

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

- AUTHORITY:** County Counsel Opinion No. 87-81
 Penal Code (PC) Sections 11165 through 11174.3
 Prison Rape Elimination Act, 2003
 California Attorney General Opinion 85-1201 The Child Abuse and Neglect Reporting Act (CANRA)
 Welfare and Institutions Code (WIC) Sections 307.4 and 628-736
- RESCINDS:** Procedure Manual Item 3-3-008 dated 08/18/23
- FORMS:** Prison Rape Elimination Act (PREA) Acknowledge (PSD Form)
 Suspected Child Abuse Report (SS 8572)
- PURPOSE:** To define reporting responsibilities for all known or suspected instances of child abuse and establish guidelines for investigating cases involving known or suspected child abuse when the victim is the subject of an active juvenile case.

I. GENERAL INFORMATION

- A. The Child Abuse and Neglect Reporting Act (CANRA) defines child abuse, establishes procedures to report and investigate child abuse, and imposes an obligation to report child abuse on certain individuals.**
- B. 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).
- C. 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.
- D. 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."
- E. 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.

- F. County Counsel has clarified the reporting responsibility of child abuse in the case of unnecessary or excessive force used by law enforcement (Opinion **No.** 87-81). Using California/State Attorney General's Opinion **No.** 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."
- G. 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 **youths** immediate safety. Examples of this include but are not limited to, having law enforcement take the **youth** into protective custody, removing the **youth** 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. **Call the Child Abuse Registry – County of Orange Social Services Agency (SSA) at 714-940-1000 or 800-207-4464 (24-hour hotline). Pursuant to PC 11166(a), the mandated reporter shall make this initial telephone report immediately or as soon as it is practicably possible.**
5. **Additionally, PC 11166(a) requires the mandated reporter submit a written follow-up report within thirty-six (36) hours of receiving the information concerning the incident. For the written report, complete the Suspected Child Abuse form. This form is located on Probnets under Forms > External Agency Forms > SSA - Suspected Child Abuse Report.**
 - a. **SSA also has a web-based form. After you call in the report, the mandated reporter will be assigned an account and a**

temporary password. The social worker will email the link, and the mandated reporter can complete the form online and submit it directly to SSA.

b. Print out a copy of the completed form and put it in the youth's file.

6. Notify local law enforcement immediately when the incident is discovered in the community if there is an immediate threat to the **youth's** safety, evidence to collect, or **a** criminal investigation to conduct for potential prosecution.
7. Notify **the Department's PREA Coordinator**, when **an** incident **occurring within a juvenile facility** is discovered **involving suspected child sexual abuse or sexual harassment**.

B. 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 **unclear** 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 shall be reported.

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

- a. **The form is available on the Probnet home page under Forms, then External Agency Forms – SSA – Suspected Child Abuse Report.**

It is also available at www.ssa.ocgov.com by clicking on "Abuse Reporting," "Mandated Reporters," "Forms", "Mandated Reporter Application" or "Printable Follow-Up Form."

- a. 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.
- b. Complete "Agency Name" and "Address" in full:

Orange County Probation Department
Box 10260
Santa Ana, CA 92711

Submit this report, even if it proves to be unfounded during **the** preliminary investigation. **This** enables the Department of Justice **to** reconcile all concurrent reports submitted by all other mandatory reporters.

c. Routing is as follows:

- (1) Submit all copies of SS 8572 to the Child Abuse Registry **electronically through the mandated reporter webpage at www.ssa.ocgov.com**.
- (2) Route a photocopy to the juvenile case file.
- (3) Retain a photocopy for your own records.

C. 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 summary in the **youth's** case file summarizing the matter and any future action or case plan. **In cases involving staff, do not reference the staff's name. Instead, follow the Prison Rape Elimination Act (PREA) protocol, complete a Special Incident Report, and route it to the Professional Standards Division (PSD) via the chain of command.**
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 Responsibilities of Deputized Probation Staff
	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

K. Carvo

APPROVED BY: