

Child Abuse

330.1 PURPOSE AND SCOPE

Best Practice

The purpose of this policy is to provide guidelines for the investigation of suspected child abuse. This policy also addresses when Indio Police Department members are required to notify the county Child Protective Services (CPS) of suspected child abuse.

330.1.1 DEFINITIONS

State

Definitions related to this policy include:

Child - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years.

Child abuse - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency or law enforcement (Penal Code § 11165.9; Penal Code § 11166).

330.2 POLICY

State

The Indio Police Department will investigate all reported incidents of alleged criminal child abuse and ensure CPS is notified as required by law.

330.3 MANDATORY NOTIFICATION

State

The child protection agency shall be notified when (Penal Code § 11166):

- (a) There is a known or suspected instance of child abuse or neglect reported, which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or
- (b) A person responsible for the child's welfare fails to adequately protect the child from abuse when the person knew or reasonably should have known that the child was in danger of abuse.

The District Attorney's office shall be notified in all instances of known or suspected child abuse or neglect reported to this department. Reports only involving neglect by a person, who has 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 should not be reported to the District Attorney (Penal Code § 11166).

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes,

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day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority (Penal Code 11166.1; Penal Code 11166.2).

For purposes of notification, the abuse or neglect includes physical injury or death inflicted by other than accidental means upon a child by another person; sexual abuse (Penal Code § 11165.1); neglect (Penal Code § 11165.2); the willful harming or injuring of a child or the endangering of the person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury (Penal Code § 11165.4). Child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by the reasonable and necessary force used by a peace officer acting within the course and scope of his/her employment as a peace officer.

330.3.1 NOTIFICATION PROCEDURE

State

Notification should occur as follows (Penal Code § 11166):

- (a) Notification shall be made immediately, or as soon as practicable, by telephone, fax or electronic transmission.
- (b) A written follow-up report should be forwarded within 36 hours of receiving the information concerning the incident.

330.4 QUALIFIED INVESTIGATORS

State

Qualified investigators should be available for child abuse investigations. These investigators should:

- (a) Conduct interviews in child appropriate interview facilities.
- (b) Be familiar with forensic interview techniques specific to child abuse investigations.
- (c) Present all cases of alleged child abuse to the prosecutor for review.
- (d) Coordinate with other enforcement agencies, social service agencies and school administrators as needed.
- (e) Provide referrals to therapy services, victim advocates, guardians and support for the child and family as appropriate.
- (f) Participate in or coordinate with multidisciplinary investigative teams as applicable (Welfare and Institutions Code § 18961.7).

330.5 INVESTIGATIONS AND REPORTING

Best Practice

In all reported or suspected cases of child abuse, a report will be written. Officers shall write a report even if the allegations appear unfounded or unsubstantiated.

Investigations and reports related to suspected cases of child abuse should address, as applicable:

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- (a) The overall basis for the contact. This should be done by the investigating officer in all circumstances where a suspected child abuse victim was contacted.
- (b) The exigent circumstances that existed if officers interviewed the child victim without the presence of a parent or guardian.
- (c) Any relevant statements the child may have made and to whom he/she made the statements.
- (d) If a child was taken into protective custody, the reasons, the name and title of the person making the decision, and why other alternatives were not appropriate.
- (e) Documentation of any visible injuries or any injuries identified by the child. This should include photographs of such injuries, if practicable.
- (f) Whether the child victim was transported for medical treatment or a medical examination.
- (g) Whether the victim identified a household member as the alleged perpetrator, and a list of the names of any other children who may reside in the residence.
- (h) Identification of any prior related reports or allegations of child abuse, including other jurisdictions, as reasonably known.
- (i) Previous addresses of the victim and suspect.
- (j) Other potential witnesses who have not yet been interviewed, such as relatives or others close to the victim's environment.

All cases of the unexplained death of a child should be investigated as thoroughly as if it had been a case of suspected child abuse (e.g., a sudden or unexplained death of an infant).

