

**CHILD ABUSE REPORTING AND INVESTIGATION
RESPONSIBILITIES OF DEPUTIZED PROBATION STAFF**

- AUTHORITY:** Sections 11165 through 11174, California Penal Code
Section 307.4 and Sections 628-736 Welfare and Institutions Code
Regulations of the California Attorney General
Memorandum of Understanding between Orange County Probation
Department and Social Services Agency (July 1985)
County Counsel Opinion No. 87-81, 5-1-87
Attorney General Opinion No. 85-1201, 2-3-87
- RESCINDS:** Procedure Manual Item 3-1-112, dated 08/01/13
- FORMS:** Suspected Child Abuse Report (SS 8572)
Suspected Child Abuse Fax Report (F063-04-69)
Child Abuse Investigation Report (SS 8583)
- PURPOSE:**
1. To establish uniform reporting for all known or suspected instances of child abuse.
 2. To establish guidelines for investigating cases of known or suspected child abuse in which an active juvenile case is the victim.

I. GENERAL INFORMATION

- A. Pursuant to Section 11165.6 of the California Penal Code (CPC), child abuse is defined as a physical injury, which is inflicted by other than accidental means on a child by another person. This includes sexual abuse of a child, or any act or omission proscribed by CPC Section 273a (Willful Cruelty or Unjustifiable Punishment of a Child), or CPC 273d, (Unlawful corporal punishment or injury).
- B. Pursuant to CPC Section 11165.6, child abuse does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.
- C. Reporting incidents of child abuse is required by law for designated individuals pursuant to CPC Section 11166(a). Childcare custodians are required to report pursuant to this section. "Child care custodian" is defined in CPC Section 11165.7(a) in part as, "an employee of a child care institution including but not limited to foster parents, group home personnel, and personnel of residential care facilities; a social worker, probation officer, or parole officer."
- D. Under the provisions of CPC Section 11166, reporting incidents of child abuse is the responsibility of the individual who has reasonable suspicion or knowledge of suspected child abuse. Internal procedures to facilitate reporting and apprise supervisors and administrators have been established. Such procedures may never impede or inhibit reporting duties and/or require the disclosure of identity of the reporting employee.

- E. County Counsel has clarified the reporting responsibility of child abuse in the case of unnecessary or excessive force used by law enforcement (Opinion #87-81). Using California/State Attorney General's Opinion #85-1201, February 3, 1987, as a foundation, County Counsel concluded..."A County probation officer has no duty to make child abuse reports when he or she knows or reasonably suspects that a juvenile has a non-accidental injury inflicted by any peace officer in the course of the juvenile's arrest, detention or confinement, unless he or she knows, or reasonably suspects, that the force used to inflict the injury was not reasonably necessary to effect the arrest, prevent escape, or overcome the resistance of the minor."
- F. There may be personal civil and/or criminal liability for staff who knowingly fail to report a child abuse incident.

II. PROCEDURE

A. Reporting staff responsibilities:

Upon suspecting an incident of child abuse has occurred, staff will:

1. Act to ensure the child's immediate safety. Examples of this include but are not limited to, having law enforcement take the minor into protective custody, removing the minor from a placement facility or a County facility, or transferring within a facility.
2. Notify the Chief Probation Officer via the chain of command immediately of all incidents involving Probation staff or a Probation facility. The Chief Probation Officer or delegate will then request the Sheriff to conduct an independent criminal investigation as indicated.
3. Notify the immediate supervisor/Duty Officer or available administrator, of acts by law enforcement (police and peace officers) that create a "reasonable suspicion" that any unnecessary or excessive force was used in the course of arresting, detaining, or confining a **youth**. ("Reasonable suspicion" has been defined by the legislature to mean that it is objectively reasonable for a person to entertain such a suspicion based upon fact that could cause a reasonable person in a like position, drawing on his or her training and experience, to suspect child abuse.")
4. Telephone the Child Abuse Registry of the Social Services Agency at (714) 940-1000.
5. Complete Form #SS8572, "Suspected Child Abuse Report" in writing and route to the Child Abuse Registry. Monday through Friday, 8:00 a.m. to 5:00 p.m., fax the Suspected Child Abuse "Fax" Report to the Child Abuse Registry, (fax #714-704-8602) in lieu of reporting by telephone. If report is faxed, mailing the report is not necessary.
6. Notify local law enforcement immediately when the incident is discovered in the community if there is an immediate threat to the child's safety, evidence to collect, or criminal investigation to conduct for potential prosecution.

7. Notify local law enforcement, the Probation Placement Officer [REDACTED] and the California Community Care Licensing Agency (714-558-4563) when the incident is discovered in placement or out-of-home care.
8. In compliance with Section 307.4 of the Welfare and Institutions Code (W&I), probation officers and peace officers taking a child into temporary custody believed to come within WIC Section 300, shall:
 - a. Immediately inform the parent, guardian or responsible relative that the **youth** is in custody, by the most efficient means possible.
 - b. Advise the parent, guardian or responsible relative that a written statement is available which explains the procedural rights and the preliminary stages of the dependency investigation and hearing.

B. Summary of Child Abuse Investigation Procedures:

1. The Probation Department **investigates** when the subject of the abuse is not considered to be at risk by the Social Services Agency and is:
 - a. A ward of the Juvenile Court (601 or 602 W&I).
 - b. An active probation case in the intake, investigation, diversion, or other supervision processes per Sections 628, 628.1, 636, 653, 654, 702, 707, 725a, 725b, or 736 of the Welfare and Institutions Code.
 - c. If confusion exists, Probation Administration will determine who shall complete the investigation.
2. The Social Services Agency will complete the "Child Abuse Investigation Report" on all cases in which the Probation Department has no active legal relationship to the subject of child abuse and those wards or **youth** in the probation system who are considered to be at risk by the Social Services Agency.

C. Completing a "Suspected Child Abuse Report" (Form SS 8572)

1. What to Report:
 - a. The victim's age.
 - b. The action, whether the perpetrator is an adult or juvenile:
 - (1) Sexual assault pursuant to:
 - (a) PC 261 (Rape)
 - (b) PC 264.1 (Rape in Concert)
 - (c) PC 285 (Incest)
 - (d) PC 286 (Sodomy)

- (e) PC 288(a) and (b) (Lewd and Lascivious Acts Upon Child Under 14)
- (f) PC 288a (Oral Copulation)
- (g) PC 289 (Penetration of a Genital or Anal Opening by a Foreign Object)
- (h) PC 647a (Child Molest)

(2) Physical punishment or cruelty pursuant to:

- (a) CPC 273a (Willful Cruelly or Unjustifiable Punishment of a Child)
- (b) CPC 273d (Corporal Punishment or Injury)

(3) Neglect

Child abuse includes those conditions under which a **youth** may come under the jurisdiction of the Juvenile Court, such as:

- (a) Negligent treatment of a child by the parent or person responsible for the child's welfare resulting in harm or threatened harm.
- (b) Failure by that parent or person to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive.
- (c) Intentionally or negligently permitting a situation to develop which endangers a child's health, including lack of adequate food, clothing, shelter, medical care, or proper supervision.

(4) Cruelty

Child abuse also includes willful cruelty or unjustifiable punishment of a child by any parent or person who causes or permits any child to suffer or inflicts on the child unjustifiable physical pain or mental suffering, whether or not the person has responsibility for the care and custody of the child.

(5) Punishment:

Corporal punishment willfully or cruelly inflicted or resulting in traumatic injury is child abuse.

- c. If other circumstances appear to be borderline as to whether or not they should be reported as child abuse, the judgement should be made to report rather than not to report.

- d. Incidents of abuse that have happened in the past that do not appear to pose a present danger to the child and could not result in present prosecution shall be reported.

2. How to Complete "Suspected Child Abuse Report" (Form SS 8572)

NOTE: When using the "Fax" Report Form (F063-0469), do not mail in suspected Child Abuse Report (Form SS 8572).

- a. Complete State Form SS 8572 (located in the Probation Department Forms Room) according to instructions on the back of the form.
- b. Type or print all sections with ballpoint pen.
 - (1) If imprinting on copies is indistinct, photocopy original for distribution.
 - (2) It is necessary for the Department of Justice to properly encode all information.
- c. Fill out the names of victims, siblings, parents, and alleged abusers with first, middle, and last names and dates of birth. "S" or "Same" causes confusion.
- d. Complete "Agency Name" and "Address" in full:

Orange County Probation Department
Box 10260
Santa Ana, CA 92711
- e. Submit this report, or fax the report, even if it proves to be unfounded during preliminary investigation, in order that the Department of Justice can reconcile all concurrent reports submitted by all other mandatory reporters. (See Section II E regarding unfounded reports.)
- f. Routing is as follows:
 - (1) Submit all copies of SS 8572 to the Child Abuse Registry.
 - (2) Route a photocopy to the juvenile case file.
 - (3) Retain a photocopy for your own records.

D. Completing "Child Abuse Investigation Report" (Form SS 8583):

- 1. The reporting staff member will conduct the preliminary investigation in an active case unless another staff member is assigned to complete the investigation per supervisory direction.
- 2. If a clearing sheet from Child Abuse Registry is not attached, the investigating staff member shall contact local Child Abuse Registry (714) 940-1000 and the California Department of Justice, Child Abuse Central Index (Box 903417, Sacramento, 94203-4170; phone (916) 227-3285 (after hours X2771, DOJ

Command Center), to discover if there are other abuse reports concerning the subject of abuse, siblings, or concerning the alleged perpetrator.

3. Follow the specific instructions on Form SS 8583 (front and back) in completing the report.
4. Route the completed "Child Abuse Investigation Report" in a confidential envelope to the Child Abuse Registry. Place a photocopy of the form in the juvenile case file.
5. Note: The function of this investigation is to assist and support the Child Abuse Registry in determining necessary involvement of medical personnel and law enforcement. It is not intended to replace independent law enforcement investigation nor collect evidence, but rather to team with them and act in the capacity of Child Protective Services for any minor who has an open juvenile case file.
6. Written notification will be made by the investigating staff member of action taken per PC 11170 concerning abuse in foster home or private institution.

The investigator will:

- a. Notify the Department of Justice, Division of Law Enforcement, via the Social Services Agency Child Abuse Registry.
- b. Record in Probation or Institutional file.
- c. Notify Licensing agency.
- d. Notify Probation or Welfare Department in the jurisdiction where institution is located.
- e. Contact Administrator of the institution.

E. "Unfounded Child Abuse Reports"

1. If it is recommended that the abuse allegations are unfounded, the investigating DPO prepares the same form (SS 8583), forwards the original to the Child Abuse Registry, and retains a photocopy in the juvenile case file.
2. An unsubstantiated report does not constitute an unfounded report.
 - a. A case cannot be categorized as "unfounded" unless it is proved to be unfounded.
 - b. Unfounded reports may arise from the following:
 - (1) The injuries were a result of an accident.
 - (2) There is no evidence to substantiate the allegation of an anonymous reporter.
 - (3) The victim falsified the report (verified).

(4) The incident does not legally qualify as child abuse.

F. Documenting Probation Case Files

1. At the conclusion of all action concerning a suspected child abuse of a **youth** who has an open case file, the assigned staff shall enter a chrono/summary in the case file summarizing the matter and any future action or case plan.
2. The Child Abuse Registry may not necessarily notify the reporting party of the disposition. If further dispositional information is desired, staff may call the Child Abuse Registry.

REFERENCES:

Procedures:	2-1-004	Child Abuse Reporting
	2-1-011	Victims Residing with Perpetrators of Abuse
Policies:	A-1	Policy, Procedure and the Law
	A-2	Departmental and Personal Philosophies
	B-1	Case Confidentiality - Client's Right to Privacy
	B-2	Inter-and Intra-Agency Confidentiality

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APPROVED BY: