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Investigation of Child Physical Abuse and Neglect, Child Sexual Abuse and Exploitation



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Child Abuse Investigation

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Foreword

Child physical abuse and neglect, child sexual abuse and exploitation are some of the most serious and egregious crimes committed in our society. The children and their families are negatively impacted, and the children often experience lifelong impairments, including learning disabilities, health complications, shortened life expectancy or even death. The trauma associated with child abuse differs from other forms of victimization.

Regarding the invasive nature of sexual assaults, it is especially important that responding officers are trained to develop a supportive environment for victims. When law enforcement personnel follow investigative protocols, victims and family will less likely feel re-victimized.

Penal Code (PC) §13516 requires the Commission on Peace Officer Standards and Training (POST) to prepare guidelines establishing standard procedures for law enforcement agencies to follow in the investigation of sexual assault cases, and cases involving the sexual exploitation or sexual abuse of children. These guidelines include law enforcement response to, and treatment of, victims of these crimes. The statute also requires POST to prepare and implement a sexual assault investigation training course. These guidelines have been updated to incorporate changes in the law and changes in investigative procedure.

These guidelines are presented in a format that will allow the reader to follow a systematic process for conducting physical abuse, neglect, child death and sexual assault investigations. POST encourages the sharing of this information with all law enforcement personnel who may serve as the liaison between the child abuse victim and the criminal justice system.

The Commission appreciates the contributions of the Child Abuse Investigation Guidelines Review Committee for assistance in updating this information. Questions or comments concerning this document should be directed to the Training Program Services Bureau at (916) 227-3909.

Introduction

It is a sad commentary that children can be victims of crimes not only by strangers but most prevalently by the very people to whom they are entrusted. Nationally, 92% of the child victims are maltreated by one or both parents. In 2018, more than 15% of children were poly-victimized (suffered two or more forms of abuse).¹ In the same year, the substantiated abuse and neglect rate in California was 7.5 per every 1,000 children.² One in three girls and one in seven boys are sexually assaulted (defined as rape, statutory rape, rape in concert, incest, sodomy, oral copulation, lewd or lascivious acts upon a child, sexual penetration, or child molestation, per 11165.1 PC) by the time they reach 18. Nearly half of California children with substantiated cases of maltreatment are ages five and younger, and abusive head trauma is the leading cause of physical child abuse deaths in the U.S.³

Child abuse cases can be labor intensive. They are notoriously difficult and complicated to investigate, prove and prosecute. Most cases seemingly start with only the child's statement, or injuries on the child for which the account given by the care provider is not consistent with the medical findings. Evidence may be discoverable in physical abuse cases, but notably absent in most child sexual abuse cases. Children who are old enough to seek help do not because they are too frightened or confused to tell anyone, and if they do tell, the toll on the children and the families can be heavy. The fear of disclosure will most likely mean the destruction of the family, and the incarceration of the loved offender. In some cases, children are reportedly discovered deceased with no explanation, and no obvious cause of the death.

Proving an allegation of child abuse relies heavily on the children themselves, followed by suspect identification, and environmental factors. With that burden in mind, it is incumbent upon law enforcement to thoroughly investigate any allegation by considering the child's environment, and a potential perpetrator's access to and opportunity to be with the child.

These investigations are best conducted with a multidisciplinary approach. Law enforcement is not alone with limited tools, but rather supported by medical professionals, social services, community care licensing, child advocacy centers, prosecutors, and fellow law enforcement investigators. The criminal justice system relies on the members of the multidisciplinary team to discover the necessary elements that will prove the innocence of the falsely accused, and the guilt of the offender. It is law enforcement's responsibility to communicate with the other disciplines and to gather and document the findings and present them to the prosecutor.

These guidelines incorporate legal mandates as they pertain to law enforcement personnel. Law enforcement has a legal and moral obligation to thoroughly investigate reports of suspected child abuse and to determine whether a crime has been committed. Investigations must be carried out in a professional and sensitive manner to protect the welfare and the rights of the potential victim and the suspected offender. Officers must realize that the work completed during the initial phases of the investigation may have a tremendous impact on the welfare of the child, as well as the successful prosecution of the accused. All officers involved with child

1 U.S. Administration for Children & Families, Child Maltreatment 2018.

2 *U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2019)*

3 National Center on Shaken Baby Syndrome

abuse cases should have adequate training in child abuse investigative techniques, including proper methods for interviewing victims, witnesses, and suspects. Officers should be sensitive to the dynamics of child abuse investigations, as well as possible repercussions.

These guidelines provide a basis for law enforcement agencies to evaluate their policies and procedures. This document presents the information needed to conduct a child abuse investigation in such a way that law enforcement professionals can follow a step-by-step process. The guidelines are general and designed to provide order and continuity to the investigations.

The guidelines are divided into chapters, and whenever possible, the sequence of which follows the normal progression of events from the receipt of the initial report to the completion of the case summary for the prosecuting attorney.

More detailed investigative information is available in POST-certified Child Abuse Investigation Courses.

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Guidelines for Investigators

These guidelines are for law enforcement use when responding to and investigating child abuse and sexual assault cases. Responses will vary depending upon individual agencies and jurisdictions.

Goals

The goals established in preparing these guidelines are as follows:

- ▶ Improve the law enforcement response to reports of child physical abuse, child neglect, child sexual abuse and child exploitation.
- ▶ Enhance the investigation and prosecution of these complex and sensitive cases.
- ▶ Familiarize law enforcement personnel with all pertinent laws and resources associated with child abuse crimes including local, state, and federal agencies.
- ▶ Provide officers with information on how to assist, interact with, and educate victims and their families about the criminal justice process.
- ▶ Describe common misconceptions and realities about child physical abuse, child neglect, child sexual abuse, and child exploitation.
- ▶ Provide an understanding of the benefits of the Child Abuse Response Team (CART) approach, even if it is not formalized in the officer's jurisdiction.
- ▶ Provide information on how to conduct unbiased and effective forensic interviews with victims, witnesses, and suspects in order to determine the facts and to protect the rights of all parties.
- ▶ Safeguard the community.

Major Definitions

A Comprehensive List of Child Abuse Terms and Definitions may be found under
Appendix 12: Glossary of Child Abuse Terms

CANRA – Child Abuse and Neglect Reporting Act (11164 – 11174.3 PC)

Child – A person under the age of 18 years. (11165 PC)

Child Abuse – Physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse, neglect, the willful harming or injuring of a child or the endangering of the person or health of a child, and unlawful corporal punishment or injury. (11165.2 PC)

Child Advocacy Center (CAC) – A child-focused, community-based program that provides coordination between the various agencies and professionals responsible for responding to child maltreatment with the primary goal to prevent re-traumatization by the system response.

Child Neglect – Refers to the negligent treatment or maltreatment of a child by a parent or caretaker under circumstances indicating harm or threatened harm to the child’s health and welfare. This includes both acts and omissions on the part of the responsible person. There are two categories of neglect: **general child neglect** and **severe child neglect**. Neglect is the most common form of child abuse. (11165.2 PC)

Child Sexual Abuse (CSA) – Rape, statutory rape, rape in concert, incest, sodomy, oral copulation, lewd or lascivious acts upon a child, sexual penetration, or child molestation. (11165.1 PC)

Commercial Exploitation of a Child – Sexual trafficking of a child, and/or providing food, shelter, or payment to a child in exchange for the performance of any sexual act. (11165.1 PC)

Emotional Abuse/Mental Suffering – Refers to harm caused by a parent or caretaker to a child’s mental health or well-being. Emotional abuse/mental suffering may take many forms: belittling, threatening, screaming, blaming, ignoring, inconsistent parenting, constant family discord, and others. The scars caused by this type of abuse may serve to cripple and/or handicap a child emotionally.

Forensic Interview – A forensic interview is a process of asking, when feasible, non-leading and age-appropriate questions to determine whether a crime against a child has been committed or if a child is in need of protection. A forensic interview should be performed by someone who is specially trained in Child Forensic Interview Techniques (CFIT).

General Child Neglect – 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. (11165.2 PC)

Inconclusive Report – A report that is determined by the investigator who conducted the investigation not to be unfounded, but the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect has occurred. (11165.12 PC)

Maltreatment (of a child) – The abuse and neglect that occurs to children under 18 years of age. It includes all types of physical and/or emotional ill-treatment, sexual abuse, neglect, negligence and commercial or other exploitation, which results in actual or potential harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power. (World Health Organization)

Mandated Reporter – Any person listed under 11165.7 PC.

Multi-Disciplinary Team (MDT)/Multi-Agency Investigation Teams (MDIT) – a group of professionals possessing special knowledge and skills in the various areas of child abuse who are teamed up to coordinate investigations. The team personnel represent the various disciplines involved in child abuse investigations (law enforcement, child welfare services, probation department, district attorney, etc.). The primary goal of the team is to efficiently and effectively conduct all phases of the investigation.

Neglect – The negligent treatment or the maltreatment of a child by a person responsible for the child’s welfare under circumstances indicating harm or threatened harm to the child’s health

or welfare. The term includes both acts and omissions on the part of the responsible person. (11165.2 PC)

Oral Copulation – Contact between the genitals and the mouth. (287 PC)

Physical Abuse – Any act which results in a non-accidental physical injury regardless of who inflicts the harm. Physical abuse includes burning, beating, clubbing, kicking, biting, etc.

Rape – Penile-vaginal penetration, however slight. (261 PC)

Severe Neglect – 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. “Severe neglect” also means 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. (11165.2 PC)

Sexual Assault – Rape, statutory rape, rape in concert, incest, sodomy, oral copulation, lewd or lascivious acts upon a child, sexual penetration, or child molestation. (11165.1 PC)

Sexual Exploitation – Conduct involving matter depicting a minor engaged in obscene acts. (11165.1 PC)

Sodomy – Contact between an anus and a penis. (286 PC)

Substantiated Report – A report that is determined by the investigator who conducted the investigation to constitute child abuse or neglect, based upon evidence that makes it more likely than not that child abuse or neglect occurred. (11165.12 PC)

Unfounded Report – A report that is determined by the investigator who conducted the investigation to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect. (11165.12 PC)

Unlawful Corporal Injury or Punishment – Where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition. (11165.4 PC)

CHAPTER 1

General Child Abuse Investigative Procedures

Guideline 1: Priorities and Objectives

- A. The primary objective of the investigation is the protection of the child.
- B. Law enforcement personnel have the responsibility to conduct an objective, thorough, and unbiased investigation.
- C. Law enforcement investigators should protect the legal rights of ALL involved parties, to include:
 - 1. Victim(s)
 - 2. Suspect(s)
 - 3. All witnesses
- D. Law enforcement investigators should be aware that multiple jurisdictions may be involved in the investigation of a child abuse case. These jurisdictions may include:
 - 1. Criminal court
 - a. Law enforcement
 - b. District Attorney
 - 2. Juvenile court
 - a. Child Protective Services (CPS) (dependency)
 - b. County Counsel
 - 3. Family court
 - a. Family members
 - b. Divorce/custody issues
 - 4. Administrative actions
 - a. Community Care Licensing (California Dept. of Social Services)
 - b. State licensing agencies (Medical Board, teacher credentialing, etc.)
 - 5. Federal agencies
 - a. Federal law enforcement (FBI, Postal Inspectors, Secret Service, ICE)
 - b. US Attorney's Office
 - c. Federal court

In addition, law enforcement agencies should maintain a list of community organizations that provide referrals/assistance to victims of child abuse and their families.