330.5.1 EXTRA JURISDICTIONAL REPORTS

State

If a report of known or suspected child abuse or neglect that is alleged to have occurred outside this jurisdiction is received, department members shall ensure that the caller is immediately transferred to the agency with proper jurisdiction for the investigation of the case. If the caller cannot be successfully transferred to the appropriate agency, a report shall be taken and immediately referred by telephone, fax or electronic transfer to the agency with proper jurisdiction (Penal Code 11165.9).

330.6 PROTECTIVE CUSTODY

State

Before taking any child into protective custody, the officer should make reasonable attempts to contact CPS. Generally, removal of a child from his/her family, guardian or other responsible adult should be left to the child welfare authorities when they are present or have become involved in an investigation.

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Generally, members of this department should remove a child from his/her parent or guardian without a court order only when no other effective alternative is reasonably available and immediate action reasonably appears necessary to protect the child. Prior to taking a child into protective custody, the officer should take reasonable steps to deliver the child to another qualified parent or legal guardian, unless it reasonably appears that the release would endanger the child or result in abduction. If this is not a reasonable option, the officer shall ensure that the child is delivered to CPS.

Whenever practicable, the officer should inform a supervisor of the circumstances prior to taking a child into protective custody. If prior notification is not practicable, officers should contact a supervisor promptly after taking a child into protective custody.

Children may only be removed from a parent or guardian in the following situations when a court order cannot reasonably be obtained in a timely manner (Welfare and Institutions Code § 305):

- (a) The officer reasonably believes the child is a person described in Welfare and Institutions Code § 300, or a commercially exploited child under Penal Code § 647 and Penal Code § 653.22, and further has good cause to believe that any of the following conditions exist:
 1. The child has an immediate need for medical care.
 2. The child is in immediate danger of physical or sexual abuse.
 3. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In the case of a child left unattended, the officer shall first attempt to locate and determine if a responsible parent or guardian is available and capable of assuming custody before taking the child into protective custody.
- (b) The officer reasonably believes the child requires protective custody under the provisions of Penal Code § 279.6, in one of the following circumstances:
 1. It reasonably appears to the officer that a person is likely to conceal the child, flee the jurisdiction with the child or, by flight or concealment, evade the authority of the court.
 2. There is no lawful custodian available to take custody of the child.
 3. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
 4. The child is an abducted child.
- (c) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 (Detainment or concealment of child from legal custodian) or Penal Code § 278.5 (Deprivation of custody of a child or right to visitation) (Penal Code § 279.6).

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A child taken into protective custody shall be delivered to CPS unless otherwise directed by court order.

330.6.1 CALIFORNIA SAFELY SURRENDERED BABY LAW

State

An individual having lawful custody of an infant less than 72 hours old is not guilty of abandonment if the individual voluntarily surrenders physical custody of the infant to personnel on-duty at a safe-surrender site, such as a hospital or fire department (Penal Code § 271.5). The law requires the surrender site to notify CPS.

330.6.2 NEWBORNS TESTING POSITIVE FOR DRUGS

State

Under certain circumstances, officers can be prohibited from taking a newborn who is the subject of a proposed adoption into protective custody, even when the newborn has tested positive for illegal drugs or the birth mother tested positive for illegal drugs.

Officers shall instead follow the provisions of Welfare and Institutions Code § 305.6 to ensure that the newborn is placed with the adoptive parents when it is appropriate.

330.7 INTERVIEWS

Best Practice

330.7.1 PRELIMINARY INTERVIEWS

Best Practice

Absent extenuating circumstances or impracticality, officers should record the preliminary interview with suspected child abuse victims. Officers should avoid multiple interviews with a child victim and should attempt to gather only the information necessary to begin an investigation. When practicable, investigating officers should defer interviews until a person who is specially trained in such interviews is available. Generally, child victims should not be interviewed in the home or location where the alleged abuse occurred.

