly contact between the DPO and the CSW regarding the child's progress and achievement of case plan goals. The CSW and DPO share responsibility for crisis intervention for acute behavior problems.

In the event that a subsequent delinquency petition is filed on a dual supervision case, a joint assessment pursuant to 241.1 WIC shall be prepared to determine the most appropriate recommendation.



JUVENILE DIVISION

## The Superior Court

201 CENTRE PLAZA DRIVE, SUITE 3  
MONTEREY PARK, CALIFORNIA 91754-2158

CHAMBERS OF  
MICHAEL NASH  
PRESIDING JUDGE

October 8, 1997

TELEPHONE  
(213) 526-6377

**TO:** All Participants in the Los Angeles County Juvenile Justice System

**FROM:** Presiding Judge Michael Nash  
Juvenile Court

**SUBJECT: WIC 241.1 PROTOCOL**

**Note: This memo supersedes all previous memos on the WIC 241.1 Protocol**

### **BACKGROUND**

Welfare and Institutions Code section 241-1 (a) provides that whenever a minor appears to come within the description of both section 300 and 601 or 602, the county welfare and probation departments shall determine which status will best serve the best interests of the minor and the protection of society pursuant to a jointly developed written protocol. Section (b) mandates and describes the protocol to be developed. In November, 1994, the heads of the Departments of Probation, Mental Health, and Children and Family Services agreed on a protocol that was developed pursuant to section 241.1.

It is universally recognized that since the creation of the protocol, implementation has been ineffective in several respects. First, participants in the system are unaware or unsure when it applies. Second, participants are often unaware of the information which should trigger the protocol even when they are generally aware of the existence of the protocol. Third, the joint assessments required by the protocol are not prepared in a timely fashion when they are ordered. Fourth, the assessments do not comply with the standards established by the protocol. It is also agreed by all that training on the protocol has been essentially non-existent.

The Juvenile Services Committee of the 1995-1996 Grand Jury commented on the protocol in its Final Report. Their criticisms are generally consistent with those made by the participants in the juvenile justice system. Since June of this year, a group consisting of representative from the Juvenile Court, Probation Department, Department of Children and Family Services, Department of Mental Health, Dependency Court Legal Services, and the

Public Defender have had a series of meetings to discuss the 241.1 protocol. The goal of all is to promote better communication,

cooperation, and coordination of the agencies which are involved with minors through the juvenile justice system. Unfortunately, there are many minors who crossover from one system to

the other and it is increasingly important that the systems do a better job of communicating with each other so that we can achieve the best possible result for the minors and society.

The protocol is designed to help achieve that result.

### **DEFINING WHEN WIC 241.1 APPLIES**

There are four main situations where the 241.1 protocol applies. The first and most typical situation is where a minor who is a dependent of the court pursuant to WIC 300 allegedly commits a crime or exhibits behavior resulting in a petition being filed in the Delinquency Court pursuant to WIC 601 or 602. In those instances, WIC 241.1 requires a joint assessment by Probation and DCFS. The assessment is to be filed and heard in the Delinquency Court and Probation would be the lead agency in the preparation of the joint assessment.

The second situation is where a minor who is on probation pursuant to WIC 602 or has been declared on WIC 601 status and who is on a home on probation order is the victim of child abuse and/or neglect. In those cases where an emergency response is made by a social worker, the minor, where warranted, would be taken into custody by the social worker and a case filed pursuant to WIC 300. A joint assessment would then be necessary. The case would be heard in the Dependency Court and DCFS would be the lead agency in the preparation of the assessment.

The third situation is where a minor is under the jurisdiction of the Delinquency Court and Probation wishes to seek an early termination of jurisdiction and return the minor home but is unable to do so because the home is inappropriate due to the potential for abuse and/or neglect or there is in fact no home to return to. In this case, Probation would be the lead agency in preparation of the protocol. The case would continue to be heard in the Delinquency Court until it is determined that the minor is better suited for the jurisdiction of the Dependency Court. When that determination is made, an orderly transition to DCFS and the Dependency Court would be made pursuant to the protocol developed between Probation and DCFS on May 22, 1996. A copy of that protocol is attached hereto.

The fourth situation where the protocol applies is when a petition is filed in the Delinquency Court on a minor who is not under the jurisdiction of the Dependency Court but the detention report suggests that child abuse and/or neglect may have some significance in what occurred. A very simple hypothetical is a case where a minor is charged with battery on a parent whom the minor claims perpetrated abuse against the



minor. A joint assessment would then be ordered with Probation being the lead agency and the determination of the appropriate status for the minor would be made in the Delinquency Court.

### **INFORMATION TRIGGERING PROTOCOL**

In order to properly implement the protocol, it is important that all the participants in the juvenile justice system be aware of its applicability to particular minors. DCFS social workers must be aware of a minor's WIC 600 status when a minor is detained by them. They must also become aware when a dependent becomes the subject of proceedings in the Delinquency Court. Attorneys in the Dependency Court must know of contacts their clients have with Probation at the earliest possible time so that they can contact their clients as well as have input to the joint assessment. Probation officers and attorneys in the Delinquency system need to know of a minor's WIC 300 status by the time a minor appears in the Delinquency Court for the first time. Judicial officers in both systems must know of the minor's status with both systems at the time of the minor's first appearance in court.

The ability to keep participants properly informed of the status of a particular minor currently exists within our system. Both DCFS and Probation have access to the Juvenile Automated Index (JAI) which means they have access to information about the WIC 300 or 600 status of any minor who comes into contact with their respective departments. Every minor who is detained or filed upon by DCFS can be run on JAI before that minor's initial appearance in the Dependency Court. With that information in the Detention Report or the Application for Petition, the Court can order that the protocol be implemented at the first hearing. The key is the utilization of JAI by the social worker before the case comes to court. Further, there is no reason that the social worker cannot or should not contact Probation to initiate the joint assessment as soon as the social worker learns of the minor's WIC 600 status.

The same process applies when a minor is detained and/or filed upon by the Probation Department. Probation can also access JAI on every minor it refers for filing in the Delinquency Court. If the minor is under the jurisdiction of the Dependency Court, the probation officer should contact DCFS so that the preparation of the joint assessment can begin before the case gets to court. When the case comes to the Delinquency Court for the first time, the report from Probation should reflect the minor's active WIC 300 status. In addition, the Delinquency Court calendar contains a notation for every minor who has a connection to the Dependency Court. The Delinquency Court calendar is being refined so that it will reflect whether the jurisdiction of the Dependency Court is active or inactive. This is another means to alert the judicial officer, the court officer, and the attorneys about the need to implement the 241.1 protocol if implementation has not already begun.

Another means of communication which can potentially alert participants of the need to implement the protocol is the Dependency/Delinquency Early Alert Report, also known as the DEAR Report. The DEAR Report was introduced to the Dependency Court in 1993. It is a computer generated report which notifies the Dependency Court on a weekly basis of contacts between minors and Probation. The original memo announcing the DEAR Report

with an explanation of the codes in the report is attached. Dependency Court procedures have been modified so that a Copy of the DEAR Report which is generated every Tuesday is sent directly to the attorney for every minor for whom a report has been generated. This should give the minor's dependency attorney an opportunity to quickly contact his/her client to determine what is happening with respect to potential Delinquency proceedings or at least will serve as an alert that particular services may be necessary even though there may not be a Delinquency Court petition filed. The DEAR Report is also provided to the Dependency Court judicial officer, DCFS and Probation.

Currently there are other means of communicating this vital information under consideration. They will be communicated to all participants in our system as they are developed. The main point to be made here is that there are several ways in existence to alert everyone in our system about the system cross-over status of any minor. There is no reason for any minor to fall through the proverbial cracks between the systems.

### **TIME LINES FOR FILING JOINT ASSESSMENT**

In order for the WIC 241.1 protocol to be most effective in court, it needs to be filed in a timely manner. The following time lines have been agreed upon. In the first situation, where a petition is filed in the Delinquency Court on a minor who is a dependent of the court, the joint assessment should be completed and filed in the Delinquency Court on or before the time of the appearance on the pre-plea report. As previously noted, Probation is the lead agency for the preparation of the report. In cases where the minor is detained, the appearance on the pre-plea report is generally eight to twelve days after the detention hearing. It is of course imperative that the agencies communicate with each other quickly in these cases because the time line is short. This issue will be discussed later in this memo. In those cases where the minor is not detained, there should be no problem completing the assessment by the time of the pre-plea appearance or sooner. The most important part of this procedure is ensuring that the assessment is completed before the adjudication without interfering with any statutory speedy trial rights.

In the second situation, where a minor under the jurisdiction of the Delinquency Court becomes the subject of a petition in the Dependency Court, the joint assessment should be filed in the Dependency Court at the time of the Pre Resolution Conference (PRC), the Mediation Conference, or the adjudication, if a no time waiver trial is set. DCFS is the lead agency in this situation, and given the relatively small number of cases in this category, time should not be a problem in completing this report.

In the third situation, where Probation seeks an early termination of jurisdiction of a ward, there is no specific time line. Probation is the lead agency for the preparation of this report which is to be filed in the Delinquency Court. The matter will be placed on calendar in the Delinquency Court only after the agencies have completed the assessment.

In the fourth situation, where there is information suggesting that a minor who is the subject of a petition in the Delinquency Court may have been the victim of child abuse and/or neglect in relation to what occurred, the joint assessment should be filed at or before

the appearance on the pre-plea report. The time lines are the same for the first and fourth situations.

## **DCFS/PROBATION COMMUNICATION**

In order to prepare the assessment in a timely manner, it is important to have a mechanism in place which will guarantee timely contact between the social worker and the probation officer. One of the biggest problems with implementation of the protocol has been the lack of communication between the social worker and the probation officer. It must be emphasized that the responsibility to prepare the assessment is a joint one. The juvenile courts will not accept communication problems as an excuse for the failure to complete and file a joint assessment in a timely manner. Any sanctions that may result from the failure to complete and file an assessment in a timely manner will be imposed on both agencies. The need for both agencies to cooperate with each other in this joint enterprise cannot be over emphasized. Therefore, each agency must have a central number that the other can contact to initiate the process.

When Probation is the lead agency for the preparation of the assessment, the probation officer only needs to call a central number at DCFS to alert DCFS of the need to prepare the assessment. At that point, the DCFS designee will immediately notify the appropriate social worker of the necessity to work on the assessment. The social worker must then contact the probation officer within 24 hours to begin the assessment. If the social worker does not hear from the social worker within 24 hours, the probation officer should call the central number at DCFS for assistance. The probation officer should not have to attempt to track down the social worker in any other way. **DCFS has designated Karel Kearl as the contact person when CSW can not be contacted. Her number is (213) 526-6704.**  
Sharon Koga (213) 526-6790

When DCFS is the lead agency for the preparation of the assessment, a similar procedure should apply. The social worker should be able to call a central number at Probation to alert Probation of the need to prepare the assessment. The person designated by Probation must immediately notify the appropriate probation officer of the need to begin work on the assessment. The probation officer must then contact the social worker within 24 hours to begin the assessment. If the social worker does not hear from the probation officer within 24 hours, the social worker should call the central number at Probation for assistance. **Probation has designated Beverly Rush as the contact person** when DPO can not be contacted; **(562) 940-2719.** Mary Bridges, !DC Probation, (213) 226-8566.

Once the probation officer and the social worker have made contact, they are required to arrange a meeting to work on the assessment. In those cases where the minor is in custody or time is of the essence for another reason, the meeting should occur within 48 hours of their initial communication. In those cases where time is not of the essence, the meeting can be arranged at a time which is mutually convenient. The meetings between the probation officer and the social worker will take place in the **Clerk's Office on the second floor of the Edmund D. Edelman Children's Court in Monterey Park.**

## **DEPARTMENT OF MENTAL HEALTH**

The WIC 241.1 protocol includes a role for the Department of Mental Health (DMH). The current protocol states, "The role of DMH will be to assist the representatives from the Department of Probation and DCFS in obtaining records of previous mental health services and /or assessments. DMH will identify services available for the child and agencies to provide the services. Also, DMH will assist the Department's representatives in obtaining a mental health assessment when needed." **DMH has designated Jo Ellen Perkins as the contact person for this process. Her number is (213) 738-3239.**

## **CONTENTS OF ASSESSMENT**

The most important part of the protocol is the assessment itself. The protocol currently in effect in our county is quite adequate. This memo will restate the relevant portions of the current protocol which relate to the contents of the assessment. A modified outline of the report is also attached hereto.

The joint assessment report shall state that the report was jointly developed by both departments and it shall include all of the information requested in the report outline. It shall summarize the assessment findings and state the reasons for the recommendations. Whenever possible, the social worker and the probation officer who collaborated on the report and their respective supervisors shall sign the report. If this is not possible due to time constraints, the report should indicate the names of the persons who collaborated on the report.

The joint assessment shall include interviews with the minor, the minor's parents/guardians, and appropriate collateral contacts including a representative from the minor's current placement. These collateral contacts shall be identified by name and telephone number in the report. The recommendation to the court shall take into account the nature of the referral, the minor's age, current juvenile court status and why, the minor's prior behavioral problems and/or delinquent activities, the number of prior referrals to DCFS and Probation, the number of admissions to mental health facilities, the parents' cooperation with the minor's school and DCFS and/or Probation, the minor's functioning at school, the nature of the minor's home environment, the records of other agencies which have been involved with the minor and the family, and any other relevant information. The assessment shall also include any outside services or financial assistance that the minor is receiving or might be eligible for, and whether the minor would be eligible for each of these services if the minor is declared a dependent or a ward, including but not limited to special education services, regional center services, supplemental security income, and AB3632 mental health services. The departments shall ask the court's assistance in obtaining services from an agency identified as having appropriate services for the child, but which has been uncooperative or unwilling to provide said services in the past.

DCFS and Probation shall notify the minor's dependency and delinquency attorneys and the

minor's Court Appointed Special Advocate (CASA) whenever a joint assessment has been requested pursuant to WIC 241.1 and those individuals should be allowed to provide information and make a statement on the minor's behalf which should be included in the report. Once completed, a copy of the report should be provided to the minor's dependency and delinquency attorneys, the District Attorney, the CASA, the social worker and probation officer who collaborated on the assessment , and the dependency and delinquency judicial officers.

### **CONFLICT RESOLUTION**

WIC 241.1 requires the protocol to contain provisions for resolution of disagreements between the departments regarding the need for dependency or ward status. The current protocol contains such provisions. They will be restated here. Whenever the social worker and probation officer conducting the joint assessment cannot agree on the recommendation to the court regarding the appropriate status for the subject minor, the social worker shall refer the case to the Juvenile Court Liaison Supervising Children's Social Worker, and the probation officer shall refer the case to the Juvenile Supervising Deputy Probation Officer at the Probation work location for resolution. If the supervisors cannot agree on the recommendation, they shall refer the case to their immediate supervisors ( the Juvenile Court Liaison Deputy Regional Administrator for DCFS and the Juvenile Field Services Bureau for Probation). The Juvenile Consultant with Juvenile Field Services Bureau shall be the final arbiter for a case that originated with DCFS. The Director of Juvenile Court Services shall make the final decision on a case that originated with Probation.

When there has been a conflict, the report to the court should include a statement of the issues involved in the conflict, the positions taken by the departments, and what steps were taken to resolve the issues. The report shall indicate if the decision was made jointly by DCFS and Probation, or by either department alone.

### **CONCLUSION**

This memorandum contains a complete statement of the discussions held regarding Los Angeles County's renewed efforts to provide a framework for implementation of the WIC 241.1 protocol. Hopefully, with the cooperation of all of the participants in our juvenile justice system, we will be able to effectively utilize this process which can benefit many young people who pass through our systems or we can determine whether we should be seeking another way to coordinate our systems in a more effective way.

MN:ns  
Attachments

14. **Directive for the Department of the Coroner**

**DEPARTMENT OF CORONER**

August 10, 1999

TO: ALL DIVISION CHIEFS  
FROM: LAKSHMANAN SATHYAVAGISWARAN, M.D. /  
CHIEF MEDICAL EXAMINER-CORONER  
SUBJECT: ATTACHED DIRECTIVE

The attached directive on handling of child abuse cases was developed with your valuable input and assistance.

Please discuss and share this information with your staff and let us make sure we follow them diligently.

Thank you.

LS/fvh

Attachment

c: A. Hernandez

## DEPARTMENT OF CORONER

### DIRECTIVE # 1 HANDLING CHILD ABUSE OR SUSPECTED CHILD ABUSE CASES

- Any case of known or suspected child abuse will be brought to the Forensic Science Center within 24 hours of being reported.
- Investigation of child abuse cases takes priority over other homicides.
- Where there is a reasonable suspicion of child abuse, there shall be no consideration of waiver of autopsy except by court order.
- Organ and tissue procurement will be disallowed (see Attachment I).
- If possible, a single investigator will be responsible for decedents under age 14.
  - The pediatric investigator will not receive other assignments until all pediatric cases are complete.
  - If the pediatric investigator is not on duty, the supervising investigator will assign another investigator to immediately handle child death cases.
  - Investigator paperwork should be completed within 24 hours of the decedent's arrival at the Forensic Science Center. The assigned investigator is responsible for the following:
    - Initiating a Child Death Report to Department of Children's Services (Attachment II).
    - Locating birth and medical records if immediately available and forwarding them to the doctor.
    - Forwarding a Labor and Supply Record to accounting for billing the State (Attachment III).
    - Providing follow-up information to families in deferred cases.
    - Provide follow-up investigation for DME as warranted.
- Child abuse cases are to be treated as special processing cases, so identified by a Special Processing Tag (Attachment IV) which will be attached to the body in a visible location.
  - The tag shall be stamped or printed with the Coroner's case number and the decedent's name.
  - Special processing shall be initiated by the first individual to handle a case (initiator), e.g., Coroner's investigator, criminalist or decedent transport personnel.



## DIRECTIVE # 1 HANDLING CHILD ABUSE OR SUSPECTED CHILD ABUSE CASES

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- The initiator shall mark his/her name and the date, time and location initiated as a Special Processing Case in the designated areas on the Special Processing Tag.
- The time initiated will be the time the initiator first recognizes the case as requiring evidence processing rather than the time evidence collection begins or the time the tag is placed on the body.
- Clothing, hair standards, fingernail evidence, and typing blood shall be collected when available from all special processing cases.
- The purpose of the tag is to provide a checklist of evidence collection, and to advise all personnel to avoid contamination of or contact with the body other than that required for processing.
  - Evidence evaluation should be made prior to washing the body.
  - All physical evidence collected is to be documented on the physical Evidence Log (Attachment V).
    - This log documents the chain of custody of the evidence from the time it is collected until disposition.
- Special processing cases shall not be placed on an autopsy table with another decedent at any time prior to completion of the autopsy.
- A Sexual Assault Kit will be collected from child abuse cases where indicated before washing or photography (Attachments VI & VII). The Special Processing tag shall remain on the body until the body is ready to be washed. Once removed, it shall be retained in the case file enclosed in a protective plastic envelope.
- Cases will be photographed completely, **and** have full-body x-rays taken before autopsy.
  - X-rays will be referred to the radiologist for evaluation.
    - If possible, the body should be held until this evaluation is completed, as additional x-rays may be needed.
- The autopsy should be done as soon as investigation is completed.
  - There will be a class "A" autopsy of all non-traffic deaths under age 14.
  - Careful documentation of the location, size and color of any injuries.
    - It is useful to photograph any injuries revealed by autopsy.
  - Microscopic sections of injuries and all organs will be taken as appropriate for dating, and evaluation for abnormal pathologic findings.
  - Examination of clothing.
  - Full examination of internal organs.
  - Eyes will be submitted to ophthalmologic pathology.
  - Brain to neuropathology.

DIRECTIVE # 1 HANDLING CHILD ABUSE OR  
SUSPECTED CHILD ABUSE CASES

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- On all child abuse cases, toxicology specimens will be collected and an "S" Screen (Attachment VIII) should be ordered.
- When indicated, a NeoGen screen (Attachment IX) can be conducted.
- Autopsy reports will be dictated, including the following:
  - Summary of actual and expected organ weights.
  - Percentile rank of body weight and height for age.
  - Injuries should be described in detail.
  - All information addressed in the Pediatric Form Protocol, Fetal Form Protocol, or State's Sudden Unexpected Infant Death Form Protocol (Attachments X, XI, XII) should be included in dictated reports as applicable.
- The DME will request paramedic and complete hospital records, any hospital photographs, results of sexual assault tests taken at the hospital, and copies of hospital x-rays.
- Consultation with the involved law enforcement agency is desirable.
  - If law enforcement is not handling the case as a homicide initially, suspected child abuse cases must be reported to law enforcement or Department of Children's Services immediately by telephone, and within 36 hours in writing via the Suspected Child Abuse Report (Attachment XIII).
- Case files are public record, except for the following:
  - Deferred cases.
  - Cases placed on security hold at the request of law enforcement.
  - Child abuse reports, medical records, and police reports.
  - Cases where the death occurred in foster care.
- The Department of Coroner will retain physical evidence and evidence records in accordance with their normal retention schedule (Attachment XIV).

Rev. 3-9-99 /fvh

15. **Hospital Protocol for Evaluating and Reporting Cases  
Involving Prenatal Drug/Alcohol Exposure**

## **Hospital Protocol for Evaluating and Reporting Cases Involving Prenatal Drug or Alcohol Exposure**

The Los Angeles County Hospital Protocol is mandated for all hospital practitioners who provide services and treatment to newborns and their mothers.

The first of the documents included in this section is a letter dated April 27, 1998 addressed to all Los Angeles County hospital administrators from the Presiding Judge of Juvenile Court, Michael Nash. The letter explains the rationale behind the protocol. The following documents are the Hospital Protocol description, the Newborn Risk Assessment Form, and legal guidelines for the disclosure of medical records in child abuse reports.

Although the letter is included for historical interest, the other documents and materials remain current. The very few procedural and contact changes are as follows:

1. An electronic version of the Newborn Risk Assessment Form is now available to the hospital practitioners on the DCFS website [www.dcfslacounty.gov](http://www.dcfslacounty.gov) in the Mandated Reporter Section of that website. This allows the reporter to print out the Newborn Risk Assessment Form at any time. Once it is filled out, it can be mailed or faxed to DCFS at the address or fax number provided by the Hotline intake evaluator at the time the call is made.
2. It is no longer necessary that the hospital practitioner forward a copy of the Newborn Risk Assessment to the Department of Health Services. It only needs to be submitted to DCFS.
3. Questions regarding the Hospital Protocol or other issues concerning infants at risk for drug or alcohol exposure may be directed to the ICAN main office at 626-455-4586.



JUVENILE DIVISION

## The Superior Court

201 CENTRE PLAZA DRIVE, SUITE 3  
MONTEREY PARK, CALIFORNIA 91754-2158

CHAMBERS OF  
MICHAEL NASH  
PRESIDING JUDGE

April 27, 1998

TELEPHONE  
(213) 526-6377

To: All Hospital Administrators and Staff  
From: Michael Nash, Presiding Judge, Los Angeles County Juvenile Court  
Re: Protocol for Births Involving Indications of Prenatal Substance Abuse

The Child Abuse and Neglect Reporting Act (CANRA) mandates that health practitioners report known or reasonably suspected child abuse to a child protective agency. Any indication of maternal substance abuse shall lead to an assessment of the needs of the mother and child. Senate Bill 2669 requires counties to establish protocols between county health departments, county welfare departments and all public and private hospitals to assess the needs of substance exposed infants. Accordingly, the "Hospital Protocol," "Newborn Risk Assessment Form," and outline of applicable law are attached to provide guidance for assessing suspected child abuse, recognizing indicators of maternal substance abuse, and disclosing confidential medical records.

If the assessment leads to a suspected child abuse report, the Suspected Child Abuse and Neglect Report Form (SS 8572), the Newborn Risk Assessment Form, and copies of relevant portions of the minor's medical records are to be provided to the investigating Children's Social Worker. Hospitals are requested to provide copies of the forms to the Department of Health Services Child Abuse Prevention Program: 241 N. Figueroa St., Room 306, Los Angeles, CA 90012, fax: (213) 482-3997.

The initiative to standardize and improve compliance with Senate Bill 2669 is the product of a cooperative effort by the Prenatally Alcohol and Drug Exposed Children (FADE) Committee of the Interagency Council on Child Abuse and Neglect (ICAN), the Department of Health Services and the Juvenile Court. Questions regarding the attached documents and Senate Bill 2669 may be directed to Penny Weiss, ICAN PADE Committee, (626) 455-4586, Elena Halpert Schilt, March of Dimes, (818) 953-3937, Sandra Guine, Department of Health Services Child Abuse Prevention Program, (213) 240-8146, or Randall Pacheco, Dependency Court Legal Services, (213)980-5709. Hospitals wishing to have further training on this issue should contact Penny Weiss, ICAN, (626) 455-4586.

Thank you for your compliance with the protocol.

Attachments: Hospital Protocol for SB 2669  
Newborn Risk Assessment Form  
Disclosure of Confidential Medical Records for the Purpose of Reporting  
Suspected Child Abuse

**HOSPITAL PROTOCOL  
FOR  
EVALUATING AND REPORTING CASES INVOLVING PRENATAL  
DRUG/ALCOHOL EXPOSURE**

**This protocol is mandated for all public and private hospitals in the county of Los Angeles.**

**PURPOSE:**

To specify the protocol for identifying potential child endangering drug/alcohol related situations involving perinatal patients, and to specify the steps for assessing and intervening in these situations.

**POLICY:**

California law (SB 2669, Chapter 1603, Statutes of 1990), mandates that any indication of maternal substance abuse shall lead to an assessment by a health care practitioner or medical social worker of the needed services of the mother and infant prior to discharge of the infant from the hospital. While a positive toxicology screen at the time of delivery is not, in and of itself, grounds for report to the Department of Children & Family Services (DCFS), a negative toxicology screen result does not preclude a suspected child abuse report if there are other risk factors present. The purpose of the assessment is to 1.) identify needed services for the mother and infant; 2.) determine the level of risk to the infant upon release home; 3.) determine the corresponding level of services and intervention necessary to protect the infant; and 4.) determine whether a referral to DCS is necessary.

**RESPONSIBILITIES:**

The responsibility for evaluating infants exposed to potentially harmful substances rests with all persons who are either required or permitted to report under Section 11165-11166 of the Penal Code which includes, but is not limited to physicians, nurses, and social workers.

**PROCEDURES:**

- I. During the Labor and Delivery Period:
  - A. Health care providers should be alert to the signs and symptoms of maternal drug/alcohol abuse:
    - Previous positive toxicology screen(s) in the prenatal period
    - Skin lesions such as abscesses or track marks consistent with I.V. drug abuse
    - Withdrawal symptoms
    - Current enrollment in a drug/alcohol treatment program
    - Presence of drug paraphernalia in the mother's belongings or hospital room

- Previous history of delivery of prenatally substance-exposed infant
- Altered mental status consistent with drug/alcohol intoxication

In addition, the presence of other factors may indicate substance abuse and should lead to further assessment:

- Inconsistent or inadequate prenatal care (less than 3 visits)
- Precipitous delivery
- Poor maternal weight gain
- Premature onset of delivery
- Unexplained changes in mental status
- Placental abruption in the absence of other identifiable causes
- Intrauterine growth retardation or oligohydramnios in the absence of other identifiable causes.
- Intrauterine fetal demise or stillbirth in absence of other identifiable causes
- Unexplained severe hypertension
- Sexually transmitted diseases
- Violence and substance abuse in the home
- History of incarcerations, probation, or parole

- B. The following steps should be taken for all patients presenting with a current history of drug/alcohol abuse, or signs/symptoms or other indicators of possible substance abuse:
1. Initiate the assessment described in the following policy statement.
  2. Chart the history of substance abuse in the patient's medical record.
  3. Chart any signs, symptoms or indicators of substance abuse in the patient's medical record.
  4. Order the appropriate toxicology screen to further assist in determining whether the patient is using drugs/alcohol and discuss the results with the patient.

## II. During the Postnatal Period

- A. Signs/symptoms or other indicators of drug/alcohol abuse in the mother shall be documented in the mother's medical record and noted in the infant's medical record.

B. An assessment must be done in all situations in which an infant is born to a mother who has signs/symptoms or other indicators of substance abuse or if the infant has signs suggestive of prenatal drug/alcohol exposure. Prenatal exposure should be considered when a constellation of factors is present and in the absence of other medical causes:

- Positive toxicology screen for unprescribed medications or drugs
- Excessive tremulousness
- Poor feeding
- High-pitched cry
- Seizures
- Lethargy
- Vomiting
- Watery stools
- Small for gestational age
- Prematurity
- Diaphoresis
- Physical stigmata of fetal alcohol syndrome (refer to the latest edition of Smith's Recognizable Patterns of human Malformation by Kenneth Jones)
- Frantic sucking

C. The following steps shall be taken in these situations:

1. Signs of prenatal drug/alcohol exposure in the infant shall be documented in the infant's medical record.
2. A toxicology screen for the infant shall be ordered and the results discussed with the parent(s).
3. The required assessment shall minimally include the factors set forth in the attached "Newborn Risk Assessment" form. An explanatory comment must be noted for each risk factor. The assessment must be done prior to the infant's discharge from the hospital.

D. Child protective services shall be notified immediately when the assessment leads to suspicion of child endangerment due to the presence of or interaction of the particular infant, parent, and environmental risk factors.



1. The Suspected Child Abuse and Neglect Report form (11166PC) must be completed and submitted within 36 hours of the phone report.
  2. The Newborn Risk Assessment form, relevant portions of the infant's medical record, including but not limited to, the prenatal and labor and delivery record, and all other relevant documentation shall be provided to the Department of Children & Family Services (DCFS) worker investigating the report. (Information should be made available to Department of Children & Family Services promptly as a court hearing may be scheduled within seventy two [72] hours.)
  3. Document the outcome of the referral in the infant's medical record.
- E. The discharge plan shall:
1. Be developed in conjunction with child protective services, when notified.
  2. Identify services needed by the infant/parent/family/ and specify referrals.
  3. Include referral of the newborn for medical follow-up after discharge.

SJG:rs  
Protocol: SB2669

## NEWBORN RISK ASSESSMENT

(AS REQUIRED BY PENAL CODE SECTION 11165.13 AND HEALTH AND SAFETY CODE SECTION SECTION 10901, (SB2669), EFFECTIVE 7/1/91)

INFANTS NAME: \_\_\_\_\_ DOB: \_\_\_\_\_ DATE: \_\_\_\_\_  
 MOTHERS NAME \_\_\_\_\_ RACE/ETHNICITY: \_\_\_\_\_ ZIP CODE OF MOTHER \_\_\_\_\_  
 NAME OF HOSPITAL: \_\_\_\_\_ HOSPITAL RECORD # \_\_\_\_\_  
 NAME OF INSURANCE CARRIER, HMO OR INDICATE MEDICAL \_\_\_\_\_  
 NAME OF PERSON COMPLETING FORM: \_\_\_\_\_  
 TELEPHONE # \_\_\_\_\_  
 SIGNATURE: \_\_\_\_\_

LEVEL OF RISK: 1=Low Risk, 2= Intermediate, 3= High risk, 0= Unable to assess (refer to reverse of form for guidance)

RISK FACTOR	LEVEL OF RISK	EXPLANATION-MANDATORY FOR EACH FACTOR
1. INFANT WITHDRAWAL SYMPTOMS		
2. SPECIAL MEDICAL AND/OR PHYSICAL PROBLEMS		
3. SPECIAL CARE NEEDS OF CHILD		
4. DRUG/ALCOHOL USE		
5. DRUG/ALCOHOL TREATMENT HISTORY		
6. PRENATAL CARE		
7. EMOTIONAL AND INTELLECTUAL ABILITIES		
8. LEVEL OF COOPERATION		
9. AWARENESS OF IMPACT OF DRUG/ALCOHOL USE ON CHILD		
10. RESPONSIVENESS TO INFANT, BONDING, PARENTING SKILLS		
11. HISTORY OF FAMILY VIOLENCE		
<b>OPTIONAL IF KNOWN</b>		<b>(INDICATE HOW INFORMATION WAS OBTAINED)</b>
12. FATHER OR PARENT SUBSTITUTE IN HOME		
13. STRENGTH OF FAMILY SPPORT SYSTEMS		
14. DRUG/CRIMINAL ACTIVITY		
15. SIBLINGS IN HOME AT RISK		
16. KNOWN ENVIRONMENTAL RISK IN THE HOME		

Circle all that apply:

	<u>Tox screen done</u>	<u>Tox positive</u>	<u>Type of drug(s)</u>
Infant	yes    no	yes    no	results not available _____
Mother	yes    no	yes    no	results not available _____

Child Abuse Report Filed?                      yes                      no  
 Child Abuse Report Accepted?                yes                      no                      If yes, attach to copy of 1116 P.C. form given to DCFS

Service Plan Referrals (check all referrals given):

<input type="checkbox"/> AFDC/GR/Medi-Cal <input type="checkbox"/> Adoption <input type="checkbox"/> Alcohol/Drug Treatment <input type="checkbox"/> California Childrens Services <input type="checkbox"/> Domestic Violence Shelter <input type="checkbox"/> Other _____	<input type="checkbox"/> Family Planning Program <input type="checkbox"/> High Risk Infant Program <input type="checkbox"/> Hospital High Risk Follow Up <input type="checkbox"/> Mental Health/Counseling <input type="checkbox"/> Pediatric Follow Up care at: _____	<input type="checkbox"/> Parenting Program <input type="checkbox"/> PHN visit/Home Health Svcs <input type="checkbox"/> Regions Center <input type="checkbox"/> WIC Program
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Upon completion of form, retain original in medical file. If abuse report was filed, FAX this report and any additional comments to the Child Abuse Hotline at (213) 617-3574 immediately after making referral to the Hotline.

<b>FACTOR</b>	<b>LOW RISK</b>	<b>INTERMEDIATE RISK</b>	<b>HIGH RISK</b>
1. Infant's Withdrawal Symptoms	Withdrawal symptoms not apparent	Mild tremors, mild hypertonia, mild irritability, slight lethargy	Vomiting watery stools, fever, sleeps less than 2 hours after feeding, marked tremors, high pitched cry, seizures, lethargic, on medications for drug withdrawal
2. Special Medical &/Or Physical Problems	No apparent medical or physical Problems	Minor medical or physical problems which do not significantly affect infants vital life functions or physical & intellectual development, low birth weight, small for gestational age	Any pre-term infant (born at or before 36 weeks), physical or medical problem which significantly impacts vital life functions (e.g. apnea, seizure disorders, low APGAR, respiratory distress, congenital defects)
3. Special Care Needs	Routine pediatric visits, no special equipment or medication	Monthly pediatric care visits, no medicine or special equipment	Requires 2 or more monthly pediatric visits, special equipment or medications
4. Dug/Alcohol Use	Not current using any drugs/alcohol	Occasional use 1-2 times per week or weekend use	Use more than 2 rimes per week
5. Drug/Alcohol treatment History	Entered drug/alcohol tx early in the pregnancy, remains in program & considered compliant	Entered drug/alcohol tx early in the pregnancy, remains in program but attendance is sporadic; continues to use drugs	Not in drug/alcohol tx. Program or entered in third trimester
6. Prenatal Care	Sought early prenatal care and consistent with prenatal follow-up	Sought prenatal care in 2nd trimester or inconsistent with prenatal follow-up	Did not seek prenatal care until 3rd trimester, no prenatal care; noncompliance with medical treatment
7. Emotional And Intellectual Abilities	Appears to be competent in parental role with realistic expectations of the child	Exhibit mild intellectual limitations which would not significantly impact ability to care for child	Poor perception of reality; poor judgement, significant health problems, exhibits significant limitations in ability to care for the child
8. Level Of Cooperation	Willing to work to resolve any problems & protect child		Refuses to cooperate, disinterested or Evasive
9. Awareness Of Impact Of drug/Alcohol Use On Child	Receptive to professional advice		Demonstrates minimal awareness of drugs impact on child; denies symptoms
10. Responsiveness To Infant, Bonding, Parenting Skills	Parent is responsible to infant's needs & exhibits appropriate knowledge of infant care		Parent may provide appropriate physical care but is unresponsive to infant's needs (i.e. lack of response to crying of infant); poor eye contact; infrequent visits; inappropriate expectations and criticism of the child
11. History Of Family Violence	No known history of family Violence	Prior protective services provided to siblings with that episode resolved and case closed; history of prior domestic violence	Current Child Protective Services &/or domestic violence involvement; previous abuse/neglect of serious nature; prior court action; siblings in placement
12. Father Or Parent Substitute In Home	Is a supportive/stabilizing influence & available to assist with care giving	Assumes only minimal care giver responsibility for child, verbal threats of violence	Has poor impulse control, demonstrated violence in home, involved in criminal activity, drug use
13. Strength Of Family Support Systems	Family, neighbors or friends available & committed to help	Family is supportive but not in geographic area; limited support available	No appropriate relatives or friends available, social isolated; no phone; no transportation available; limited income
14. Drug/Criminal Activity	Household members not suspected to be involved in drug/criminal activity.		Any household member suspected to be involved in drug/criminal activity
15. Siblings In Home At Risk	Education, medical & environmental needs being met in home	Some but not all educational, medical & environmental needs being met in home	Few educational, medical & environmental needs being met for siblings in home, possible out-of-home placement
16. Known Environmental Risk In The Home	Home contains no apparent safety health hazards, utilities operable; parent report reparation for infants care	Home is relatively safe, but there are no reports or evidence of preparation for infant's care	Home unclean with safety or health hazards, lack of stove/refrigerator/heating system; no operable utilities, reports no evidence of preparation for infant's care; transiency, homelessness

**DISCLOSURE OF CONFIDENTIAL MEDICAL RECORDS FOR its PURPOSE  
OF  
REPORTING SUSPECTED CHILD ABUSE**

**I. Child Abuse and Neglect Reporting Act (Penal Code § 11165 et seq)**

**A. Introduction**

The Child Abuse and Neglect Reporting Act (CANRA) requires certain individuals, including health practitioners, to report suspected child abuse to a child protective agency. The Los Angeles County Department of Children and Family Services (DCFS) is a child protective agency as defined in Penal Code (PC) § 11165.9.

**B. Definition of Health Practitioner (PC § 11165.8)**

The definition of "health practitioner" includes, but is not limited to: physicians, surgeons, psychiatrists, psychologists, dentists, residents, interns, licensed nurses, emergency medical technicians, paramedics, persons who perform autopsies, and public health employees who treat minors.

**C. Mandatory Reporting**

**1. Suspected Prenatal Substance Abuse (PC § 11165.13)**

If there is any indication of maternal substance abuse, a health practitioner or a medical social worker must assess the needs of the child and mother pursuant to Health and Safety Code § 123605. A positive toxicology screen at the time of birth is not, by itself, a sufficient basis for reporting child abuse or neglect. However, if there are additional factors which indicate a risk to the child, then a child abuse report may be made to DCFS. A report based solely on a parent's inability to care for the child due to a substance abuse problem shall be made only to DCFS, and not to law enforcement agencies.

**2. Suspected Child Abuse (PC § 11166(a))**

A health practitioner must make a child abuse report to DCFS where: (1) in his or her professional capacity, or within the scope of his or her employment, (2) he or she has knowledge of or observes a child, (3) whom he or she knows, or reasonably suspects, has been the victim of child abuse. The health practitioner must report to DCFS by telephone immediately, or as soon as possible. Additionally, the health practitioner must send a written report within 36 hours of receiving the information concerning the suspected abuse.

**D. Permissive Reporting (PC § 11166(b))**

A health practitioner may make a child abuse report to DCFS where he or she has knowledge of or reasonably suspects, that a child has been inflicted with mental suffering or a child's well-being is endangered in any other way.

**E. Immunity (PC § 11172(a))**

A health practitioner is not civilly or criminally liable for any child abuse report which is made pursuant to mandatory or permissive reporting laws. Storch v. Silvetman (1986) [86 Cal.App.3d 671.

**II. Physician/Psychotherapist Privilege (PC § 11171(b))**

Neither the physician-patient nor psychotherapist-patient privilege applies to the information reported under CANRA. People v. Sttizinger (1983) 34 Cal.3d 505.

**III. Mental Health Records**

Although Welfare and Institutions Code § 5328 - requires that information provided by patients to their psychotherapists remain confidential, such information shall be disclosed for the purpose of reporting suspected child abuse pursuant to PC § 11165-11166. The duty to report child abuse prevails over the requirement to maintain confidentiality of communications between the patient and psychotherapist. 65 Op.Atty.Gen.Cal. 345, 6-1-82.

**IV. Federal Law (42 USC 290dd-2)**

Although federal law prohibits the release of a patient's records regarding substance abuse and mental health services, the law explicitly does not apply to the reporting of suspected child abuse to DCFS as required by California law.

**V. Permissive Disclosure of Medical and Mental Health Information**

A provider of health care may disclose any medical information to a county social worker, a probation officer, or any other person who is legally authorized to have custody or care of a minor for the purpose of coordinating health care services and medical treatment provided to the minor. This information shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating health care services and medical treatment of the minor and the disclosure is authorized by law. Civil Code section 56.103 (a-d) Note that this disclosure is discretionary on the part of the health care provider in a situation where the medical information is not related to abuse investigation but is disclosed for the purpose of continuity of health care.

A provider of health care may disclose mental health information to a probation officer, a county social worker or any person who is legally authorized to have custody or care of a minor for the purpose of coordinating the minor's health care services and medical treatment, mental health services, or services for developmental disabilities. This information shall not be further disclosed by the recipient unless the disclosure is for the purpose of coordinating health care services and medical treatment of the minor and the disclosure is authorized by law. Welfare and Institutions Code section 5328.04 Note that this disclosure is discretionary on the part of the health care provider in a situation where the medical information is not related to abuse investigation but is disclosed for the purpose of continuity of health care. (Effective 1-1-09) This law extends the

ability of health care providers to discretionarily provide not only medical information as provided for in Civil Code section 56.103 (as referenced in the above preceding section), but also mental health information, related to children in custody and is disclosed for the purpose of continuity of care.

## **VI. Permissive Disclosure of Confidential Information in the Context of a Multidisciplinary Team**

Members of a multidisciplinary personnel team engaged in the prevention, identification, and treatment of child abuse may disclose and exchange information and writings to and with one another relating to any incidents of child abuse that may also be a part of a juvenile court record or otherwise designated as confidential under state law. Welfare and Institutions Code section 830

"Multidisciplinary personnel" means any team of three or more persons who are trained in the prevention, identification, and treatment of child abuse and neglect cases and who are qualified to provide a broad range of services related to child abuse. The team may include but not be limited to: (1) Psychiatrists, psychologists, marriage and family therapists, or other trained counseling personnel. (2) Police officers or other law enforcement agents. (3) Medical personnel with sufficient training to provide health services. (4) Social workers with experience or training in child abuse prevention. (5) Any public or private school teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee. Welfare and Institutions Code section 18951

“Child abuse” for the purposes of sharing information with a team means a situation in which a child suffers from any one or more of the following: (1) serious physical injury inflicted upon the child by other than accidental means; (2) harm by reason of intentional neglect or malnutrition or sexual abuse; (3) going without necessary and basic physical care;(4) willful mental injury, negligent treatment, or maltreatment of a child under the age of 18 years by a person who is responsible for the child’s welfare under circumstances that indicate that the child’s health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Director of Social Services; and, (5) any condition that results in the violation of the rights or physical, mental, or moral welfare of a child or jeopardizes the child’s present or future health, opportunity for normal development or capacity for independence. Welfare and Institutions Code section 18951 (e)(1-5)

16. **Criminal Child Abuse Investigative Checklist from the  
National Center for Prosecution of Child Abuse**

**Reproduced From the Manual  
Investigation and Prosecution of Child Abuse (Second Edition)  
Published by and with the permission of  
The American Prosecutors Research Institute**

Figure II-3

**Criminal Child Abuse Investigative Checklist**

**1. REVIEW AND NOTE AVAILABLE INFORMATION**

- \_\_\_ How, when, and by whom reported
- \_\_\_ CPS report/caseworker and action taken to date
- \_\_\_ Police reports
- \_\_\_ Medical exam or autopsy/findings/name of doctor
- \_\_\_ Witness statements
- \_\_\_ Prior reports concerning this child
- \_\_\_ Prior reports/complaints/convictions concerning this suspect
- \_\_\_ Records check (local, state, F.B.I.) re: suspect
- \_\_\_ Need for interpreters

**2. CONTACT CHILD**

- \_\_\_ Note vital statistics: DOB, height, weight, etc.
- \_\_\_ Note home address, school/grade attended
- \_\_\_ Note any known disabilities
- \_\_\_ Note observations of physical appearance
- \_\_\_ Note demeanor, emotions displayed
- \_\_\_ Take photos of injuries
- \_\_\_ Make referrals to counseling and other support services

*Child Interview*

- \_\_\_ Explain your role
- \_\_\_ Elicit background information, put child at ease, assess developmental/intellectual level
- \_\_\_ Determine whether medical exam has occurred
- \_\_\_ Determine child's expectations, fears, desired consequences
- \_\_\_ Provide information and let child know how to contact you

*Obtain Detailed Description of Alleged Abuse*

- \_\_\_ Name of suspect and relationship to child (family, friend, stranger, etc.)
- \_\_\_ Physical description of suspect
- \_\_\_ When alleged abuse occurred
  - \_\_\_ Once or more than once
  - \_\_\_ How often
  - \_\_\_ Child's age at time
  - \_\_\_ First incident
  - \_\_\_ Most recent incident
  - \_\_\_ Time of day/duration
  - \_\_\_ Association with other events
  - \_\_\_ Recollection of individual incidents
- \_\_\_ Location(s) of abuse (state, county, city, building, room, other)
- \_\_\_ Any corroborative details: specific descriptions of clothing, furniture or other items, of other people nearby, of TV shows on at time, of child's feelings at time of abuse, etc.



- \_\_\_ Enticements, bribes, gifts, promises, explanations, threats, intimidation by suspect
- \_\_\_ Elements of secrecy
- \_\_\_ Suspect's words during abuse
- \_\_\_ Whether child has diary/journal
- \_\_\_ Whether child has correspondence from suspect
- \_\_\_ Whether child gave correspondence or other items to suspect
- \_\_\_ Whether other witnesses present
- \_\_\_ Where other family members were
- \_\_\_ Whether other victims seen/known
- \_\_\_ Child's attitude toward suspect then/now—close, loving, hostile, fearful, etc.
- \_\_\_ First person child told about abuse and his/her reaction
- \_\_\_ If applicable, why child delayed in disclosing
- \_\_\_ Others child told and reactions
- \_\_\_ Drugs used by suspect or given to child
- \_\_\_ Alcohol used by suspect or given to child
- \_\_\_ Prior abuse (physical or sexual) of child
  - \_\_\_ By this suspect
  - \_\_\_ By anyone else

*Add for Sexual Abuse*

- \_\_\_ Clarify child's terms for anatomy
- \_\_\_ Note child's exact words describing alleged abuse
- \_\_\_ Nature of alleged abuse
  - \_\_\_ Oral/vaginal/anal contact—descriptions of positions, movement
  - \_\_\_ Fondling/penetration
  - \_\_\_ Made to perform sex acts on offender
  - \_\_\_ Use of pornography (films, magazines, pictures)
  - \_\_\_ Use of foreign objects, sexual devices, contraceptives, lubricants
  - \_\_\_ Whether photos taken of child
  - \_\_\_ Whether child saw photos of other children
  - \_\_\_ Clothes on or off—child and offender
  - \_\_\_ Pain, bleeding or discharge
  - \_\_\_ Suspect's behavior/words during and after sex acts
  - \_\_\_ Whether child saw/felt ejaculation
- \_\_\_ Description of any unusual physical characteristics of suspect—tatoos, birthmarks, etc.
- \_\_\_ Description of suspect's genitals—pubic hair (color), penis (erect/flaccid, circumcised or not), or any other unusual or unique features
- \_\_\_ If suspect ejaculated, where—in child's mouth/vagina/rectum, elsewhere on child's body, on bedding/carpet/clothing, etc.
- \_\_\_ Did child wipe self or suspect clean it up—if so, with what and where is it?

*Add for Physical Abuse*

- \_\_\_ Any weapons used: description and location
- \_\_\_ Child's explanation for specific injuries
- \_\_\_ Reason (if known) for suspect's use of force—punishment, anger, etc.
- \_\_\_ Whether suspect violent toward others
- \_\_\_ Whether child has had prior medical problems or treatment and if so, when and what

## INVESTIGATION AND PROSECUTION OF CHILD ABUSE

### 3. MEDICAL EXAMINATION OF CHILD

- \_\_\_ Find out if exam already done; if so,
  - \_\_\_ When
  - \_\_\_ By whom conducted
  - \_\_\_ Who sought medical attention for child
- \_\_\_ If not already done, arrange as soon as possible
- \_\_\_ Obtain consent to acquire medical reports; arrange for legible copies
- \_\_\_ Interview doctor and other medical personnel and determine how to contact in future
- \_\_\_ Document any statements made by child
- \_\_\_ Note any special procedures used
  - \_\_\_ Colposcope
  - \_\_\_ Photos
  - \_\_\_ Videocolposcope
  - \_\_\_ Toluidine blue dye
  - \_\_\_ Wood's Lamp
  - \_\_\_ Proctoscopy or anoscopy
  - \_\_\_ CT scan
  - \_\_\_ X-rays/skeletal survey
  - \_\_\_ Screen for blood disorders/clotting studies
  - \_\_\_ Consultation with/referral to other experts
  - \_\_\_ Other
  - \_\_\_ Collect any physical evidence gathered by doctor
  - \_\_\_ Specimens and samples
  - \_\_\_ Photos
  - \_\_\_ Child's clothing worn during assault
- \_\_\_ Arrange for necessary crime lab analysis
  - \_\_\_ Presence of sperm, acid phosphatase, P 30
  - \_\_\_ Blood/serology analysis
  - \_\_\_ Hair comparison
  - \_\_\_ Fiber comparison
  - \_\_\_ DNA testing
  - \_\_\_ Other

#### *Medical Evidence/Observations Consistent with Sexual Abuse*

- \_\_\_ Evidence of violence anywhere on body
- \_\_\_ Bleeding, bruises, abrasions
  - \_\_\_ Bitemarks
  - \_\_\_ Broken bones
  - \_\_\_ Other
- \_\_\_ Positive results for presence of semen
  - \_\_\_ Fluorescence with Wood's Lamp
  - \_\_\_ Motile/nonmotile sperm
  - \_\_\_ Positive acid phosphatase or P30
- \_\_\_ Pregnancy/Abortion
- \_\_\_ Sexually transmitted disease present
  - \_\_\_ Tests conducted
  - \_\_\_ Sample collection method
  - \_\_\_ Body sites tested (anus, vagina, mouth)
  - \_\_\_ Gonorrhea

- \_\_\_\_\_ Syphilis
- \_\_\_\_\_ Chlamydia trachomatis
- \_\_\_\_\_ AIDS
- \_\_\_\_\_ Herpes
- \_\_\_\_\_ Trichomonas vaginalis
- \_\_\_\_\_ Venereal warts
- \_\_\_\_\_ Nonspecific vaginitis
- \_\_\_\_\_ Pubic lice
- \_\_\_\_\_ Any vaginal/penile discharge
- \_\_\_\_\_ Other
- \_\_\_\_\_ Itching, irritation or trauma of any kind in genital or anal area
- \_\_\_\_\_ Foreign debris in genital or anal area
- \_\_\_\_\_ Vaginal area injury/findings
  - \_\_\_\_\_ Enlarged vaginal opening in prepubertal child
  - \_\_\_\_\_ Posterior fourchette lacerations
  - \_\_\_\_\_ Other lacerations/scarring, and location
  - \_\_\_\_\_ Redness, focal edema or abnormalities (synechia, changes in vascularity, etc.)
  - \_\_\_\_\_ Absent or thinned hymenal ring
  - \_\_\_\_\_ Laxity of pubococcygeus muscle—gaping vaginal opening
- \_\_\_\_\_ Anal area injury/findings
  - \_\_\_\_\_ Reflex relaxation of anal sphincter
  - \_\_\_\_\_ Positive wink reflex
  - \_\_\_\_\_ Complete or partial loss of sphincter control
  - \_\_\_\_\_ Lacerations, scarring, erythema
  - \_\_\_\_\_ Fan-shaped scarring
  - \_\_\_\_\_ Loss of normal skin folds around anus
  - \_\_\_\_\_ Thickening of skin and mucous membranes
  - \_\_\_\_\_ Skin tags
  - \_\_\_\_\_ Gaping anus with enlargement of surrounding perianal skin

***Medical Evidence/Observations Consistent with Physical Abuse***

- \_\_\_\_\_ Doctor's opinion regarding cause of child's death or injury as nonaccidental
- \_\_\_\_\_ Delay or failure to seek medical treatment by child's parent(s)/caretaker(s)
- \_\_\_\_\_ History given inconsistent with severity, type or location of injury
- \_\_\_\_\_ History inconsistent with child's developmental level/ability to injure self
- \_\_\_\_\_ Different explanations of injury from different family members
- \_\_\_\_\_ Child fearful, unwilling to explain cause of injury
- \_\_\_\_\_ Change in details during history-taking or given to different people
- \_\_\_\_\_ Current physical injury accompanied by signs of multiple prior injuries or neglect, e.g., malnutrition, lack of regular medical care, etc.
- \_\_\_\_\_ Parenting disorders apparent—e.g., alcoholism, drug abuse, psychotic behavior, etc.
- \_\_\_\_\_ Parent/caretaker irritated, evasive, vague, reluctant to give information
- \_\_\_\_\_ Doctor's opinion that child's injuries are consistent with battered child syndrome



## INVESTIGATION AND PROSECUTION OF CHILD ABUSE

### *Injuries Suspicious for Physical Abuse*

#### SOFT TISSUE INJURIES

##### Bruises, Abrasions, Welts and Lacerations

- \_\_\_ In location other than bony prominences, such as buttocks, lower back, genitals, inner thighs, cheeks, ear lobes, mouth, neck, under arms, frenulum
- \_\_\_ Multiple bruises at different stages of healing over large area of body, especially if deep
- \_\_\_ Adult bitemarks
- \_\_\_ Wrap-around, tethering or binding injuries
  - \_\_\_ Neck, ankle or wrist circumferential injuries; rope burns
  - \_\_\_ Injuries due to choking or gagging
  - \_\_\_ Trunk encirclement bruising
- \_\_\_ Patterns/imprints/lacerations suggesting inflicted injury
  - \_\_\_ Grab, pinch, squeeze or slap marks
  - \_\_\_ Strap or belt marks
  - \_\_\_ Looped cord marks
  - \_\_\_ Imprints or lacerations from other objects—tattooing, punctures, whips, sticks, belt buckles, rings, spoons, hairbrush, coat hangers, knives, etc.

#### INTERNAL OR ABDOMINAL INJURIES

- \_\_\_ History or severity of injury indicating child was pummelled, thrown or swung against wall or other object, kicked, or hit with blunt, concentrated force
- \_\_\_ Lack of history indicating auto accident or fall from high place
- \_\_\_ Internal/organ damage
  - \_\_\_ Ruptured or perforated liver
  - \_\_\_ Injuries to spleen
  - \_\_\_ Injuries to intestines
  - \_\_\_ Injuries to kidneys
  - \_\_\_ Injuries to bladder
  - \_\_\_ Pancreatic injury
  - \_\_\_ Injuries to other internal organs
- \_\_\_ External symptoms
  - \_\_\_ Nausea, vomiting
  - \_\_\_ Constipation
  - \_\_\_ Shock
  - \_\_\_ Blood in urine
  - \_\_\_ Swelling, pain, tenderness

#### HEAD INJURIES

- \_\_\_ Multiple bruises/lumps on scalp
- \_\_\_ Hemorrhaging beneath scalp or hair missing due to hair pulling
- \_\_\_ Subdural hematomas (never spontaneous)
- \_\_\_ Suspect caused injuries by violent shaking if
  - \_\_\_ Bone chips at cervical vertebrae
  - \_\_\_ Compression fractures to ribs
  - \_\_\_ Damage to neck muscles and ligaments—child unable to turn head to side or up and down

- \_\_\_ Spinal cord damage
- \_\_\_ No skull fracture or external bruising or swelling
- \_\_\_ Whiplash or shaken baby/impact syndrome diagnosis
- \_\_\_ Suspect caused injuries by abusive blunt force trauma if
  - \_\_\_ Skull fracture
  - \_\_\_ Scalp swelling and apparent bruising
  - \_\_\_ Parent/caretaker denies recent trauma, fall or other injury sufficient to account for injury or claims accidental force such as fall from couch, bed or crib which is insufficient to cause such injury
- \_\_\_ Subarachnoid or other intracranial hemorrhages with no sufficient "accidental" explanation
- \_\_\_ Skull fractures without history of significant "accidental" force
- \_\_\_ Injuries to eyes without sufficient accidental or other explanation
  - \_\_\_ Retinal hemorrhaging, especially if other evidence of nonaccidental head trauma present
  - \_\_\_ Black eyes
  - \_\_\_ Detached retinas
  - \_\_\_ Petechia (small spots of blood from broken capillaries) or other bleeding in eye
  - \_\_\_ Cataracts
  - \_\_\_ Sudden loss of visual acuity
  - \_\_\_ Pupils fixed, dilated or unresponsive to light
  - \_\_\_ Eyes not tracking or following motion
- \_\_\_ Ear injuries without appropriate explanation
  - \_\_\_ Sudden hearing loss
  - \_\_\_ "Cauliflower" ear
  - \_\_\_ Bruising to ear or surrounding area
  - \_\_\_ Petechia in ear
  - \_\_\_ Blood in ear canal
- \_\_\_ Injuries to nose without appropriate explanation
  - \_\_\_ Deviated septum
  - \_\_\_ Fresh or clotted blood in nostrils
  - \_\_\_ Bridge of nose bent or swollen
- \_\_\_ Injuries to mouth without appropriate explanation
  - \_\_\_ Chipped, missing or loose teeth caused by blow to mouth
  - \_\_\_ Bruising in corners and lacerations of frenulum, of upper and lower lip, and of tongue—indicative of exterior gag
  - \_\_\_ Petechia inside nostrils, around nose, or near corners of mouth—could indicate manual suffocation if child has stopped breathing

**SKELETAL INJURIES**

- \_\_\_ Multiple fractures at different stages of healing
- \_\_\_ Repeated fractures to same bone
- \_\_\_ Spiral fractures (usually femur, tibia, forearm or humerus)
- \_\_\_ Rib fractures, especially in children less than three
- \_\_\_ Bone chips in bones connecting at elbow or knee, caused by jerking and shaking (avulsion of the metaphyseal tips)
- \_\_\_ Growth plate separations caused by shaking—"bucket handle" and "corner" fractures
- \_\_\_ Injuries to bone—bleeding and thickening/calcification—which is repeatedly hit but not broken (sub-periosteal proliferation—apparent on x-ray)
- \_\_\_ Fractures to bones not usually accidentally broken, such as scapula and sternum



## INVESTIGATION AND PROSECUTION OF CHILD ABUSE

### INFLECTED BURNS

- \_\_\_ Child burned on unusual part of body—palms, soles, genitals, etc.
- \_\_\_ Parent/caretaker delays in seeking medical help
- \_\_\_ Multiple burns of different ages and different burn patterns
- \_\_\_ Symmetrical, patterned burn with sharp margins—no indication of child trying to get away (child held down or hot object deliberately applied)
- \_\_\_ Hot water burns
  - \_\_\_ Immersion/dipping burn—oval shape, usually buttocks and genital area
  - \_\_\_ Doughnut-shaped burn—surrounding buttocks (indicates child forcibly held down)
  - \_\_\_ Glove or stocking burn—immersion of hand or foot
  - \_\_\_ Even immersion lines, lack of splash burns (child prevented from thrashing around, trying to get out)
- \_\_\_ Contact burns
  - \_\_\_ Cigarette, cigar, match tip, pilot light flame burns—usually deep circular burns
  - \_\_\_ Imprint of object responsible for burn with sharp margins—usually deep and uniform burn:
    - \_\_\_ Stove burner (star, circular, coil shapes)
    - \_\_\_ Heating grate, radiator
    - \_\_\_ Iron
    - \_\_\_ Curling iron
    - \_\_\_ Heated knife or hanger
    - \_\_\_ Other

### 4. CONTACT OTHER WITNESSES

- \_\_\_ Determine *all* people with relevant information about child or suspect and obtain statements (complainant, child's parents/caretakers, family members, friends, emergency medical technicians (EMTs), ambulance attendants, emergency room doctors, medical examiner, co-workers, teachers, CPS personnel, neighbors, therapists, etc.)
- \_\_\_ Note identifying information for each witness: DOB, address, phone, employment, employment phone, relationship to child and/or suspect, marital status, etc.
- \_\_\_ Check for prior criminal record of witness
- \_\_\_ Note witness' demeanor and attitude toward child and/or suspect, and reaction to allegations
- \_\_\_ Determine degree of familiarity with child and/or suspect
- \_\_\_ Determine whether they witnessed any unusual or inappropriate behavior/contact between suspect and child or other children
- \_\_\_ Determine whether they know of or suspect any other children who were victimized or at risk
- \_\_\_ Determine whether they know of additional potential witnesses
- \_\_\_ Determine whether they can verify/refute *any* facts supplied by child or suspect
- \_\_\_ Awareness of any motives of child or others to falsely accuse suspect
- \_\_\_ Observation of any physical/medical symptoms in child (see preceding list)
- \_\_\_ Determine whether suspect or caretaker gave explanation to witness of child's injury
- \_\_\_ Obtain written, signed statements of witnesses (or recorded, if appropriate)
- \_\_\_ Observation or knowledge of *any* unusual behavior/behavior changes in child before or after disclosure; some possibilities include:

**Behavioral Extremes**

- \_\_\_ Constant withdrawal, depression, suicide gestures/attempts or self-destructive behavior
- \_\_\_ Overly compliant or passive
- \_\_\_ Overly eager to please
- \_\_\_ Afraid to talk or answer questions in parent's/suspect's presence
- \_\_\_ Avoiding suspect or refusal to be with suspect
- \_\_\_ Fearful of a place—day-care, school, baby-sitter's, suspect's room, etc.
- \_\_\_ Fear of all males, all females or all adults
- \_\_\_ Wary of physical contact
- \_\_\_ Unusual self-consciousness—e.g., unwilling to change clothes for gym class or to participate in recreational activities
- \_\_\_ Constant fatigue, listlessness or falling asleep in class
- \_\_\_ Excessive self-control; never cries or exhibits curiosity
- \_\_\_ Frequent unexplained crying
- \_\_\_ Apprehension when other children cry
- \_\_\_ Poor peer relationships or deterioration in existing friendships
- \_\_\_ Inability to concentrate
- \_\_\_ Unusual craving for physical affection
- \_\_\_ Unexplained or extreme aggressiveness, hostility, physical violence
- \_\_\_ Turning against a parent, relative, friend, etc.
- \_\_\_ Delinquency, including theft, assaultive behavior, etc.
- \_\_\_ Alcohol or drug use/abuse
- \_\_\_ Running away
- \_\_\_ Frequent absences/truancy from school
- \_\_\_ Early arrival, late departure and very few absences from school
- \_\_\_ Sudden increase or loss in appetite
- \_\_\_ Change in school performance or study habits
- \_\_\_ Compulsion about cleanliness—wanting to wash or feeling dirty all the time

**Psychosomatic Symptoms**

- \_\_\_ Headaches
- \_\_\_ Stomachaches
- \_\_\_ Rashes
- \_\_\_ Stuttering

**Regressive Behavior**

- \_\_\_ Reverting to accidents/bed-wetting
- \_\_\_ Baby talk
- \_\_\_ Excessive clinging
- \_\_\_ Thumb sucking
- \_\_\_ Carrying blanket
- \_\_\_ Wanting to nurse
- \_\_\_ Otherwise acting younger than age

**Sleep Disturbances**

- \_\_\_ Bad dreams
- \_\_\_ Refusal/reluctance to sleep
- \_\_\_ Excessive sleeping
- \_\_\_ Sleepwalking



## INVESTIGATION AND PROSECUTION OF CHILD ABUSE

- \_\_\_ Sudden fear of darkness
- \_\_\_ Other sleep pattern changes

### *Unusual Sexual Behavior or Knowledge*

- \_\_\_ Acting out sexually with toys, other children
- \_\_\_ Excessive masturbation
- \_\_\_ French kissing
- \_\_\_ Sexually provocative talk
- \_\_\_ Seductive behavior toward adults
- \_\_\_ Preoccupation with sexual organs of self or others
- \_\_\_ Sexually explicit drawings
- \_\_\_ Sexual knowledge beyond norm for age

### *Other Behaviors*

- \_\_\_ Dressed inappropriately for weather—e.g., always in long sleeves, etc.
- \_\_\_ Enuresis/encopresis
- \_\_\_ Pseudo-mature behavior
- \_\_\_ Extreme hunger
- \_\_\_ Sudden weight loss or gain
- \_\_\_ Personality disorders

## 5. INTERVIEW WITNESSES TO WHOM CHILD MADE STATEMENTS

- \_\_\_ Cover all applicable areas in 4.
- \_\_\_ Determine exact circumstances of child's disclosure
  - \_\_\_ When and where statements made
  - \_\_\_ Who else present
  - \_\_\_ Words used by child
  - \_\_\_ Details provided by child
  - \_\_\_ Incident precipitating disclosure—e.g., spontaneous disclosure, child responding to questions, etc.
  - \_\_\_ Child's demeanor/emotional state
  - \_\_\_ Child's attitude toward suspect
  - \_\_\_ Child's expressed concerns/fears
  - \_\_\_ Witness' reaction to child

## 6. INTERVIEW COMPLAINANTS (first reporters, if other than child)

- \_\_\_ Cover all applicable areas in 4. and 5.
- \_\_\_ Determine what caused them to report
  - \_\_\_ Child's disclosure, *or*
  - \_\_\_ Suspicions based on other factors without disclosure from child
- \_\_\_ Assess potential motives of complainants

## 7. INTERVIEW CHILD'S PARENT(S)/CARETAKER(S)

- \_\_\_ Cover all applicable areas in 4., 5. and 6.
- \_\_\_ Determine child's medical and mental health history
  - \_\_\_ Obtain names of doctor(s)/therapist(s)
  - \_\_\_ Obtain consent to receive relevant medical records



- \_\_\_ Prior abuse of child—when, where, who, action taken, results
- \_\_\_ Prior accusations of abuse by child—when, where, who, action taken, results
- \_\_\_ Child's general personality/functioning—school performance, hobbies, friends, etc.
- \_\_\_ Child's normal schedule/routine
- \_\_\_ Verification of timing/events related by child
- \_\_\_ Suspect's access to child (past and present)
- \_\_\_ Ongoing difficulties in family (e.g., divorce, custody or visitation disputes, arguments, etc.) and child's awareness of/reaction to them
- \_\_\_ Determine whether family is supportive of child
- \_\_\_ Obtain signed medical release for child's medical records

#### *For Physical Abuse*

- \_\_\_ When injury/sickness of child first noticed and what noticed
- \_\_\_ What they know or suspect about cause
- \_\_\_ Where child was/who with child before injury/sickness became apparent (usually cover as much as possible up to five days before)
- \_\_\_ Child's apparent health and activity for same period before child became ill/development of symptoms noticed
- \_\_\_ Time and contents of child's last meal
- \_\_\_ Child's sleep activity prior to injury
- \_\_\_ Prior illnesses or injuries of child since birth
- \_\_\_ Prior medical treatment/hospitalization of child, name of provider(s), name of person who took child for treatment, need for treatment and cause of injuries
- \_\_\_ Suspect's responsibility, if any, for discipline of child; normal methods used
- \_\_\_ Action taken when noticed injury/sickness
- \_\_\_ Health of other children in family
- \_\_\_ Name of family doctor or child's pediatrician
- \_\_\_ Child's school attendance, names of schools and teachers
- \_\_\_ Recent behavioral changes, suspect's explanations for change, events that preceded, suspect's feelings about the change
- \_\_\_ If no explanation, periods when child was unsupervised or with others
- \_\_\_ Child's developmental level (i.e., child crawling, walking, etc.)
- \_\_\_ Any problems with toilet training
- \_\_\_ Suspect's awareness of child's medical problems/disabilities
- \_\_\_ Parenting or child care classes/instruction received by suspect

#### *For Sexual Abuse*

- \_\_\_ Determine child's awareness of/exposure to sexual matters
- \_\_\_ TV, movies, videos, magazines, etc.
- \_\_\_ Observation of adults
- \_\_\_ Talking to others—sex education in school, friends, personal safety curriculum
- \_\_\_ Determine sleeping arrangements (intrafamilial abuse)
- \_\_\_ Determine who bathed child

#### **8. INTERVIEW OTHER FAMILY MEMBERS OF CHILD**

- \_\_\_ Cover all applicable areas in 4, 5, 6 and 7.
- \_\_\_ Determine whether they saw/heard any direct or indirect evidence of abuse
- \_\_\_ Determine if they were ever abused

*INVESTIGATION AND PROSECUTION OF CHILD ABUSE*

**9. INTERVIEW SUSPECT'S SPOUSE, SIGNIFICANT OTHER OR OTHERS IN FAMILY/HOUSEHOLD**

- \_\_\_ Cover all applicable areas in 4, 5, 6, 7 and 8.
- \_\_\_ Determine statements made by suspect
- \_\_\_ Suspect's reaction to allegation or explanation for it
- \_\_\_ Unusual behavior of suspect before or after allegation
- \_\_\_ Suspect's opportunity to abuse child—time with child, alone or otherwise
- \_\_\_ Relationship known/observed between child and suspect
- \_\_\_ Whether suspect owns/owned/possessed items, clothes, etc., described by child
- \_\_\_ Other children in contact with suspect
- \_\_\_ Prior arrests, accusations, convictions of suspect
- \_\_\_ Suspect's violence toward others
- \_\_\_ Suspect's employment—past and present
- \_\_\_ Suspect's residence—past and present
- \_\_\_ Prior marriages of suspect
- \_\_\_ All children/stepchildren of suspect
- \_\_\_ Suspect's physical and mental health
  - \_\_\_ Prior illness/infections/treatment
  - \_\_\_ Alcohol or drug abuse
  - \_\_\_ Names of doctors/therapists seen
- \_\_\_ Description of witness' relationship with suspect
- \_\_\_ Description of witness' background—marital, employment, etc.
- \_\_\_ Whether suspect (or witness) keeps diary, journal, calendar, computer records, address book, etc.
- \_\_\_ Whether suspect has another residence, post office box, storage area, etc.
- \_\_\_ Unusual hobbies or interests of suspect

*For Sexual Abuse*

- \_\_\_ Sleeping arrangements in home
- \_\_\_ Responsibilities for children's bathing and discipline in home
- \_\_\_ Distinctive anatomical features (if any) of suspect—e.g., scars, tatoos, birth-marks, etc.
- \_\_\_ Suspect's use (if any) of pornography, sexual aids or implements, birth control
- \_\_\_ Presence of sexually transmitted disease in suspect or witness
- \_\_\_ Strange/unusual/distinctive sexual practices or preferences of suspect
- \_\_\_ Knowledge of prior accusations by other children against suspect
- \_\_\_ Knowledge of prior convictions
- \_\_\_ Knowledge of suspect's history, prior addresses, prior contact with children

*For Physical Abuse*

- \_\_\_ Suspect's and others' responsibility for child's discipline
  - \_\_\_ Usual methods/frequency
  - \_\_\_ Amount of force
  - \_\_\_ Use of weapons/implements
  - \_\_\_ Loss of control
- \_\_\_ Any expressions of frustration, disappointment or anger with child by suspect
- \_\_\_ Suspect's access to weapons/implements consistent with child's injuries
- \_\_\_ Witness' knowledge of suspect's explanations for child's injuries



## 10. INTERVIEW SUSPECT

- \_\_\_ Advise of *Miranda* rights when appropriate
- \_\_\_ Stress interested only in hearing and determining the truth: be sympathetic
- \_\_\_ Obtain background, biographical information
  - \_\_\_ DOB, Social Security Number
  - \_\_\_ Vital statistics: height, weight, etc.
  - \_\_\_ Past and present residences
  - \_\_\_ Past and present employment
  - \_\_\_ Marital status/prior marriages
  - \_\_\_ Number of children and their names, locations and ages
  - \_\_\_ Mailing address(es), P.O. box(es)
  - \_\_\_ Neighborhood/community organizations or affiliations
  - \_\_\_ Hobbies and interests
  - \_\_\_ Regular doctor
  - \_\_\_ Magazine subscriptions, especially if sexually-oriented
- \_\_\_ Suspect's descriptions of time spent alone with child
- \_\_\_ Suspect's schedule and routine—e.g., work and leisure time, vacation time, etc.
- \_\_\_ Note suspect's demeanor and any changes during interview—e.g., angry, uncomfortable, vague, evasive, amused, unconcerned, etc.
- \_\_\_ Any indication of psychosis, mental health problems, alcohol or drug dependence, physical or medical problems
- \_\_\_ Suspect's familiarity with child and child's routine
  - \_\_\_ Acknowledgement/awareness of child's age or any disabilities
  - \_\_\_ Acknowledgement of time alone with child
- \_\_\_ Suspect's description of nature and quality of his relationship with child
- \_\_\_ Suspect's description of child
  - \_\_\_ "Problem child"
  - \_\_\_ "Special" child
  - \_\_\_ Good/bad
  - \_\_\_ Obedient/disobedient
  - \_\_\_ Smart/dumb
  - \_\_\_ Honest/dishonest ("pathological liar")
  - \_\_\_ "Bruises easily"
  - \_\_\_ "Clumsy"
  - \_\_\_ "Always/never in trouble"
  - \_\_\_ Unrealistic expectations of child
  - \_\_\_ Complaints about minor, irrelevant or unrelated problems with child
  - \_\_\_ Other
- \_\_\_ Suspect's description of ways of dealing with problems with child
- \_\_\_ Suspect's description of relationship with spouse, complainant, other important witnesses
- \_\_\_ Types and frequency of sexual activity with spouse or peers
- \_\_\_ Frequency of masturbation and types of fantasies
- \_\_\_ Use of pornography
- \_\_\_ Unusual sex practices
- \_\_\_ Corroboration of as many details as possible supplied by child
- \_\_\_ Suspect's explanation, *in detail*, of reasons for allegation of abuse
  - \_\_\_ Child's motive to lie
  - \_\_\_ Motive of others to lie
  - \_\_\_ Details of "unintended" or "accidental" touching or injury
  - \_\_\_ Detailed explanation of how child initiated event

## INVESTIGATION AND PROSECUTION OF CHILD ABUSE

- \_\_\_ Detailed explanation of injuries observed on child
- \_\_\_ Explanation for why suspect delayed or did not seek medical attention for injured child
- \_\_\_ Extent and details of any abusive conduct suspect admits
- \_\_\_ Suspect's terminology for body parts
- \_\_\_ Request names and locations of anyone who can corroborate information given by suspect
- \_\_\_ Request access to any items which could corroborate suspect's claims—e.g., calendar, work records, etc.
- \_\_\_ Request names of suspect's friends and co-workers; if someone you are aware of is left out by suspect, find out why
- \_\_\_ Ask suspect to verify he has told truth and whether he has anything to add
- \_\_\_ In physical abuse/homicide cases, have suspect explain child's injuries
- \_\_\_ In Physical abuse/homicide cases, have suspect reenact incident on video

### 11. SEARCH FOR/SEIZE PHYSICAL EVIDENCE

#### *From Child*

- \_\_\_ Photos of injuries/general appearance
- \_\_\_ Clothing worn at time of assault, especially if torn, bloody, etc.
- \_\_\_ Bedding, etc. which may contain evidence
- \_\_\_ Items received from suspect
- \_\_\_ Calendars, diaries, journals, etc.
- \_\_\_ Receipts of purchases made by suspect for child
- \_\_\_ Other items to corroborate details of child's account (see list below)

#### *From Scene*

- \_\_\_ Instruments, weapons used by suspect
- \_\_\_ Movies, videos, magazines, etc.
- \_\_\_ Photograph, diagram, videotape scene; note working condition of TV, video equipment
- \_\_\_ Take measurements of areas/items involved, especially in physical abuse cases with claim of accident or self-infliction of injury by child
- \_\_\_ In burn cases:
  - \_\_\_ Seize/photograph items consistent with pattern of contact burn
  - \_\_\_ Photograph all sinks, spigots, bathtubs, stoves, heat sources
  - \_\_\_ Check water temperature at water heater and faucets in water burn cases
  - \_\_\_ Measure height of tub/sink and note what tub/sink (or other site of burn) is made of
  - \_\_\_ Test to determine surface temperature of items used to burn child and check for body residue on them
- \_\_\_ In criminal neglect cases:
  - \_\_\_ Note/document/photograph/video general appearance of home before "cleaned up" by suspect(s)
  - \_\_\_ Determine whether utilities on/working
  - \_\_\_ Determine availability/condition of food appropriate for child
  - \_\_\_ Determine condition of appliances (stove, refrigerator, etc.) and whether working
  - \_\_\_ Determine condition/safety of electrical and plumbing features



- \_\_\_ Determine condition/cleanliness of sleeping areas and items, clothing for child, etc.
- \_\_\_ Evidence of alcohol or drugs in home
- \_\_\_ In physical abuse/homicide cases:
  - \_\_\_ Evidence of motive for abuse (soiled underwear, bedding, diapers, medication for colic)
  - \_\_\_ Photos/videos/diagrams of scene
  - \_\_\_ Measurements of areas/items involved
  - \_\_\_ Note surface child supposedly landed on in "fall" case—e.g., wood, concrete, carpeted, etc., and measure distance from child's supposed position to point of impact
  - \_\_\_ Photograph/seize items involved (objects which child allegedly fell from or landed on)
  - \_\_\_ Instruments used to discipline child
  - \_\_\_ Evidence of child's blood (on floor, wall, object)
  - \_\_\_ Check wastebaskets, trash receptacles
  - \_\_\_ Items listed in criminal neglect section above

*Any Relevant Evidence From Suspect, Suspect's Residence, Office, etc.*

- \_\_\_ Use search warrant if necessary; always request consent
- \_\_\_ Photos to show suspect's appearance and/or unusual/distinctive physical features
- \_\_\_ Fingerprints
- \_\_\_ Hair, blood, saliva, semen, fingernail scrapings, dental impressions as applicable to facts
- \_\_\_ Handwriting exemplars, voice tapes
- \_\_\_ Clothing with potential evidentiary value
- \_\_\_ Occupancy papers
- \_\_\_ Phone records
- \_\_\_ Bank or credit card records
- \_\_\_ Work records
- \_\_\_ Drugs or alcohol, medication provided to child by suspect
- \_\_\_ Drugs or alcohol, medication used to cure suspect's venereal disease
- \_\_\_ Pictures, negatives, videos, home movies of alleged victim or other children
- \_\_\_ Camera and/or developing equipment
- \_\_\_ Weapons/implements used to threaten or injure child
- \_\_\_ Items left at suspect's or with suspect by child
- \_\_\_ Pornographic items (films, pictures, magazines, videos, etc.)
- \_\_\_ Sexual aids or devices
- \_\_\_ Computer records, journals, calendars, diaries, address books, etc.
- \_\_\_ Any unique/distinctive items described by child (furnishings, pictures, clothing, lubricants, etc.)
- \_\_\_ Test suspect for relevant sexually transmitted diseases; always request consent to test and accompany suspect or obtain search warrant or court order immediately

*INVESTIGATION AND PROSECUTION OF CHILD ABUSE*

**12. USE ADDITIONAL INVESTIGATIVE TECHNIQUES AS APPROPRIATE/LAWFUL**

- \_\_\_ Obtain 911 tape
- \_\_\_ Wire tap orders/pen registers
- \_\_\_ Undercover officer surveillance
- \_\_\_ Video surveillance
- \_\_\_ Polygraph or Psychological Stress Evaluation (PSE) of suspect
- \_\_\_ Special crime lab testing/analysis
- \_\_\_ Consultation with outside experts
- \_\_\_ One party consent calls by child to suspect
- \_\_\_ Other