Guideline 2: Role of Law Enforcement

It is the role of the law enforcement detective/investigator/officer to investigate and determine whether a crime has been committed. The investigation includes but is not limited to:

- A. Ensuring that all interviews are completed, including victims, witnesses, suspects, and other collateral people involved
- B. Conducting a thorough crime scene investigation
- C. Collecting evidence, including any corroborating evidence
- D. Preserving the chain of possession of any collected evidence
- E. Utilizing Trauma-Informed Practices to minimize the trauma experienced by victims and their families¹

Law enforcement presents the case to the prosecutor's office or agency if enough evidence of the crime exists for a criminal prosecution.

As a mandated reporter, law enforcement will notify Child Protective Services (CPS)/Child Welfare Services (CWS) of any possible cases of child maltreatment, even if it occurred out of the home.

Per 11166(k) PC, it is law enforcement's responsibility to *immediately* report by phone, fax or electronic transmission a case of suspected child abuse *and* ensure that a Suspected Child Abuse Report (SCAR) form SS 8572 is completed and forwarded to each of the following within 36 hours:

1. the police or sheriff's department of jurisdiction
2. the county welfare (CPS/CWS) or probation department
3. the District Attorney's Office
4. any other agency with jurisdiction (e.g. Community Care Licensing within 24 hours) (11166.1 PC)

See [Chapter 2: Child Abuse Reporting Requirements](#) for further information

Guideline 3: Initial Report to Law Enforcement - Dispatcher Responsibilities

- A. Law enforcement officers should be familiar with the responsibilities of the dispatcher/call-taker receiving a report of child abuse and child sexual assault.
- B. Dispatchers have an impact on how child abuse and sexual assault calls are handled. The ability to gather information affects:
 1. Victim safety
 2. Officer safety

¹ The Canadian Chiefs of Police offer a clear and concise caveat regarding law enforcement criminal investigations: "Trauma-Informed Practices (TIPs) require investigators to take a survivor-centered approach at each step of an investigation (as opposed to prosecution-centered, which might not always be compatible with the former). This type of compassionate response is what we would want for ourselves and our family members if we had to navigate the criminal justice system. Minimizing the negative impact of investigations on survivors in this way should result in higher rates of reporting, more collaboration with investigators throughout the process, and more accurate and consistent statements." *The Future of Policing, A Three-Tiered Approach to Training Trauma-Informed Practices*, Fall, 2020, CACP Special Edition

-
3. Apprehension of the suspect
 4. Preservation of evidence
- C. Dispatchers may influence the following:
1. How the officer perceives the incident and the victim
 2. How the victim responds to the officer
- D. As part of the emergency response, dispatchers should obtain the following information:
1. Where is the victim?
 2. Is the victim safe?
 3. Is the victim in need of medical attention?
 4. Where is the suspect?
 5. Is there a weapon involved?
 6. What happened?
 7. Where and when did it happen?
 8. Does the victim know the suspect?
 9. What is the suspect description (name, age, height, weight, ethnicity, scars, marks, tattoos, gender, clothing, and vehicle)?
- E. To ensure critical evidence is not lost, dispatchers should:
1. Explain to the victim that several questions need to be asked while the officer is responding to the location.
 2. Advise the victim that many actions can contaminate, alter, or destroy potential evidence.
 3. Request that the victim not change clothes, bathe, wash hands, brush teeth, gargle, douche, urinate, defecate, remove tampon, or make other physical changes. If unavoidable, ask the victim to use a clean container to collect any potential evidence.
 4. Tell the victim that the crime should still be reported even if the victim has bathed or performed other personal hygiene or bodily functions. Other evidence may still be identified and recovered.
 5. Advise the victim not to touch or disturb anything the suspect may have had contact with or handled.
 6. Preserve the communications tape and printout for the investigation; everything said and done is potential evidence.

Guideline 4: First Responding Officer Responsibilities

The primary responsibility of the first responding officer is the safety of the involved child(ren). The first officer on the scene should assess the risk to each child involved and determine what action should be taken, which may include taking the child into protective custody.

Law enforcement officers responding to reports of possible child abuse must be aware that both Child Welfare and Law Enforcement share statutorily mandated roles in the investigation of allegations of child abuse, serious child neglect, and exposure to serious domestic violence as addressed in these guidelines.

A. It is the responsibility of law enforcement personnel receiving the initial report to:

1. Conduct a preliminary assessment of the risk to the child(ren) involved
2. Gather the pertinent facts (who, what, where, when, how, why)
 - a. **This may usually be accomplished by conducting a *Minimal Facts Interview* of the victim(s)**
 - b. **Generally, the first responding officer(s) need only gain sufficient information to determine:**
 - (1) If a crime has been committed, and the jurisdiction
3. Cross-report and coordinate response with other involved agencies as appropriate

B. Treat the scene as a crime scene (even if the abuse occurred in the past)

1. Secure the crime scene(s) and obtain a search warrant if necessary, before seizing any items of evidence.
 - a. Err on the side of caution – if the suspect may have any standing to object to the search of the scene, get a search warrant
 - b. Consent can easily be withdrawn
 - c. Coercion can be alleged later by the suspect
2. Secure the instrument of abuse or other corroborative evidence that the child identifies at the scene.
3. Photograph the scene in detail from all angles of each room.
4. Photograph injuries noted on the victim; always include a scale in the photographs.
5. Re-photograph injuries as needed to capture any changes in their appearance. Remember that injuries may not present immediately and injuries change over time.

C. Assessment of the child may include observing and photographing the scene and child (as appropriate*), collecting and preserving evidence, and interviewing the following:

1. Reporting party
2. All witnesses
3. Victim(s) through an Initial/First Responding Officer Minimal Facts
4. Victim Interview (See *Guideline: 7*)
5. Sibling(s)
6. Parents/caretakers

***Physical evidence from a sexual abuse victim's body will be collected only by medical personnel during a medical examination.**

D. The officer should seek to identify the suspect(s) and take appropriate action

E. The first responding officer should ensure that all appropriate notifications required by law are made, including:

1. Completion of the Suspected Child Abuse Report form SS 8572 within 36 hours (*11166(k) PC*)
2. Immediate phone, fax or electronic notification to CPS/CWS
3. Forwarding the completed SS 8572 to CPS/CWS, the District Attorney's Office and

any other required agencies

- F. Complete the preliminary investigative report, which should contain the necessary documentation, to include:
 - 1. All statements
 - 2. Observations
 - 3. Physical evidence
 - 4. Actions taken by the investigating officer and others
 - 5. The existence of photographic, audio, or video recordings
- G. Every law enforcement officer should be aware of the fact that the actions taken during the preliminary investigation, coupled with the quality of the initial police report, will have a crucial bearing on the protection of the children and the successful resolution of the case.
- H. The investigator should be aware that defense strategies may focus on the following:
 - 1. The interview of victim
 - 2. The victim(s) themselves
 - 3. The officer/investigator
 - 4. The victim's family
 - 5. The investigation itself
 - 6. The medical vs. non-medical case
- I. Provide a **Marsy's Card** to the victim (if age appropriate) and to the victim's parents or guardians.

Guideline 5: Initial Receipt and Evaluation of Information

Upon the initial receipt and evaluation of a reported offense, the urgency of the response should be prioritized based on the type of physical and/or sexual abuse and the nature of the case. Such considerations include:

- A. Danger to the victim
- B. Need for medical attention
- C. Whether suspect has access to the victim and/or other children
- D. The need to preserve, obtain or lose evidence
- E. Acquaintance vs. stranger assault
- F. Need for a search warrant or warrantless search
- G. Obtaining information as quickly as possible if the child is actively disclosing
- H. The ability to interview the child in a neutral setting, away from the suspect or other distractions

The first responding officer should obtain the history of the abusive situation to get an accurate timeline of events, as this is crucial to the successful investigation and prosecution of all types of child maltreatment.

As part of this initial process, the first responding officer need only gain sufficient information to determine if a crime has been committed and the proper jurisdiction. See [Guideline 7: Minimal](#)

Facts Victim Interview in this chapter for further detail.

- A. **Obtain any elements of the crime necessary for the initial report.**
- B. Inquire about any instrument(s) of abuse or other items at the scene.
 - 1. **Before checking the scene, ask yourself, “Do I need a search warrant?”**
 - 2. If so, check the scene for potential instruments of abuse only if there are *exigent circumstances*
- C. Do not discount children’s statements about who is abusing them, where and how the abuse is occurring, or what types of acts occurred.
- D. Highlight the atmosphere of disclosure and the mood and demeanor of participants in the complaint.
- E. Provide a brief summary at the end of the report with supporting facts.

Guideline 6: Preliminary Investigative Procedures

In the preliminary investigation, the following information should be gathered by the first responding officer to evaluate the allegation of physical and/or sexual abuse:

- A. Type and extent of physical and/or sexual contact
- B. Identification of all persons with possible knowledge of the incident, e.g.:
 - 1. Parents
 - 2. Siblings
 - 3. Grandparents
 - 4. Other relatives
 - 5. Family friends
 - 6. Child’s friends
 - 7. Neighbors
 - 8. School teachers, assistants, and administrators
 - 9. Other care providers
- C. A detailed description of crime scene
 - 1. Including a detailed sketch (to scale if possible)
 - 2. Photographs
- D. The likely motivation of the reporting party

The officer should gather and preserve evidence from all potential crime scenes relative to the allegation(s) of child abuse including those specific to:

- A. Neglect
- B. Emotional abuse/deprivation
- C. Physical abuse
- D. Sexual assault
- E. Sexual exploitation

Keeping the need for a search warrant in mind whenever applicable, crime scenes should be photographed, even if the crime(s) happened some time before being

reported. Taking photographs and/or video of the crime scene may:²

- A. Help the child testify
- B. Corroborate key aspects of a child's statement
- C. Be relevant to prove one or more elements of a crime
- D. Introduce the jurors to the child's world
- E. Assist the prosecutor in cross-examination
- F. May help bring to life events that happened long ago
- G. May highlight the child's inability to protect him or herself
- H. Be used to document the crime scene from the perspective of the victim
- I. Be used to re-create the crime or highlight the absurdity of a defense
- J. With careful documentation of the crime scene, send a message to the victim that the government took the allegation seriously

Guideline 7: Initial/First Responding Officer Minimal Facts Victim Interview

Frequently, allegations of child abuse come to the attention of first responders from sources other than directly the child. The "initial" interview of the child may have been done by someone other than law enforcement (e.g., a teacher, therapist, family, a friend of the child). It may have been conducted in homes, schools, daycares, or businesses. If further information is not necessary for actions required at that time, then do not ask the child.

The goal of the Minimal Facts Interview is for the initial/first responding officer to obtain just enough information to determine whether or not a crime may have been committed, figure out next steps of the investigation, and establish safety. Once this minimum is established, the initial interviewing officer should stop the interview and arrange to have the child interviewed by a trained Child Forensic Interviewer through his/her agency's Child Abuse Response Team's (CART) process.

In some instances, another mandated reporter, such as a teacher or therapist, may have already obtained enough information from the child to meet the minimal facts threshold. In these instances, the first responding officer should not conduct a further interview of the child but should arrange for a forensic interview through the CART process. (Check your local jurisdiction protocols.)

Simply put, if the child has already disclosed to a reliable adult, DO NOT ASK THEM ANY QUESTIONS.

If a Minimal Facts interview is necessary, the first responding officer should:

- A. Pace the interview and take time to establish a rapport with the child
- B. Establish whether abuse of the child occurred
- C. Determine if immediate medical attention is needed for the child's health or for the collection of physical evidence
- D. Determine immediate protective actions
- E. Determine if there may be additional victims

² Vieth, Victor; Center Piece, Picture This: Photographing a Child Sexual Abuse Crime Scene, OJJDP

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- F. Obtain the identification of the perpetrator
 - G. Determine the time frame of the allegations or when the last event occurred
 - H. Determine jurisdiction

The first responding officer should interview the child separately from other witnesses or care providers.

- A. If the child is interviewed at school, the child must be asked if he/she wants an appropriate support person per *11174.3 PC*
 - 1. See also, *Chapter 9: Interviewing Children at School* for further information on interviewing victims of suspected child abuse at school.
- B. **Note:** Discouraging a witness or victim from reporting a crime or from testifying about a crime is itself a serious criminal offense. (*136.1 PC*)
- C. Questions should not be leading or worded to suggest the answer.
- D. The questions should be open ended such as:
 - 1. What happened?
 - 2. Tell me about that.
 - 3. Tell me more about that.
 - 4. Who did that?
 - 5. Where were you when that happened?
 - 6. When did that happen? Or when was the last time that happened?
 - a. Do not ask the number of times.
 - b. Young children typically do not have a concept of time.
 - c. Adults can often provide information about when the last incident may have happened and/or when the suspect had access to the child.
 - 7. Who was with you when that happened?
 - 8. How do you know this person?
- E. Additional questions to ask include:
 - 1. Did anyone else see what happened?
 - 2. Is there anyone else that this happened to?
 - 3. Did you tell anyone about what happened?
 - a. Who?
 - b. When?
 - 4. Who else knows what happened?
 - 5. Did [the abuser] take any pictures or show you any pictures or videos?
 - 6. Did [the abuser] use anything (e.g., an object) to commit the abuse?
- F. Obtain information that may indicate the existence of corroborating evidence.

Reasons it is crucial to limit the number of times the child is interviewed include:

- A. Recantation

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- B. Child starts to believe that no one believes him or her and that is why they are being asked about it so many times
 - C. Child changes their story to please professionals or adults involved (and this creates discrepancies for no good reason)
 - D. Increases trauma to the child
 - E. An untrained interviewer may ask inappropriate (leading or suggestive) questions that could contaminate the child's statement

Tips for the “First Responder” to follow during the initial interview include:

- A. Talk to child alone and in the most child-friendly place available.
- B. Show interest in what the child is saying. Build rapport but avoid “list questions” like how old are you? Who all lives in the house with you? What grade are you in? Try to invest in the child. For example, ask, “Tell me about yourself?” After some rapport building, find a good way to transition into questions about the disclosure.
- C. Use open-ended questioning and avoid leading questions.
- D. Don't go farther than you need to with the initial interview.
- E. Record your questions and the child's responses verbatim or as closely as possible.
- F. Thank the child for speaking to you. Make no promises to the child and avoid thanking the child for reporting abuse; you do not want to set up defense attorney strategies! Just thank the child for talking to you.
 - a. An excellent list of Sample Questions may be found in [Appendix 9: Child Forensic Interviewing](#).

Guideline 8: Taking the Child into Protective Custody

All law enforcement officers investigating reports of suspected child abuse must be familiar with Sections 300, 305, 306 and 307 of the Welfare and Institutions Code (W&I), and Section 279.6 of the Penal Code.

The officer should determine the need for protective custody of the victim(s), sibling(s), and others under Welfare and Institutions Codes 300/305 by taking into consideration the following general factors:

- A. Need for medical care
- B. Imminent danger of continued abuse/intimidation/retaliation
- C. Whether physical environment poses an immediate threat to the child's health and safety
- D. Parent/guardian is unwilling or unable to protect or care for the child
- E. History of prior offenses or allegations of child abuse

Section 300 W&I denotes when a child comes under the jurisdiction of the juvenile court (i.e., adjudged to be a dependent child of the court).

In order for a law enforcement officer to take a child into protective custody without a warrant (per Section 305 W&I), the child must first fall under the jurisdiction of the court under 300 W&I,

which generally occurs when:

- A. The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted non-accidentally upon the child by the child's parent/guardian.
- B. The child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent/guardian to adequately supervise or protect the child.
- C. There is willful or negligent failure of the child's parent/guardian to adequately supervise or protect the child from the conduct of the custodian with whom the child has been left, or
 - 1. there is willful or negligent failure of the parent/guardian to provide the child with adequate food, clothing, shelter, medical treatment, or
 - 2. the parent/guardian is unable to provide regular care for the child due to the parent's or guardian's mental illness, developmental disability, or substance abuse.
- D. The child has been sexually abused, or there is a substantial risk that the child will be sexually abused by his or her parent/guardian or a member of his or her household, or the parent/guardian has failed to adequately protect the child from sexual abuse when the parent/guardian knew or reasonably should have known that the child was in danger of sexual abuse.
- E. The child is under the age of five years and has suffered severe physical abuse by a parent, or by any person known by the parent, if the parent knew or reasonably should have known that the person was physically abusing the child.
- F. The child's parent/guardian caused the death of another child through abuse or neglect.
- G. The child has been subjected to an act or acts of cruelty by the parent/guardian or a member of his or her household, or the parent/guardian has failed to adequately protect the child from an act or acts of cruelty when the parent/guardian knew or reasonably should have known that the child was in danger.
- H. The child's sibling has been abused or neglected, and there is a substantial risk that the child will be abused or neglected.

Per 305 W&I, any peace officer may, without a warrant, take into temporary custody a minor when the officer has reasonable cause for believing that the minor is a person described in Section 300 W&I, and, in addition, that the minor has an immediate need for medical care, or the minor is in immediate danger of physical or sexual abuse, or the physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety.

- A. This section also applies when a child is in a hospital and release of the minor to a parent poses an immediate danger to the child's health or safety, or
- B. 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

305 W&I further states that in cases in which the child is left unattended, the peace officer shall first attempt to contact the child's parent/guardian to determine if the parent/guardian is able to

assume custody of the child.

- A. If the parent/guardian cannot be contacted, the peace officer shall notify a social worker in the county welfare department to assume custody of the child.

Per 306 W&I, any county CPS/CWS social worker may:

- A. Receive and maintain, pending investigation, temporary custody of a child who is described in Section 300, and who has been delivered by a peace officer.
- B. Take into and maintain temporary custody of, without a warrant:
 - 1. a child who has been declared a dependent child of the juvenile court under Section 300, or
 - 2. who the social worker has reasonable cause to believe is a person described in subdivision (b) or (g) of Section 300, and
 - 3. the social worker 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.

Per 307 W&I, a peace officer or probation officer who takes a minor into temporary custody under the provisions of Section 305 W&I shall thereafter proceed as follows:

- A. The officer may release the minor.
 - 1. This is the release condition in which law enforcement turns the child over to the custody of CPS/CWS.**
- B. The officer may prepare in duplicate a written notice for the parent or parents of the minor to appear with the minor before the probation officer of the county in which the minor was taken into custody.
 - 1. The notice shall also contain a concise statement of the reasons the minor was taken into custody.
 - 2. The officer shall deliver one copy of the notice to the minor and a parent, guardian, or responsible relative of the minor and may require the minor and the parent, guardian, or relative to sign a written promise that he or she shall appear at the time and place designated in the notice.
 - 3. Upon the execution of the promise to appear, the officer shall immediately release the minor.
 - 4. The officer shall, as soon as practicable, file one copy of the notice with the probation officer.
- C. The officer may take the minor without unnecessary delay before the probation officer of the county in which the minor was taken into custody, or in which the minor resides, or in which the acts take place.

In determining which disposition of the minor shall be made, the officer shall give preference to the alternative which least interferes with the parents' or guardians' custody of the minor if this alternative is compatible with the safety of the minor. The officer shall also consider the needs of the minor for the least restrictive environment and the protective needs of the community. (307(c) W&I)

In most jurisdictions, CPS/CWS is responsible for conducting a background check on the person(s) the child is being released to, such as relatives, friends of the parent, neighbors, etc.

Per 307.4 PC any peace officer, probation officer, or social worker who takes into temporary custody pursuant to Sections 305 to 307, inclusive, a minor who comes within the description of Section 300 shall:

- A. Immediately inform, through the most efficient means available, the parent, guardian, or responsible relative, that the minor has been taken into protective custody and that a written statement is available which explains the parent's or guardian's procedural rights and the preliminary stages of the dependency investigation and hearing.
- B. The written statement shall be made available for distribution through all public schools, probation offices, and appropriate welfare offices. It shall include, but is not limited to, the following information:
 1. The conditions under which the minor will be released, hearings which may be required, and the means whereby further specific information about the minor's case and conditions of confinement may be obtained.
 2. The rights to counsel, privileges against self-incrimination, and rights to appeal possessed by the minor, and his or her parents, guardians, or responsible relative.
- C. Officers should fully document all good faith attempts to notify the child's parents or guardians in the event that notification was unsuccessful.

279.6 PC: Law enforcement may become involved in custody disputes wherein one parent is alleged to be concealing, or likely to conceal or flee the jurisdiction of the court, or has abducted a child in violation of a civil custody order, or when a parent is in violation of or has been arrested for 278 PC or 278.5 PC.

In these instances, it is imperative that the officer conduct a complete investigation and consider the totality of the circumstances rather than quickly assuming the matter is civil in nature and taking no action.

Law enforcement officers should be familiar with when a law enforcement officer may take a child into protective custody under section 279.6 PC:

- A. 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.
- B. There is no lawful custodian available to take custody of the child.
- C. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.
- D. The child is an abducted child.

When a law enforcement officer takes a child into protective custody pursuant to 279.6 PC, the officer **shall** do one of the following:

- A. Release the child to the lawful custodian of the child, unless it reasonably appears that the release would cause the child to be endangered, abducted, or removed from the jurisdiction.

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- B. Obtain an emergency protective order pursuant to Part 3 (commencing with Section 6240) of Division 10 of the Family Code ordering placement of the child with an interim custodian who agrees in writing to accept interim custody.
 - C. Release the child to the social services agency responsible for arranging shelter or foster care.
 - D. Return the child as ordered by a court of competent jurisdiction.

Upon the arrest of a person for a violation of Section 278 or 278.5, a law enforcement officer shall take possession of an abducted child who is found in the company of, or under the control of, the arrested person and deliver the child as directed above.

Guideline 9: Marsy's Law and the Victim's Bill of Rights

In 1986, California law mandated certain statutory rights to victims and witnesses of crimes (679.02(a) PC). This law, the California Victim's Bill of Rights, is now more commonly known as *Marsy's Law*. The state mandated that these rights be set forth in information and educational materials (679.02(b)). This resulted in the creation of the *Marsy's Card*.

California law requires all law enforcement officers to provide a *Marsy's Card* to all victims or their survivors (679.026(c)(1) PC). Ideally, the first responding officer should have provided the card and information. That said, it is incumbent upon the investigating officer to ensure that the requirements have been met; specifically, that the victim and/or parents or guardians have received a *Marsy's Card* and that they understand their rights under the California Victim's Bill of Rights.

Law enforcement officers should be familiar with all of the information contained on the *Marsy's Card*. It is strongly suggested that the investigating officer go through the contents of the *Marsy's Card* with the victim and/or the victim's parents or guardians to ensure that they understand all of their rights under California law, and to answer any questions they may have or be able to refer the victim and/or the victim's parents or guardians to the appropriate resource.

These rights contained in the California Bill of Rights (*Marsy's Law*) briefly include:

- A. Fairness and Respect
- B. Protection from the defendant
- C. Victim Safety Considerations in Setting Bail and Release Conditions
- D. The Prevention of the Disclosure of Confidential Information
- E. Refusal to be Interviewed by the Defense
- F. Conference with the Prosecution and Notice of Pretrial Disposition
- G. Notice of and Presence at Public Proceedings
- H. Appearance at Court Proceedings and Expression of Views
- I. Speedy Trial and Prompt Conclusion of the Case
- J. Provision of Information to the Probation Department
- K. Receipt of Pre-Sentence Report
- L. Information About Conviction, Sentence, Incarceration, Release, and Escape

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- M. Restitution
 - N. The prompt return of property when no longer needed as evidence
 - O. To be informed of all parole procedures, to participate in the parole process, to provide information to the parole authority to be considered before the parole of the offender, and to be notified, upon request, of the parole or other release of the offender
 - P. To have the safety of the victim, the victim's family, and the general public considered before any parole or other post-judgment release decision is made
 - Q. To be informed of the rights enumerated above

The provisions of the *Sexual Assault Victims' DNA Bill of Rights* under Penal Code Section 680, 680.1, 680.2, 680.3 AND 680.4 are applicable in cases of Child Sexual Abuse when the conduct would include a violation of Penal Code Sections 261, 261.5, 262, 286, 287, or 289 or former Section 288a.

In addition to giving the victim and/or the parents or guardians the *Marsy's Card*, it is recommended that the investigating officer also give them the Sexual Assault Survivor's Bill of Rights, the California Coalition Against Sexual Assault (CALCASA) Rights as a Survivor of Sexual Assault or similar. See [Appendix: 25](#).

Investigating officers should provide victims and their families with information pertaining to the benefits afforded crime victims by the state of California. The victims should be referred to the Victim-Witness Assistance Center in their counties. See [Chapter 21: Victim/Witness Requirements](#) for further information.

In cases of child sexual abuse, it is also recommended that the first responding officer provide a copy of the Sexual Assault Bill of Rights to the child victim as appropriate and the child's parent/guardian.

Guideline 10: Follow-up Investigative Procedures

The investigating officer should become familiar with all aspects of the initial response and the first responding officer's investigation. The investigating officer should review the completeness of the preliminary investigation to determine the scope and direction of the follow-up investigation. This review should include, but is not limited to:

- A. Verifying compliance with confidentiality requirements
- B. Verifying compliance with cross-reporting per Penal Code Section 11166 PC
- C. Confirming elements of the crime
- D. Determining a need for further interviews and photographs
- E. Reviewing and evaluating all evidence
- F. Determining investigative priorities
- G. Reviewing dependency procedures including custody status of the victim(s) and/or sibling(s)

H. Determining custody status of the offender(s)

I. Coordinating with appropriate agencies

If not already done during the initial response, the investigating officer should conduct a thorough check of all involved parties, including:

A. Public and private databases (local, county, state, national, international)

B. Criminal history data (state, national)

C. Department of Justice Child Abuse Central Index

D. Department of Justice Registration and Compliance files and Sexual Habitual Offender Program (SHOP) files ([290 PC](#))

E. California Department of Motor Vehicles (DMV)

F. Previous residences (prior offenses in other jurisdictions)

G. Previous/current relationships (spouse, ex-spouse, live-in, relatives)

H. Contacts with other agencies and/or jurisdictions

When conducting the background check of a child sexual abuse suspect, it is strongly recommended that the investigating officer research and locate all known past addresses of the suspect. California DMV, for example, maintains a record of all past addresses for a person's driver's license and ID card. The investigating officer should then conduct a check of all law enforcement agencies in and around all of the prior residences of the suspect. There have been instances where prior local law enforcement agencies have conducted a child abuse investigation involving the suspect that resulted in an inconclusive or unsubstantiated result but have no documentation outside of the local agency. These cases may provide information that aid in the current investigation, such as similar conduct and prior victims whose testimony may be admissible under [Evidence Code 1108\(b\)](#).

Guideline 11: Investigative Resources and Techniques

Investigative leads should be explored and developed through the use of the following:

A. Resources:

1. Crime broadcast telecommunications

2. Modus operandi (M.O.) files

3. Field interview (F.I.) files

4. California DOJ, FBI criminal investigation analysis (profiling)

5. Multi-disciplinary interview teams

6. Sexual Assault Response Teams (SART)

7. County child death review team

a. Sudden Infant Death Syndrome (SIDS) protocol

b. Pediatric autopsy protocols

8. Multi-victim/multi-offender protocols

9. Missing/abducted children protocols

10. California State Department of Justice (DOJ) Sexual Predator Apprehension Team

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11. California DOJ Sexual Habitual Offender Program (SHOP)
 12. Probation, parole, schools, and Child Protective Services
 13. National and international law enforcement resources
 - a. Technical resources, e.g., computers on-line utilities
 14. Subject matter experts
 15. Media
 16. Community Care Licensing
 17. National Center for Missing and Exploited Children (NCMEC)
- B. Techniques:
1. Composite/artist renditions
 2. Photographic lineups (persons, places, vehicles, etc.)
 3. Physical lineups
 4. Surveillance
 5. Pretext conversations
 6. Video/audio
 7. Lie detection
 - a. Computer voice stress analyzer (CVSA)
 - b. Polygraph
 - c. Inter/intra agency coordinated investigation
 8. Searches
 9. Proactive approach
 10. Canvassing

Guideline 12: Corroboration

Corroborating information should be developed through the use of the following:

- A. Medical examination and/or medical history of child and suspect
- B. Statements of witnesses, other suspects, other victims
- C. Physical evidence
- D. Digital Evidence
- E. Incriminating statements made by the suspect
- F. Whether access to the victim by the suspect was possible and if he or she had the opportunity to commit the offense
- G. M.O. factors
- H. Use of searches
 1. Warrant
 2. Consent
 3. Probation
 4. Parole

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- 5. Exigency/emergency
 - I. Pretext phone calls
 - J. Reenactments in physical abuse and child death cases
 - K. Applying resources and techniques listed in Guideline 11, above

Guideline 13: Interviews of Expert Witnesses

Establishing the qualifications of expert witnesses should be as thorough as possible so that it may be used as a hearsay declaration at the preliminary examination (Prop. 115).

Consider:

- A. Recording the interview(s)
- B. Establishing the expert(s) qualifications
- C. Establishing the expert(s) connection with the case
- D. The expert(s) opinions
 - 1. Include both diagnosis and prognosis, if appropriate
- E. Identifying the basis of the expert(s) opinion
- F. Identifying inconsistencies between the suspect's explanation and the victim's injury/condition
- G. Requiring experts to explain technical terms

Guideline 14: Warrantless Arrest of Suspect

The following factors should be considered when determining whether or not to arrest the suspect(s) without a warrant:

- A. Imminent danger to the victim(s), suspect, or community
- B. Likelihood the suspect(s) will flee
- C. Destruction of evidence
- D. Potential ramifications of the arrest on all parties involved
- E. Impact on the case development
- F. Verification of identification of suspect(s)

Despite having probable cause to do so, there may be strategic advantages to not immediately arresting the suspect in a child abuse case, especially if s/he is unaware of the investigation. However, in making the decision of whether to immediately arrest or delay the arrest of the suspect, the safety of the victim(s) and any other potential victim(s) is paramount and takes precedence.

Guideline 15: Report Documentation

Every officer who interviews a victim, witness, or suspect, or who identifies evidence, or

processes a crime scene, should write a report detailing actions taken. Effectively documenting a child abuse case requires patience and attention to detail. When preparing the report, the officer should incorporate the following techniques:

- A. Summarize all of the evidence uncovered during the course of the investigation, including findings and conclusions made by other members of the Child Abuse Response Team.
- B. If applicable, attach a copy of the victim's and the suspect's forensic examinations.
- C. Recreate the reality of the abuse from the victim's perspective:
 - 1. Preserve the exact words used by the victim. Do not sanitize or change the language.
 - 2. Describe what the victim said she or he was thinking and feeling during the abuse.
 - 3. Be specific when describing the physical and emotional condition of the victim, describing in detail her or his behavior.
 - 4. Document the entire context of any direct or indirect force, threat, fear, or duress.
 - a. Remember to consider all circumstances, including the age of the child and (his/her) relationship to the defendant.
- D. It is best to record all victim, witness, and suspect statements whenever possible.
- E. Attempt to corroborate the use of force, threat, fear, or duress and any other facts previously obtained.
- F. Document even if a witness did not observe anything (negative results).
- G. Document the witnesses' abilities to recall or observe the events.
- H. Document exactly what the suspect said and did.
 - 1. Did the suspect's alibi eliminate him or her as a suspect?
- I. Detail the forensic analysis ordered and results received.
- J. Document other evidence in the case.
- K. Document evidence and investigative actions whether or not such items support the case.
 - 1. The prosecuting attorney should know all aspects of the case and not be taken by surprise by anything withheld by law enforcement.
- L. Present the complete case file, including forensic results, as soon as available, to the prosecuting attorney for review and work with the prosecutor's office to develop the case.
- M. Do not put personal opinions into the report.

Guideline 16: Supervisor's Role

The law enforcement supervisor should review the completeness of all initial and follow-up investigative reports. This review should include:

- A. Verifying compliance with confidentiality requirements
- B. Verifying compliance with mandated cross-reporting requirements per *11166 PC*
- C. Confirming elements of the crime (should be knowledgeable of the *California Criminal Jury Instructions (CalCrims)*)

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- D. Compliance of *Marsy's Law* and California Victim's Bill of Rights
 - E. Rape Crisis advocate center involvement per local policy
 - F. County Victim/Witness Agency involvement
 - G. Other CART member involvement
 - H. Find out from the investigator if the victim or suspect exhibited any signs of mental instability, suicide, self-harm, etc.

Supervisors of those who are investigating child abuse cases must be cognizant of the stress and toll these types of cases take on their personnel. Child abuse investigators experience a significant amount of *Vicarious Trauma*, which can have an extreme effect on their physical and mental health.

Supervisors should:

- A. Ensure team and/or individual debriefing after any particular intense cases
- B. Discuss Vicarious Trauma as part of their supervision
- C. Allow flexible work schedules, recognizing the need for and protecting down time, while staying attuned to the possibility of withdrawal or isolation
- D. Create time and a physical space at work for reflection through reading, writing, prayer, and meditation, among other activities
- E. Refer personnel to therapeutic and professional assistance, when appropriate
- F. Have knowledge of and utilize the *Vicarious Trauma Toolkit (VTT)*

See *Chapter 22: Officer Wellness* for additional information and resources

CHAPTER 2

Child Abuse Reporting Requirements

Guideline 17: California Child Abuse and Neglect Reporting Act (CANRA)

The Child Abuse and Neglect Reporting Act (CANRA) was enacted in 1987 with the intent to protect children from abuse and neglect. CANRA requirements are covered under Penal Code sections 11164 - 11174.3.

It is extremely important that law enforcement officers investigating child abuse cases have a thorough working knowledge of all requirements under CANRA.

Law enforcement officers should know and understand the many terms used in child abuse investigations. CANRA defines many of these terms, including Child, Child Abuse, Child Exploitation, General and Severe Neglect, Substantiated, Unsubstantiated, Unfounded, and many others. These terms and many others are important elements for your investigations. See [Appendix 12: Glossary of Child Abuse Terms](#)

Mandated Reporters (including peace officers) have a legal obligation to report child abuse, and failure to do so is a crime which can result in arrest, imprisonment and/or fine. When investigating child abuse, be sure to identify any mandated reporters and document any failures to comply with the law. (See [Mandated Reporters Guideline](#) below for detailed information.)

Guideline 18: Mandated Reporters

Law enforcement officers should be familiar with the list of Mandated Reporter Persons and Disciplines under [11165.7 PC](#). The list of mandated reporters is lengthy (there are over 45 as of December 2020), and includes (but not limited to) the following:

- A. Health Practitioners (medical and non-medical)
- B. Child Care Custodians (includes law enforcement, teachers, foster care)
- C. Child Protective Agency (CPS)
- D. Child Visitation Monitors (court appointed)
- E. Employees of Child Protective Agencies
- F. Firefighters (except volunteer firefighters)
- G. Animal Control Officers
- H. Humane Society Officers
- I. Clergy – as of 1997 (except in confessional)
- J. Commercial Film & Photographic Print Processors
- K. Drug/Alcohol Programs – as of 1987

Guideline 19: Failure to Report by a Mandated Reporter or Supervisor Interference

A mandated reporter who willfully fails to report suspected child abuse is guilty of a misdemeanor punishable by up to six months in a county jail and/or a fine of \$1,000 or by both. (11166(c) PC)

The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit the reporting duties. (11166(i) PC) Any supervisor or administrator who violates this section shall be punished by not more than six months in a county jail, by a fine of not more than one thousand dollars (\$1,000), or by both. (11166.01 PC)

- A. No person making a report shall be subject to any sanction for making the report.
- B. An internal policy shall not direct an employee to allow the employee's supervisor to file or process a mandated report under any circumstances.
- C. The internal procedures shall not require any employee required to make reports pursuant to this article to disclose the employee's identity to the employer.
- D. Reporting a case of possible child abuse or neglect to an employer, supervisor, school principal, school counselor, coworker, or other person shall not be a substitute for making a mandated report.
- E. A mandated reporter who willfully fails to report abuse or neglect, or any person who impedes or inhibits a report of abuse or neglect, resulting in death or great bodily injury, shall be punished by up to one year in a county jail and/or up to a \$5,000 fine. (11166.01(b) PC)

You may encounter situations where a mandated reporter ignores or even facilitates abuse of their own child or a child in their care. Depending on the circumstances the mandated reporter may be guilty of violating this section or be guilty of the same crime as the perpetrator if he or she facilitated the abuse.

Guideline 20: Law Enforcement Reporting Requirements

In all known or suspected child abuse cases, the California Penal Code mandates specific reporting requirements by mandated law enforcement reporters as follows:

- A. When child abuse is known or suspected, telephone (immediately or as soon as practically possible) **and** also send within 36 hours, cross-report in writing on the SS8572 Suspected Child Abuse Report (SCAR) form:
 - 1. To the county district attorney (11166(k) PC)
 - 2. To the agency which investigates dependency (i.e., the county welfare (CPS/CWS) and/or probation departments) (11166(k) PC)
 - 3. *Immediately* send to the law enforcement agency of jurisdiction if different than the reporting agency (11165.9 PC)

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- B. Agencies are required to maintain a record of all reports received.
 - C. Upon starting an investigation, law enforcement must notify the county welfare department of a child abuse investigation within 36 hours of starting the investigation. *(11166.3 PC)*.
 - D. When an agency receives a report pursuant to 11166 PC that contains either of the following, it shall, within 24 hours, notify the licensing office with jurisdiction over the facility:
 - 1. A report of abuse alleged to have occurred in facilities licensed or unlicensed to care for children by the State Department of Social Services. *(11161.1 PC)*
 - 2. 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. *(11166.1 PC)*

By law, the first mandated reporter to become aware of a case of suspected child abuse is responsible for a) immediately calling CPS and/or law enforcement and reporting the incident, and b) completing the SS8572 Suspected Child Abuse Report (SCAR) form and forwarding it to the appropriate agencies.

Oftentimes the first responding officer is the first mandated reporter to become aware of the allegations. Therefore, he or she is responsible for completing and forwarding the SS8572 SCAR form.

Only one verbal (telephonic) notification and one SCAR form is required to be completed for a report of suspected child abuse. However, law enforcement is required to ensure that the verbal and SCAR form has been completed.

In the event that the original mandated reporter did not call and/or complete a SCAR form, it is incumbent upon the first law enforcement officer receiving the allegations to either; a) ensure that the original mandated reporter completes the entire process; or b) personally call and report the allegations to CPS and complete the SCAR form.

Guideline 21: Requirement to Investigate all Reports of Child Abuse

When he or she receives a report of suspected child abuse, a law enforcement officer must investigate and, when warranted, take action. (11166 et seq. PC)

- A. Law Enforcement shall accept a report of suspected child abuse or neglect by a mandated reporter or another person, or referred by another agency. *(11165.9 PC)*
- B. Agencies that are required to receive reports of suspected child abuse or neglect may not refuse to accept a report of suspected child abuse or neglect from a mandated reporter.

The courts have held that a law enforcement officer's failure to investigate and take action on a report of suspected child abuse, including failure to report, may result in criminal and/or civil penalties against the individual officer. Immunity statutes do not bar liability for breach of a mandatory law enforcement duty.

In one such civil case, the court noted, “The failure to investigate was clearly a breach of duty to report” and “[the officer] had a mandatory duty to investigate and then report if it was objectively reasonable for him to suspect child abuse.” (*Alejo v. Alhambra*, 75 Cal. App. 4th 1184)

Guideline 22: Reports of Suspected Child Abuse are Confidential

Law enforcement officers investigating reports of suspected child abuse must be aware that, with certain exceptions, the Suspected Child Abuse Report (SCAR form SS8572), the information contained within the SCAR form, and any child abuse or neglect investigative reports are confidential. Any violation of this confidentiality is a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine of five hundred dollars (\$500), or by both that imprisonment and fine. (11167.5 PC)

Generally, the information contained within reports of suspected child abuse may only be released to those agencies and persons specifically charged with the investigation and prosecution of child abuse cases, such as County Social Services (CPS/CWS), District Attorney, Community Care Licensing, appropriate members of the area’s multi-disciplinary team, etc.

Refer to [11167.5 PC](#) for a complete list of those individuals and agencies who, depending upon circumstances, may receive these reports.

Guideline 23: Confidentiality and Protection of the Reporting Party

Mandated Reporters are provided immunity from civil and criminal liability as a result of making a required or authorized report of known or suspected child abuse. ([11172 \(a\) PC](#))

The law requires that the identity of all mandated reporters must be kept confidential, and only disclosed to the following:

- A. Among agencies receiving or investigating mandated reports
- B. The prosecutor in a criminal prosecution or in a juvenile court action arising from alleged child abuse
- C. Child’s counsel
- D. County counsel or prosecutor in certain family and juvenile court proceedings
- E. Licensing agency when abuse or neglect in out-of-home care is reasonably suspected

Names and identifying information of mandated reporters may not be disclosed except in specified circumstances. Violation of this section is a misdemeanor. This section does not prevent you from sharing such information with concerned law enforcement, social service agency or district attorney personnel. ([11167\(d\) PC](#))

The information may be disclosed when the mandated reporter has waived confidentiality or by a court order.

Information relevant to the incident of child abuse or neglect may be given to an investigator

from an agency that is investigating the known or suspected case of child abuse or neglect. (11167(d) PC)

No mandated reporter or any other person shall be civilly or criminally liable for any report of suspected child abuse unless it can be proven that a false report was made, and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report. (11172(a) PC)

No person required to make a report pursuant to this article, nor any person taking photographs at their direction, shall incur any civil or criminal liability for taking photographs of a suspected victim of child abuse or neglect without parental consent. (11172(a) PC)

Mandated reporters are protected from civil or criminal liability for providing access to a suspected child abuse victim when requested by a law enforcement officer. (11172(b) PC)

Guideline 24: Additional Reporting Requirement Information

11165.4 PC: Distinguishes lawful uses of force by school employees and law enforcement from crimes of physical child abuse.

11165.6 PC: Excludes “a mutual affray (a fight) between minors” and “an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment,” from child abuse laws.

A. This in no way allows for far larger, older, or more mentally developed children to victimize other children.

11165.15 PC: Being homeless is not child abuse in and of itself. Children and families in these situations should be treated as persons in need of help. However, a mandated reporter is not limited from making a report whenever the mandated reporter has knowledge of or observes an unaccompanied minor whom the mandated reporter knows or reasonably suspects to be the victim of abuse or neglect.

11165.14 PC: The appropriate local law enforcement agency shall investigate a child abuse complaint filed by a parent/guardian of a pupil with a school against a school employee or other person that commits an act of child abuse.

A. The law enforcement officer shall transmit a substantiated report of that investigation to the governing board of the appropriate school district or county office of education.

11167.5 PC: Misdemeanor if officers release confidential information. Failure to comply is a misdemeanor.

Guideline 25: Electronic Suspected Child Abuse Reporting System (ESCAR) – Los Angeles County Only

For the reporting of suspected child abuse cases within the jurisdiction of the County of Los Angeles, law enforcement officers (and other mandated reporters) are encouraged to use the *Los Angeles County Electronic Suspected Child Abuse Reporting System (ESCAR)*.

Law enforcement officers and other mandated reporters in Los Angeles County are still required to immediately report by telephone any suspected case of child abuse. Contact numbers to report suspected child abuse cases within Los Angeles County are (800) 540-4000 or (213) 639-4500.

Guideline 26: Joint Response Mandated

Both Child Welfare and Law Enforcement share statutorily mandated roles in the investigation of allegations of child abuse, serious child neglect and exposure to serious domestic violence as addressed in these guidelines.

11166.3 PC mandates a coordinated response between law enforcement and social services (CPS/CWS). The section further mandates a joint effort with social services and other resources (e.g. California State Community Care Licensing) to protect the child, and as noted above, mandates that law enforcement must notify CPS within 36 hours of starting an investigation.

11166.3 PC also mandates that the county welfare department or probation department shall submit, in writing, its findings and the reasons therefor to the district attorney on or before the completion of the investigation.

This section also states that the written findings and the reasons therefor shall be delivered or made accessible to the defendant or his or her counsel when the defendant is charged with the commission of a felony by a written complaint subscribed under oath and on file in a court within the county in which the felony is triable. This should be done only through the District Attorney's Office.

Guideline 27: Child Abuse Response Team (CART)/Multi-Disciplinary Investigative Team (MDIT)

Child Abuse Response Team (CART) and Multi-Disciplinary Investigative Team (MDIT) are terms describing a team of professionals consisting of law enforcement, child protective services, prosecution, medical, victim services, counseling, and other related fields. Some jurisdictions may have other names, but the functions of each team are basically the same.

The purpose of a CART or MDIT is to:

- A. Promote the coordination and teamwork needed to ensure a timely and appropriate response to child abuse and neglect investigations
- B. Reduce trauma to the child through a coordinated response

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- C. Increase accuracy
 - D. Conduct comprehensive child forensic interviews
 - E. Minimize the number of interviews necessary for a child victim of sexual abuse, physical abuse, or neglect and ensure that children are not further traumatized during the process of the investigation
 - F. Minimize duplication
 - G. Coordinate more effective criminal investigation and prosecution of child abuse cases
 - H. Ensure victim(s) and parent/guardian receive the benefit of all resources available to help them recover
 - I. Develop better trained professionals
 - J. Track cases and outcomes

CHAPTER 3:

Child Neglect, Emotional Abuse and Deprivation

Guideline 28: Overview of Child Neglect

Neglect includes both acts and omissions on the part of a parent or caretaker. It means both the failure to provide, to protect or supervise, as well as to willfully cause or permit children to be in circumstances which endanger their health or well-being. A number of physical and/or behavioral indicators may assist the officer in assessing the need for intervention. However, some of these conditions may exist in home environments which are not considered neglectful (dirtiness and untidiness do not necessarily mean that a home is unfit). Rather, it is the extreme or persistent presence, or the combined number of these factors that usually indicate child neglect. The officer should be alert to the following signs of possible chronic neglect:

- A. Physical indicators of neglect may include:
 1. Poor growth pattern/Failure to Thrive (FTT)
 2. Hunger/malnutrition/under weight
 3. Poor hygiene
 4. Lack of appropriate/necessary clothing
 5. Unattended physical/medical problems
 6. Chronic fatigue/listlessness
 7. Unsafe/unsanitary living conditions
 8. Absence of adequate/appropriate food
 9. Delayed medical treatment
 10. Small children supervised by child under 12
 11. Severe dehydration
 12. Severe diaper rash (uretic chemical burn)
 13. Not up to date with immunizations

- B. Behavioral indicators of neglected children may include:
 1. Child's verbal account of neglectful behavior by caretakers
 2. Delayed development, including speech, body size, coordination
 3. Ingestion of harmful substances or repeated accidents
 4. Inappropriate dress for weather or temperature
 5. Extremes in behavior, e.g., social withdrawal (listless, withdrawn, apathetic) or noticeably antisocial or destructive behavior
 6. Beggars, hoards, steals food or other items
 7. Chronic absence/tardiness at school
 8. Children caring for children; inappropriate maturity or parental role reversal

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- C. Parent or caretaker behavior/characteristics may include:
1. Apathetic/passive
 2. Unresponsive attitude
 3. Depressed
 4. Unconcerned for child
 5. Socially/physically isolated
 6. Substance abuser
 7. Displays irrational/bizarre behavior
 8. Lack of supervision/unattended child
 9. Willfully allowing exposure to obscene or pornographic materials
 10. Delays obtaining medical treatment for serious injuries or medical conditions
 11. Explanation not believable

Guideline 29: Response to Child Neglect

The officer should determine the level of neglect (general or severe) and the appropriate response, taking the following factors into consideration:

- A. Imminent danger
- B. Age and general condition of the child
- C. Immediate need for medical attention
- D. Ability of the child to care of himself/herself
- E. Inadequate allocation of basic necessities between children and adults
- F. Prior contacts with child protective agencies

These factors also assist in determining if a warrantless entry into the living environment is legally justified based on exigent circumstances.

All neglect cases are referred to Child Protective Services for appropriate action. Cases of severe neglect shall be investigated by law enforcement; cases of general neglect may also require investigation by law enforcement.

(See *Glossary, Appendix 12*: for definitions of general and severe neglect)

Guideline 30: Protective Custody Considerations (Risk Assessment)

The officer should weigh all the facts when considering taking the victim(s) into protective custody pursuant to *300 W&I/305 W&I*. Consideration should also be given to history and prior offenses or allegations of child abuse. See *Chapter 1, Guideline 8: Taking the Child into Protective Custody*

Guideline 31: Agency Coordination in Neglect Cases

It is mandated that law enforcement personnel conducting investigations of child neglect notify and coordinate their activities with Child Protective Services.

Guideline 32: Collection and Preservation of Evidence

Evidence that will support allegations of child neglect should be gathered, preserved and stored. This evidence may consist of:

- A. Physical evidence:
 - 1. Photographs/video of victim and/or living environment
 - 2. Clothing/bedding
 - 3. Food conditions (samples)
 - 4. Observed health/safety hazards
- B. Medical information – the Health Insurance Portability and Accountability Act of 1996 (HIPAA) permits, but does not require, a covered entity to disclose protected information, without an individual’s authorization, for certain purposes or situations, which includes law enforcement purposes.
 - 1. Medical reports
 - 2. Medical history
 - 3. Substance abuse/addiction
 - 4. Interview medical personnel
- C. Statements of:
 - 1. Reporting party
 - 2. Victim(s)
 - 3. Neighbors/relatives
 - 4. Caretakers
 - 5. Other professionals
- D. Documented observations of investigating officer:
 - 1. Visual
 - 2. Odors
 - 3. Sounds (e.g., crying infant, inappropriate screaming at child, etc.)
- E. Background/records checks:
 - 1. Child Protective Services
 - 2. Department of Justice Child Abuse Central Index
 - 3. Schools
 - 4. Law enforcement

Guideline 33: Special Considerations in Neglect Cases

Law enforcement personnel should be aware of some special circumstances that may resemble or mitigate child neglect. These may include:

- A. Cultural, socio-economic and religious differences
- B. Poverty
- C. Ignorance; lack of parenting skills
- D. Medical conditions not caused by neglect
- E. Developmental disabilities (caretaker or child)

Guideline 34: Emotional Abuse Indicators

Emotional or psychological abuse, while difficult to substantiate, is a serious form of child maltreatment. The following conditions have been identified as components of emotional maltreatment:

- A. Parent/caretaker behaviors:
 - 1. Degrading/humiliating: verbal assault, excessive shaming, public ridicule
 - 2. Terrorizing/intimidating: threats of harm, forcing child to witness violent acts
 - 3. Isolating: locking away in closets or rooms alone, denying access to relationships
 - 4. Corrupting: encouraging antisocial acts or beliefs, exposure to harmful influences
 - 5. Exploiting: using for self-gain or self-gratification at the child's expense
 - 6. Lack of nurturance: ignoring or rejecting the emotional need for affection, denying contact
- B. Child's physical and/or behavior indicators:
 - 1. Sleeping/eating/speech disorders
 - 2. Developmental/learning/concentration problems
 - 3. Habit disorders (e.g., head banging, tics, biting, self-mutilation)
 - 4. Extremes in behavior or affect (e.g., aggressive, withdrawn, destructive, etc.)
 - 5. Inappropriately infantile/pseudo-maturity/exaggerated fearfulness
 - 6. Indiscriminate attachments, attention/affection seeking behavior
 - 7. Excessively depressed, suicidal, runaway
 - 8. Hair loss
 - 9. Drug use
 - 10. Child perpetrator
 - 11. Flat affect, is passive
 - 12. Failure to thrive

Note: Most cases of emotional maltreatment result from disclosure or direct observation of emotionally abusive conditions. Behavioral signs are less reliable since they overlap substantially with non-abuse related problems. The above indicators may suggest the need for further investigation or assist the officer in determining the need for intervention.

Guideline 35: Evidentiary Sources in Emotional Abuse Cases

Some sources of emotional abuse evidence may be:

- A. Public/private school records
- B. Psycho-social evaluations
- C. Statements of involved parties
- D. Observations
- E. Background records
- F. Photographs/videos of victim(s) and/or living conditions
- G. Any other physical evidence

CHAPTER 4

Physical Child Abuse

There are a number of physical and behavioral indicators that may signal an abused child. Careful observation and listening can assist the officer in distinguishing accidental injuries from possible physical abuse. Facts and information to consider about the child and the injury include:

- A. The child has indicated that the injury was caused by another person
- B. The parent, caretaker, or child is unable or unwilling to provide an explanation
- C. The explanation is incompatible with the nature of the injury
- D. There are discrepancies or inconsistencies in the explanation among the parties

Physical abuse is the form of maltreatment most likely to involve obvious physical signs specific to abuse. Nonetheless, injuries are not always apparent, so verbal disclosures also play an important role. Soft-tissue damage (such as a bruise) is the most common physical sign; burns and scalds occur less frequently. The primary target zone for physical abuse injury infliction is the back surface of the body between the neck and the knees, but deliberate injuries can be inflicted most anywhere on the child's body.

Guideline 36: Physical Indicators of Possible Abuse

Most accidental injuries involve only the frontal plane of the child's body; that is, the forehead, nose, chin, palms, elbows, and shins. These are areas where the bone is close to the skin. Injuries to the buttocks, genitalia, abdomen, back and lateral areas of the body, especially the sides of the face, frequently indicate abuse. Abdominal bruising is unusual, even with blunt trauma. Genital and perianal bruising is usually intentional.³

The investigating officer needs to determine if the injury could have occurred in the manner as described by the child and/or the caretaker. Next, the investigator should determine if the child is developmentally mature enough to have caused the injury.

The following types of injuries are commonly referred to as "Red Flag" injuries, and the mechanism of the injury should be thoroughly investigated.

- A. Pattern Injuries (bruises and/or welts which may have a definitive shape or pattern), especially when there are multiple pattern injuries*
- B. Burns or other thermal injuries
- C. Fractures or sprains (skeletal injuries)
- D. Lacerations or abrasions
- E. Other injuries that may be caused by biting, cutting, poking, punching, twisting of limbs, or whipping
- F. Head injuries with suspicious or no history
- G. Rope burns (scars) on wrists and/or ankles

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-
- H. Internal injuries
 - I. Multiple injuries or injuries on multiple planes of the body
 - J. Injuries in various stages of healing
 - K. Shaken Baby Syndrome
 - L. Human bites
 - M. Hair loss
 - N. Drowning
 - O. Suffocation injuries
 - P. Genital injuries

* Whenever there are more than one pattern injury bruise or mark, the investigating officer should count the exact number of injuries, i.e., the exact number of strikes by the object. Investigators should avoid using terms such as “several” or “numerous.” The documentation of an exact large number of blows or strikes may lead to additional charges of torture or other charging enhancements.

Guideline 37: Child Behavioral Indicators of Physical Abuse

- A. Exaggerated fearfulness: frightened of parents or other adults, wary of physical contact, afraid to go home, attempts to hide injury, hyper-vigilant, apprehensive
- B. Excessively aggressive: destructive toward self/others, acting-out behavior
- C. Excessively passive: withdrawn, overly compliant, apathetic, anxious, depressed
- D. Over-protective of parents or caretakers, inappropriate maturity
- E. Drastic behavior changes in and out of presence of parents

Guideline 38: Parental Behavior Characteristics or Indicators of Physical Abuse

- A. Concealment of child’s injuries
- B. Verbal or non-verbal threats or attempts to control child’s communication
- C. Delay in seeking medical care for injury
- D. Irrational thought processes, unrealistic expectations of child, inflexible, cold
- E. Explanation of injury not believable
- F. Explanations are inconsistent or changing
- G. Previously suspected of abuse
- H. Minimizing the seriousness of the child’s condition
- I. Projects blame onto third party, another child or sibling
- J. Caretaker cannot be located
- K. History of substance abuse
- L. Severe diaper rash (uretic chemical burn)
- M. Caretaker is hostile or aggressive
- N. Caretaker is passive and/or dependent

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- O. Father unemployed
 - P. Unwanted child
 - Q. Hospital shopper
 - R. Frequent visits to doctor without medical reasons
 - S. Over-reacts to child's misbehavior

Investigators should have suspicions when physical signs of old injuries are present, especially those in varying stages of healing. There may be evidence of numerous episodes of physical abuse while the child is in the home. During hospitalization, however, no new injuries appear. In addition, X-ray findings often do not correlate with the alleged time interval between injury and examination, or the severity of the injury is not consistent with a description of how the injury occurred.

Skin and soft tissue injuries are the most common indicators of abuse. Skin injuries can consist of abrasions, lacerations, burns, bruises, and scratches, accidental versus non-accidental injuries can usually be determined on the basis of their location and the explanation provided by the involved parties.

Children typically experience accidental injuries on their shins, on the skin over the bony projections of the hips and spine, on their lower arms, on their foreheads and underneath the chin. The most common cause for injuries such as these is falling accidents. Intentional or inflicted injuries occur more frequently on the upper arms, the trunk of the body, the upper anterior (front side) legs, the sides of the face, ears, neck, genitalia, and buttocks. The source of skin injuries can sometimes be determined by the injury pattern.

Other pattern injuries can include strap or belt marks, punctures, loop cord marks, and prints from coat hangers, shoes, spoons, knives, various appliances or other household items. Other patterns can suggest hand marks from grabbing, pinching, squeezing, or slapping.

Guideline 39: Munchausen Syndrome by Proxy (MSP)

Munchausen Syndrome by Proxy (MSP) is a mental disorder that causes a person with a deep-seated need for attention to fake sickness or injury. MSP is a disorder in which the caretaker of a child either makes up fake symptoms or causes real symptoms to make it appear as though the child is injured or ill. The term "by proxy" means "through a substitute."

Many people with MSP exaggerate or lie about a child's symptoms to get attention. They may also create symptoms by poisoning food, withholding food, or causing an infection. Some people may even have a child undergo painful or risky tests and procedures to try to gain sympathy from their family members or community.

MSP is most commonly seen in mothers of children under age six. Since a parent or caretaker with MSP often appears to be caring and attentive, doctors usually don't suspect any wrongdoing. Diagnosis can also be difficult due to the person's ability to manipulate doctors and induce symptoms in the child. As a result, MSP goes undetected in many cases. Doctors may begin to suspect child abuse when a child frequently experiences illnesses and injuries. They

may also become suspicious if a child's symptoms worsen when home alone with the caretaker and improve when under medical care.⁴

The Warning Signs of MSP in the child include:

- A. History of repeated injuries, illnesses, or hospitalizations
- B. Symptoms that don't quite fit any disease
- C. Symptoms that don't match test results
- D. Symptoms that seem to improve under medical care but get worse at home

The warning signs of MSP in the caretaker include:

- A. Attention-seeking behavior
- B. Striving to appear self-sacrificing and devoted
- C. Becoming overly involved with doctors and medical staff
- D. Refusing to leave the child's side
- E. Exaggerating the child's symptoms or speaking for the child
- F. Appearing to enjoy the hospital environment and the attention the child receives

4 *Healthline Website Article*

CHAPTER 5

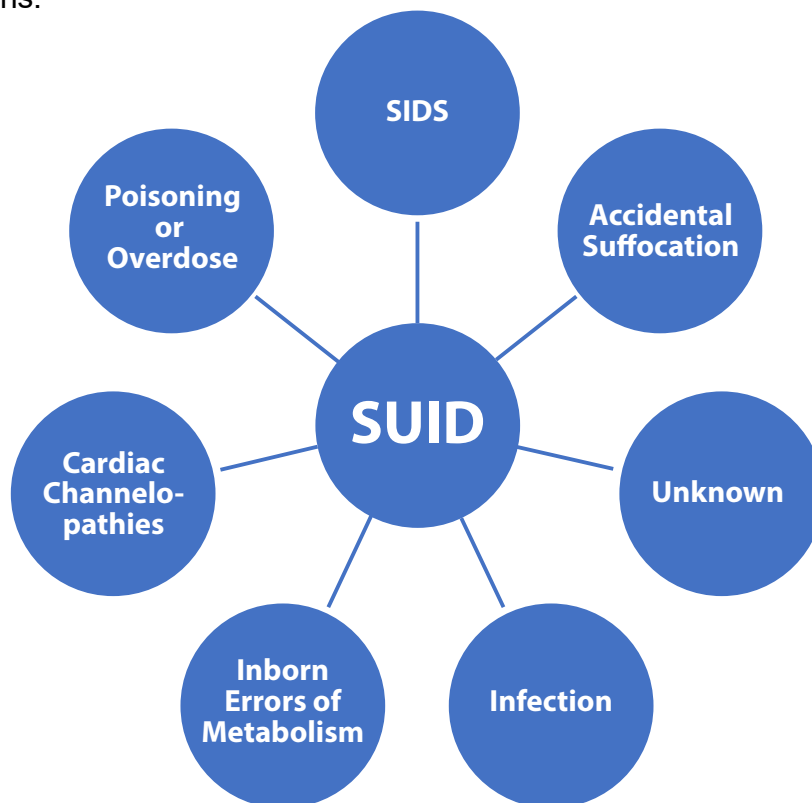
Child Sudden Death Investigations

Guideline 40: Sudden Unexpected Infant Death (SUID) and Sudden Infant Death Syndrome (SIDS)

Sudden Unexpected Infant Death (SUID) is when the cause of death of a baby under one year of age is not immediately obvious before investigation.

SUID is the leading cause of death of infants in the U.S. According to the *Centers for Disease Control and Prevention* (CDC), about 3,500 infants die each year in the United States without any immediately obvious cause.

- A. The leading cause of SUIDs is SIDS, which accounts for approximately half of all SUID cases. SIDS cases fall under the California Department of Public Health, Maternal, Child, and Adolescent Health (MCAH). MCAH is authoritative in the state and is required by the following authorities: Health & Safety Code, Sections 123725-123745, 462, and 10253.
- B. The CDC defines SIDS as “the sudden death of an infant less than one year of age that cannot be explained after a thorough investigation is conducted, including a complete autopsy, examination of the death scene and review of the clinical history.” Other known causes of SUID include accidental suffocation or strangulation, poisoning or overdose, and infections.



Guideline 41: Law Enforcement Response in SIDS and SUID cases

Like any other death scene, cases involving the unexplained death of an infant must be well documented. Statements must be taken and recorded from the care providers and other witnesses. SUID/SIDS cases, upon initial investigation, have no obvious causes of death and cannot be determined without a full, on-scene investigation, an autopsy, and a review of the infant's medical history.

Determination of SUID/SIDS is made by a Medical Examiner's Office, and only after all lab results are completed. Although rare, responding officers and investigators must consider the possibility that homicide could be the manner of death. Because it is difficult to distinguish between SIDS, accidental or deliberate asphyxiation, the American Academy of Pediatrics recommends that all suspected SIDS cases be investigated by a child abuse expert.

Every County Medical Examiner's Office in California conducts a required interview with the parent/guardian using the California Death Scene and Deputy Coroner Investigation Protocol form. The law enforcement investigator should take part in, and record, the interview. The interview may take place in the location where the death reportedly occurred, or in a medical facility.

As part of the interview process, critical questions include:

- A. When and where was the baby put down to sleep?
- B. In what position was the baby put down?
- C. Was anyone sleeping with the baby?
- D. Who found the baby?
- E. Was the baby checked on during the interim?
- F. In what position was the baby found?
- G. What items were in the baby's sleeping environment?
- H. Was anything covering the baby's nose and mouth?
 - I. What was the baby wearing?
- J. Was there blood or frothy fluid on the baby's nose and/or mouth?
- K. Any noticeable fluids on the bedding?
- L. Was the room extremely hot or cold?
- M. Did the mother smoke during pregnancy?
- N. Does anyone in the home/facility smoke?
- O. When and what was the baby last fed?
- P. Was or had the baby been ill or on any medication?
- Q. Did the mother have prenatal care?

Also, establish whether there are any previous unexplained deaths of infants or childhood siblings. If so, relevant details should be obtained.

Establish whether there had been previous social service or police contacts or interventions in the home or facility. If so, the details should be obtained.

If the death occurred in a child daycare facility or nursery, contact Community Care Licensing for assistance by the assigned analyst and special investigator.

Consider obtaining a urine sample from the parent/guardian if drugs or alcohol are a concern as a contributing factor to the death of the infant, either through consent or search warrant.

- A. It is recommended that if drugs or alcohol use by the parent/guardian is an area of potential concern in the investigation, the investigating officer should obtain a search warrant for a urine sample regardless of whether consent was obtained.
- B. Obtaining a search warrant for the parent's or guardian's urine sample prior to requesting consent eliminates any time delay issues of the parent/guardian refusing consent, withdrawing consent, or alleging coercion at a later date.

A complete investigation of the scene where the death is thought to have occurred must be conducted by both the medical examiner or coroner and the law enforcement investigator. The scene investigation must be conducted by a medical examiner or coroner. The scene investigation should be documented in narrative form and be augmented with photographs and diagrams (to scale whenever possible).

As soon as is practical, a photographed and/or video recorded reenactment of the parent/guardian using a doll or stuffed animal showing the original position of the infant when first found unresponsive needs to be collected. The video/photographs should include the position of people and objects that shared the same environment (i.e., bed, crib, couch). The video/photos should be shown to the pathologist who conducts the autopsy.

It is not uncommon for the parent/guardian to place the doll in a position not consistent with the lividity. After photographing the claimed position, allow the individual the opportunity to correct the positioning. (The error may be due to guilt of allowing/finding the infant in a face down position or because of intended deception.)

Evidence such as clothing, bedding, bottles, formula, medications etc., may or may not be collected by medical examiner or coroner. The law enforcement investigator should then consider taking and impounding the items until the manner and cause of death have been determined by a medical examiner or coroner.

Guideline 42: Shaken Baby Syndrome (Abusive Head Trauma)

Shaken Baby Syndrome (SBS)/Abusive Head Trauma (AHT) is the leading cause of physical abuse in infants or small children between 0-5 years of age in the United States. According to the National Center for Shaken Baby Syndrome, approximately 25% of the children die and approximately 80% have lifelong disabilities.

It is important to understand that SBS is not a diagnosis, but rather in medical terms it is used to describe a group of symptoms that occur together and are used to help physicians determine a diagnosis. AHT is an umbrella term used to describe injuries inflicted upon the skull, brain, eyes, and spinal cord as a result of shaking and/or trauma to the head. AHT is caused by vigorous/violent shaking which often includes blunt force impact. (The term Shaken Impact

Syndrome may be used.) The injuries are inflicted by a parent or caregiver who may be angry or frustrated with the child. The most common trigger is crying by the child, or during toilet training; however, there are documented cases of injuries inflicted upon children who are calm and not displaying behaviors perceived as irritating.