330.7.2 DETAINING SUSPECTED CHILD ABUSE VICTIMS FOR AN INTERVIEW

Best Practice

An officer should not detain a child involuntarily who is suspected of being a victim of child abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless one of the following applies:

- (a) Exigent circumstances exist, such as:
 1. A reasonable belief that medical issues of the child need to be addressed immediately.
 2. A reasonable belief that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.

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3. The alleged offender is the custodial parent or guardian and there is reason to believe the child may be in continued danger.
 - (b) A court order or warrant has been issued.

330.7.3 INTERVIEWS AT A SCHOOL

State

Any student at school who is a suspected victim of child abuse shall be afforded the option of being interviewed in private or selecting any qualified available adult member of the school staff to be present. The purpose of the staff member's presence is to provide comfort and support. The staff member shall not participate in the interview. The selection of a staff member should be such that it does not burden the school with costs or hardship (Penal Code § 11174.3).

330.8 MEDICAL EXAMINATIONS

Best Practice

If the child has been the victim of abuse that requires a medical examination, the investigating officer should obtain consent for such examination from the appropriate parent, guardian or agency having legal custody of the child. The officer should also arrange for the child's transportation to the appropriate medical facility.

In cases where the alleged offender is the custodial parent or guardian and is refusing consent for the medical examination, officers should notify a supervisor before proceeding. If exigent circumstances do not exist or if state law does not provide for officers to take the child for a medical examination, the notified supervisor should consider obtaining a court order for such an examination.

330.9 DRUG-ENDANGERED CHILDREN

Best Practice

A coordinated response by law enforcement and social services agencies is appropriate to meet the immediate and longer-term medical and safety needs of children exposed to the manufacturing, trafficking or use of narcotics.

330.9.1 SUPERVISOR RESPONSIBILITIES

Best Practice

The Major Crimes Unit or Street Crimes Unit supervisor should:

- (a) Work with professionals from the appropriate agencies, including CPS, other law enforcement agencies, medical service providers and local prosecutors to develop community specific procedures for responding to situations where there are children endangered by exposure to methamphetamine labs or the manufacture and trafficking of other drugs.
- (b) Activate any available interagency response when an officer notifies the Major Crimes Unit or Street Crimes Unit supervisor that the officer has responded to a drug lab or

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other narcotics crime scene where a child is present or where evidence indicates that a child lives there.

- (c) Develop a report format or checklist for use when officers respond to drug labs or other narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

330.9.2 OFFICER RESPONSIBILITIES

Best Practice **MODIFIED**

- (a) Officers shall become familiar with Sections 300, 305, and 625 of the Welfare and Institutions Code and Sections 273a(a)(1), 273a(b), 273d(a), 11166, and 11169 of the Penal Code.
- (b) Section 305 of the W&I Code gives Law Enforcement the authority to take into temporary custody any child who comes within Sections 300(a), 300(b), 300(c), 300(e), 300(f), 300(g), 300(i), 300(j), and 300(k) of the W&I Code, and section 279 of the Penal Code as it relates to child custody/visitation. Officers should assist CPS case workers when circumstances deem it necessary for CPS case workers to remove a child or children from a home.
- (c) Sections 11166 and 11169 of the Penal Code relate to reporting child abuse or suspected child abuse to the Department of Justice, District Attorney's Office, and Child Protective Services.
- (d) It shall be each officer's responsibility to act on any 11166 PC report received.
- (e) All cases of suspected or actual child abuse/neglect shall be documented on a crime report. If the evidence or elements of the crime are not present, the investigation conducted shall be documented in an informational report.
- (f) Crime reports on actual or suspected child sexual abuse cases shall be referred to MCU / SCU for further investigation.
- (g) The initial investigating patrol officer shall ensure compliance with the mandates under Section 11166 of the Penal Code (CPS cross reporting).
- (h) An investigation of the crime scene will be conducted immediately and thoroughly to prevent the crime scene from being altered if it is determined an investigation is required.
- (i) A decision to remove a child from the home will be based upon the welfare of the child. It may also include removing siblings based on the investigative findings and welfare of the children. This shall be determined by CPS case workers and officers shall assist CPS case workers when doing so.
- (j) The R/P must be interviewed in detail to figure out why the victim disclosed the allegations at that particular time.
- (k) If the R/P provides sufficient information indicating a crime occurred and the child is 13 years and under, a forensic interview is needed. If the victim is 14 years and older a basic interview to confirm the crime occurred may be done. The interview "shall be" recorded.

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- (l) When receiving a CPS fax report, a patrol officer must conduct a preliminary investigation to confirm a crime occurred. Based on the information gathered, the case may be sent to MCU/ SCU for follow up investigation if the investigation cannot be resolved at the patrol level.
- (m) Determine if a SART exam or CAN exam (Child abuse and neglect forensic exam) is needed. If needed contact CPS to assist with immediate cases, or make arrangements with parent to take victim to the exam, after the officer contacts the examiner for scheduling.
- (n) The following items will be considered when investigating a child abuse or child neglect case:
 - 1. Age of Victim.
 - 2. General health of the child. Does the health of the child indicate neglect?
 - 3. Location of the injury.
 - 4. History of previous episodes.
 - a. Suspicious family history.
 - b. Were new injuries received while the child was hospitalized?
 - 5. Types of Injuries:
 - a. Damage to skin and surface tissue, i.e., bruises, burns, bite marks, abrasions and lacerations.
 - b. Damage to brain, i.e., head injuries, "Whiplash: Shaken Infant Syndrome".
 - c. Damage to other internal organs, i.e., internal injuries (blunt blows).
 - d. Damage to skeleton, i.e., fractures.
 - 6. Distribution and type of fractures and other injuries.
 - 7. Shape and amount of injury of soft tissue.
 - 8. Evidence injuries occurred at different times.
 - 9. What caused the recent trauma in question?
 - 10. Statements of parents, babysitters, relatives, etc.
 - 11. Reconstruction of scene and occurrence through witnesses, reporting parties, etc.
 - 12. Severe Neglect.
 - a. Negligent failure of a parent/caretaker to protect a child from severe malnutrition or medically diagnosed "nonorganic failure to thrive".
 - b. This includes the intentional failure to provide adequate food, clothing, shelter, or medical care.
 - 13. General Neglect.

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- a. Negligent failure of a parent/caretaker to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.
14. The investigating officer will obtain a verbal account of the injuries from the doctor who examines the child. This information will be stated in the crime report.
15. Parents/guardians are to sign the "Authorization to Release or Receive Medical Information" form. Indio Police Department personnel can sign the release if no parent or guardian is available.
16. The Medical Report/Suspected Child abuse form, Section I - General Information should be filled out by the investigating detective (DOJ 900).
17. Determine where victim current doctors are located, for medical history.
18. Record interviews with BWC.

330.9.3 PERSONS WHO SHOULD BE INTERVIEWED DURING INVESTIGATION

- Reporting Party.
- Victim, if possible.
- Parents or guardians.
- Suspect unless it involves a sex crime at which point a case detective will assume investigation.
- Persons who can contribute to the history of the child or family (physician, neighbors, relatives, school officials, minister, babysitter, Child Protective Services, etc.).
- Paramedics/ambulance personnel.

330.9.4 COLOR PHOTOS SHOULD BE TAKEN OF:

- Injuries to victim with facial photos, full-body photos, and close-ups of the individual injuries.
- Scene of occurrence and any evidence, including the weapon or instrument used, if such was used.
- If the suspect is known, obtain a photograph to identify the suspect.
- Child neglect cases - photograph child room, closet, bed, and toys. Photograph living room to determine if there are any victim photographs. Photograph food in refrigerator and cabinets. Photograph cleanings of the residence, interior and exterior.

330.9.5 FORENSIC INTERVIEW IS NEEDED WHEN:

- (a) When there are allegations of sexual abuse, physical abuse or severe neglect.
- (b) When a child has been a witness to a violent crime.
- (c) When a young child has been a witness to siblings abuse.
- (d) For developmentally disabled adult or child victims.

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- (e) Where communication barriers including hearing, vision, verbal handicaps or language differences exist.

330.9.6 PURPOSE OF THE FORENSIC INTERVIEW:

- (a) The purpose of the forensic interview is to provide a safe, supportive and neutral environment, in which a child can share information regarding their experience.
- (b) Limiting the number of interviewers and the number of times a child is interviewed.
- (c) Minimize emotional trauma to child and family.
- (d) Recorded interview may be used for court purposes, to help and prevent the child from testifying at court hearings.

330.9.7 SUPERVISOR RESPONSIBILITY

- Supervisors shall insure case reports meeting the above criteria are completed by end of shift by the individual officers involved and forwarded to MCU / SCU prior to end of their shift.

330.10 STATE MANDATES AND OTHER RELEVANT LAWS

State

California requires or permits the following:

330.10.1 RELEASE OF REPORTS

State

Information related to incidents of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Penal Code 841.5; Penal Code § 11167.5).

330.10.2 REQUESTS FOR REMOVAL FROM THE CHILD ABUSE CENTRAL INDEX (CACI)

State

Any person whose name has been forwarded to the California Department of Justice (DOJ) for placement in California's CACI, as a result of an investigation, may request that his/her name be removed from the CACI list. Requests shall not qualify for consideration if there is an active case, ongoing investigation or pending prosecution that precipitated the entry to CACI (Penal Code § 11169). All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer.

330.10.3 CACI HEARING OFFICER

Best Practice

The Major Crimes Unit or Street Crimes Unit supervisor will normally serve as the hearing officer but must not be actively connected with the case that resulted in the person's name being submitted to CACI. Upon receiving a qualified request for removal, the hearing officer shall

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promptly schedule a hearing to take place during normal business hours and provide written notification of the time and place of the hearing to the requesting party.

330.10.4 CACI HEARING PROCEDURES

State

The hearing is an informal process where the person requesting removal from the CACI list will be permitted to present relevant evidence (e.g., certified copy of an acquittal, factual finding of innocence) as to why his/her name should be removed. The person requesting the hearing may record the hearing at his/her own expense.

Formal rules of evidence will not apply and the hearing officer may consider, in addition to evidence submitted by the person requesting the hearing, any relevant information including, but not limited to, the following:

- (a) Case reports including any supplemental reports
- (b) Statements by investigators
- (c) Statements from representatives of the District Attorney's Office
- (d) Statements by representatives of a child protective agency who may be familiar with the case

After considering all information presented, the hearing officer shall make a determination as to whether the requesting party's name should be removed from the CACI list. Such determination shall be based on a finding that the allegations in the investigation are not substantiated (Penal Code § 11169).

If, after considering the evidence, the hearing officer finds that the allegations are not substantiated, he/she shall cause a request to be completed and forwarded to the DOJ that the person's name be removed from the CACI list. A copy of the hearing results and the request for removal will be attached to the case reports.

The findings of the hearing officer shall be considered final and binding.

330.10.5 CHILD DEATH REVIEW TEAM

Discretionary

This department should cooperate with any interagency child death review team investigation. Written and oral information relating to the death of a child that would otherwise be subject to release restrictions may be disclosed to the child death review team upon written request and approval of a supervisor (Penal Code § 11174.32).

330.11 TRAINING

Best Practice

The Department should provide training on best practices in child abuse investigations to members tasked with investigating these cases. The training should include:

- (a) Participating in multidisciplinary investigations, as appropriate.

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- (b) Conducting forensic interviews.
- (c) Availability of therapy services for children and families.
- (d) Availability of specialized forensic medical exams.
- (e) Cultural competence (including interpretive services) related to child abuse investigations.
- (f) Availability of victim advocate or guardian ad litem support.