

Child Abuse Reporting

330.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines and procedures for reports of suspected child abuse and the taking of minors into protective custody.

330.2 DEFINITIONS

For purposes of this section the following definitions are provided:

Child - A person under the age of 18 years.

Child Abuse or Neglect - Includes the following (Penal Code § 11165.6):

- (a) Physical injury or death inflicted by other than accidental means upon a child by another person.
- (b) Sexual abuse as defined in Penal Code § 11165.1.
- (c) Neglect as defined in Penal Code § 11165.2.
- (d) The willful harming or injuring of a child or the endangering of the person or health of a child, as defined in Penal Code § 11165.3.
- (e) Unlawful corporal punishment or injury as defined in Penal Code § 11165.4.
- (f) Child abuse or neglect does not include an altercation between minors. Child abuse or neglect 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.

Child Protective Agency - A police or sheriff's department, a county probation department or a county welfare department. This section does not include school district police or security department.

330.3 CHILD ABUSE REPORTING

Pursuant to Penal Code § 11165.9, this department is required to accept all suspected child abuse or neglect reports and to conduct an investigation and take appropriate action when necessary. All employees of this department are responsible for the proper reporting of child abuse. Any employee who encounters any child whom he or she reasonably suspects has been the victim of child abuse or neglect shall immediately take appropriate action and prepare a crime report pursuant to Penal Code § 11166.

330.3.1 MANDATORY NOTIFICATION

Pursuant to Penal Code § 11166.1, when this department receives a report of abuse or neglect occurring at the below listed facilities, notification shall be made within 24 hours to the licensing office with jurisdiction over the facility.

- (a) A facility licensed to care for children by the State Department of Social Services.

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- (b) A report of the death of a child who was, at the time of death, living at, enrolled in or regularly attending a facility licensed to care for children by the State Department of Social Services, unless the circumstances of the child's death are clearly unrelated to the child's care at the facility.

Additionally, an immediate notification is required to the appropriate licensing agency if the suspected child abuse occurs while the child is being cared for in a child day care facility, involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility licensee or staff person.

330.3.2 POLICE REPORTS

Occasionally reports of suspected child abuse or neglect are deemed to be discipline of the child only. Officers must use good judgement and sound principles when evaluating circumstances of suspected child abuse or neglect incidents. Officers responding to incidents of suspected child abuse or neglect where it cannot initially be shown that a crime has occurred, but a child receives an injury, shall document the incident in a report. No suspected child abuse or neglect report is required if the injury(ies) sustained by the child are minor and not criminal in nature, are substantiated as an accident, or are caused by another child.

330.3.3 CONTACTING SUSPECTED CHILD ABUSE VICTIMS

An officer should not involuntarily detain a juvenile suspected of being a victim of abuse solely for the purpose of an interview or physical exam without the consent of a parent or guardian unless any of the following apply:

- (a) Exigent circumstances exist. For example:
1. A reasonable belief that medical issues need to be addressed immediately.
 2. It is reasonably believed that the child is or will be in danger of harm if the interview or physical exam is not immediately completed.
- (b) A court order or warrant has been issued.

In all circumstances in which a suspected child abuse victim is contacted, it will be incumbent upon the investigating officer to articulate in the related reports the overall basis for the contact and what, if any, exigent circumstances exist.

Any juvenile 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).

330.3.4 RELEASE OF REPORTS

Reports of child abuse or suspected child abuse shall be confidential and may only be disclosed pursuant to Penal Code § 11167.5 and Policy Manual § 810.

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330.4 INVESTIGATION RESPONSIBILITY

The duties of any officer or detective assigned to investigate a suspected child abuse or neglect incident include, but are not limited to:

- (a) Responsibility for the investigation, the collection of evidence and preliminary preparation for prosecution of all cases of child abuse, neglect, and molestation.
- (b) Investigating the deaths of children that could be attributed to abuse or molestation.
- (c) Investigating any instance of Sudden Unexplained Infant Death (SUID).
- (d) Investigating reports of unfit homes, child abandonment, child endangering or neglect.
- (e) Providing follow-up compliance calls on reports of suspected child abuse.
- (f) Coordinating with other enforcement agencies, social service agencies and school administrators in the application and enforcement of the laws regarding child abuse cases.

330.5 PHYSICAL EXAMINATIONS

If the child has been the victim of sexual abuse requiring a medical examination, the investigating officer should arrange for transportation of the victim to the appropriate hospital. The investigating officer will need to fill out the Medical Report - Suspected Child Sexual Abuse form, (OCJP form 925) prior to the doctor doing the examination.

330.6 TEMPORARY CUSTODY OF JUVENILES

Under specified circumstances described below, a minor may be taken into protective custody if he/she is the victim of suspected child abuse (Welfare and Institutions Code § 300 et seq.). Before taking any minor into protective custody the officer should make reasonable attempts to contact the appropriate child welfare authorities to ascertain any applicable history or current information concerning the minor.

An officer should consider taking a minor into protective custody under any of the following circumstances (Welfare and Institutions Code § 305 and Penal Code 279.6):

- (a) The officer reasonably believes the minor is a person described in Welfare and Institutions Code § 300, and further has good cause to believe that any of the following conditions exist:
 1. The minor has an immediate need for medical care.
 2. The minor 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 minor 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 minor into protective custody.
- (b) 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.

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- (c) There is no lawful custodian available to take custody of the child.
- (d) The child is an abducted child.
- (e) The child is in the company of, or under the control of, a person arrested for Penal Code § 278 or 278.5.

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 minor or result in abduction. If this is not a reasonable option, the officer shall ensure the minor is delivered to the appropriate child welfare authority.

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.

330.7 REPORTING REQUIREMENTS

A law enforcement agency shall immediately, or as soon as practicably possible, report by telephone, fax, or electronic transmission to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and to the district attorneys office every known or suspected instance of child abuse or neglect reported to it, except acts or omissions coming within subdivision (b) of Section 11165.2 of the California Penal Code, which shall be reported only to the county welfare or probation department. A law enforcement agency shall report to the county welfare or probation department every known or suspected instance of child abuse or neglect reported to it which is alleged to have occurred as a result of the action of a person responsible for the child's welfare, or as the result of the failure of a person responsible for the child's welfare to adequately protect the minor from abuse when the person responsible for the child's welfare knew or reasonably should have known that the minor was in danger of abuse. A law enforcement agency also shall send, fax, or electronically transmit a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it makes a telephone report under this subdivision.

330.8 NOTICE OF INCLUSION IN THE CHILD ABUSE CENTRAL INDEX (CACI)

Anytime the Barstow Police Department forwards a Child Abuse or Severe Neglect Indexing Form to the California DOJ pursuant to Penal Code § 11169, the Police Services Supervisor shall ensure a notice has been delivered to the suspect or the suspect's last known address via certified mail stating that the suspect has been reported to Child Abuse Central Index (CACI) (Penal Code § 11169). Officers may personally deliver the form to the suspect when applicable and should document this delivery in the appropriate report. If an officer has personally served the suspect, the Police Services Supervisor does not need to mail the form to the suspect, but shall ensure the delivery of the form is documented in the officer's report or by attachment to the report.

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330.9 REQUESTS FOR REMOVAL FROM THE CHILD ABUSE CENTRAL INDEX

Any person whose name was placed on the California's Child Abuse Central Index (CACI) as a result of an investigation by this agency 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. All requests for removal shall be submitted in writing by the requesting person and promptly routed to the CACI hearing officer (Penal Code § 11169).

330.9.1 CACI HEARING OFFICER

The Detective Division supervisor will normally serve as the CACI Hearing Officer for the Barstow Police Department, 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 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.

330.9.2 HEARING PROCEDURES

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.

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330.10 DRUG-ENDANGERED CHILDREN

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.

330.10.1 SUPERVISOR RESPONSIBILITIES

The Detective Division supervisor should:

- (a) Work with professionals from the appropriate agencies, including the Department of Children and Family Services, 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 their exposure to methamphetamine labs or the manufacture and trafficking of other drugs (Penal Code § 13879.80).
- (b) Activate the interagency response when an officer notifies the Detective Division supervisor that the officer has responded to a drug lab or 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 serious narcotics crime scenes. The checklist will help officers document the environmental, medical, social and other conditions that may affect the child.

330.10.2 OFFICER RESPONSIBILITIES

Officers responding to a drug lab or other serious narcotics crime scene where a child is present or where there is evidence that a child lives should:

- (a) Immediately cause the child(ren) to be removed from any hazardous environment and, if necessary, seek appropriate medical or custodial attention of the child(ren).
- (b) Document the environmental, medical, social and other conditions of the child using investigative techniques, including photography and collection of evidence, as appropriate and any checklist or form developed for this purpose.
- (c) Notify the officer's immediate supervisor or watch-commander so an interagency response can begin.