SBS injuries are often manifest in a triad of injuries involving the head, eyes, and bones of the child. Injuries to the head include unilateral or bilateral subdural and/or sub-arachnoid hemorrhage, unilateral or bilateral retinal hemorrhages, and diffuse axonal injuries (caused by rapid acceleration and rapid deceleration of the head).

Fractures to the child's ribs as well as fractures of the ends of long bones (metaphyseal lesions) are also frequently seen and are highly suspicious as inflicted injuries. Additional injuries may be seen on the child's ears, behind the ears, inside of the mouth to the frenulum, under the tongue or the upper or lower lip, and injuries to the soft tissues of the limbs or torso. For definitions of the aforementioned terms see [Glossary of Terms Used by Doctors in Shaken Baby Syndrome \(SBS\)](#).

Going into an investigation of possible SBS, the investigator will benefit by having some statistical knowledge. There are over 700 publications in more than 100 peer review medical journals upon which the determination and testimony of AHT relies. The investigator will never testify to the medical determinations; however, the investigator is a key member of the multidisciplinary team and instrumental in revealing the actions of the parent or caregiver who inflicted the injuries upon the child.

When focusing on the identification of a suspect, the investigator is relying on the medical studies. Among the studies are multiple documentations of babies falling from short distances, including nurses' arms in hospital settings, which did not result in serious injuries. With AHT cases, [The National Center for Shaken Baby Syndrome](#) lists the following immediate symptoms of the Severe Diffuse Axonal Injury in the brain:

- A. Seizures
- B. Unconsciousness
- C. Breathing difficulties
- D. Vomiting
- E. Other signs of neurological damage

Because the symptoms are immediate, this generally means the person who last had the baby is the primary suspect who violently shook the child.

Guideline 43: Shaken Baby Syndrome (SBS) Investigative Procedures

Whenever possible, before going to the hospital or the scene, the investigating officer should listen to the 911 call if one was made. (If the call is not immediately available, have the dispatcher play the recording over the phone.)

Listening to the 911 call will provide the investigating officer with the following immediate information:

-
- A. Who made the call?
 - B. Were any other adults or children present in the home or facility when the call was made?
 - C. What, if any sounds, could be heard coming from the child?
 - 1. Agonal (labored) breathing is an indication of a potentially inflicted injury.
 - 2. The breathing may sound like the child is struggling to breathe, gasping and may have an unusual vocalization.
 - D. What was the initial account given to the dispatcher?
 - E. *Knowing the answers to these questions prior to the initial interview of the parent(s)/guardian(s) may provide insight into the credibility and accuracy of their statements.***

In addition, prior to interviewing potential suspects, witnesses and/or caretakers of the child, the investigating officer should know the answers to the following questions whenever possible:

- A. Was there a delay in calling 911 or a delay with seeking medical help?
- B. Are there indications of soft tissue injuries that are not reasonable for the child's age or skill level?
- C. Are there indications of new (acute) fractures and/or old fractures?
- D. Is there a claim that the injuries were caused by another child?

Generally, before conducting a lengthy formal interview with any suspects in the case, the investigating officer should try to obtain statements from the first responders, patrol officers, hospital social workers, attending physician and nurses if possible.

Whenever possible, the investigating officer should also identify all caregivers including extended family, friends, and paid attenders prior to conducting detailed interviews and/or interrogations.

Questions the investigating officer should consider asking the suspect(s), witnesses and any other caretakers include:

- A. What is the age and motor skills of the infant or child?
- B. How was the child behaving before the event? What was the baby's behavior the previous day and week?
- C. What are the locations where the child was during the last week?
- D. What was the child's feeding/eating patterns?
- E. Was the child sick in the last week?
- F. Any serious illness since birth?

Additional questions to consider asking the suspect(s), witnesses and any other caretakers:

- A. Was the baby a planned pregnancy?
- B. Did the mother have pre-natal care?
- C. Was the birth of the child wanted?

-
- D. Did one of the parents want the child aborted?
 - E. Was the child in any type of accident or has s/he experienced a fall since birth?
 - F. What are the stressors in the parent or care provider's life?

Guideline 44: Video Recorded Reenactment(s) in SBS Investigations

The question professionals, including the police investigator, seek to answer is, "Are the injuries presented consistent with the history given by the care provider?"

An efficient way of accurately understanding the suspect's account is to have him or her reenact what he or she described. It is strongly suggested the initial reenactment take place where the suspect is initially interviewed, and as early in the investigation as possible. Remember to advise the suspect of his/her Miranda Rights, if s/he is in custody.

This most likely means the reenactment may be in an office of the hospital. The investigator will need a life-size doll (or stuffed animal if a doll is not available) for the suspect to use for demonstration.

Allow the suspect to complete this initial reenactment without interruption.

Several other reenactments, including those where the incident occurred, may be necessary for the suspect to provide a more accurate account, especially as the investigator discusses the medical findings with the suspect.

Some medical findings, including secondary MRIs and/or CAT Scans, skeletal radiographs, eye examinations, and lab work will not be completed during the initial hospitalization of the child, making it necessary for investigators to maintain communication with the suspect in order to conduct a complete interrogation and/or a final reenactment that may likely be more consistent with the documented injuries.

Guideline 45: Collection of Evidence in SBS Investigations

The following items of potential evidence may be significant in SBS cases:

- A. Current photos of the child
- B. Most recent and prior photographs of the child
- C. Clothing the child was wearing at the time of the incident
- D. Medications
- E. History with any Child Protective Services
- F. Medical records
- G. Autopsy report
- H. Lab reports

The investigating officer should also consider obtaining search warrants for the computer and cell phone (or other devices that connect to the internet) belonging to the suspect(s), parents,

caregivers, family members, etc. Potential items of evidentiary value on these devices may include:

- A. Videos of the child and interaction with caregivers
- B. Internet searches for inquiries related to injuries to an infant or small child
- C. Texts and/or emails between the suspect(s), parents, caregiver(s), other family members that may show discussions among any or all of these parties regarding the condition of the child

See [Appendix 14: Glossary of Terms Used by Doctors in Shaken Baby Syndrome \(SBS\) Cases](#)

CHAPTER 6

Sexual Abuse and Exploitation of Children

Guideline 46: Special Considerations in Sexual Assault/Abuse Investigations

Child sexual abuse encompasses a broad range of behaviors that may involve a single incident or many acts over a period of time. Because child sexual abuse often occurs in secrecy, it may be experienced as shameful and often involves threats not to tell. Children are often reluctant to disclose details voluntarily.

As noted in *Chapter 12: Suspect Dynamics/Interview and Interrogation*, the vast majority of child sexual assault victims know and may even trust the perpetrator. Most are molested by a family member or an acquaintance.

During the Child Forensic Interview, the interviewer should ask questions and document what the offender did or what techniques he/she used to groom/ seduce the child. Answers to these questions may aid in determining whether there are additional victims, or where additional evidence may be found.

Guideline 47: Child Sexual Assault/Abuse Indicators

Physical indicators of sexual abuse, if they exist, are usually only detectable by medical personnel trained in child forensic medical examinations. However, officers should be aware of them and may be able to identify some through questioning. The following are some of the physical indicators that may be exhibited by sexually abused children:

- A. Pain or itching of genitalia
- B. Difficulty in walking or standing
- C. Bruised or bleeding genitalia
- D. Painful erections
- E. Inappropriate wetting, soiling or constipation
- F. Bite marks around genitalia
- G. Sexually Transmitted Diseases (STD)
- H. Foreign objects in anus or genitalia
- I. Pregnancy
- J. Scarred or mutilated genitalia

As with other forms of abuse, behavioral and psychological symptoms of sexual abuse are difficult to interpret because of their overlap with symptoms of other forms of distress. Statements by children describing sexual acts with adults remain the single best indicator of child sexual abuse. However, because only about one-third of cases result from verbal accounts from children, and because physical signs are even less common, suspicions often arise as a result of children's behaviors and emotional reactions.

The following are some of the behavioral and/or emotional indicators that may be exhibited by sexually abused children:

- A. Sexualized acting-out behavior:
 - 1. Excessive/compulsive masturbation
 - 2. Inappropriate or aggressive sexual behavior with children, adults, toys, pets
 - 3. Age-inappropriate understanding or preoccupation with sexual matters
 - 4. Exposes self, refuses to dress or to undress
- B. Drastic behavior changes:
 - 1. Sudden onset of acting-out behavior, phobias
 - 2. Extreme fearfulness, especially in response to particular circumstances or individuals
 - 3. Unusual accumulation of money or gifts
- C. Notable changes in demeanor or personality:
 - 1. Child becomes withdrawn, spending more and more time alone in their room
 - 2. Less contact with friends
 - 3. School grades drop
 - 4. Acute or chronic depression, anxiety, suicidal indicators
 - 5. Eating/sleeping/concentration problems
 - 6. Familiarity and use of prostitution terminology

The following are some of the parent/caretaker characteristics that may be consistent with child sexual abuse:

- A. Extreme over-protectiveness and/or parental dominance
- B. Social isolation
- C. Conflict or alienation between parents
- D. Substance abuse
- E. Lack of supervision, controls, and/or communication

Note: Three things should be kept in mind:

- A. Behavioral signs alone, in any combination, have not been shown to be reliable indicators of sexual abuse,**
- B. An absence of behavioral or physical indicators cannot be used to rule out sexual abuse, and**
- C. Parental indicators are no more reliable than child indicators.**

It is incumbent upon the investigator to understand that behavioral and/or emotional indicators are but one part of the totality of the investigation.

Guideline 48: Sexual Exploitation of Children

Law enforcement officers investigating allegations of child sexual abuse should be aware that the child may also be a victim of sexual exploitation of a child as described in [311PC](#), [311.1 PC](#), [311.2 PC](#), and [311.4 PC](#).

Information gathered through the early stages of the investigation, such as the interview of the child, use of a pretext call, etc., may lead to probable cause in support of the issuance of a search warrant for evidence of child sexual exploitation.

Sexual exploitation of children refers to forms of victimization involving significant and complex dynamics that go beyond an offender, a victim, and a sexual act. It includes victimization involving sex rings, child pornography, the use of information technology (e.g., computers, the Internet, digital-memory storage devices), sex tourism, and child prostitution.⁵

It is not uncommon for the sexual abuser to memorialize these physical assaults with photographs or videos and create Child Sexual Abuse Materials (CSAM), which they then share and trade with other predators. During the last few years, law enforcement has seen an explosion in the amount of CSAM distributed throughout various avenues on the Internet.

Online sexual abusers may, in fact, never meet their victim in person, and may instead commit the entire assault virtually, convincing the child to send sexually explicit images or videos of themselves. Often the initial “ask” will be for seductive type poses, and the abuser will encourage the child for the fully nude and sexually explicit images. If the child refuses, the abuser may resort to extorting the child with the previously obtained images. Although the offender is not physically present, this does not diminish the fact that the child has suffered the assault and the offender is directly and personally responsible for enticing and directing the child to manufacture sexually illicit materials. ([311 PC](#) et. Seq.)

It is not uncommon, however, for the online sexual abuser to convince a child to meet in person, which is without a doubt the most dangerous potential outcome. In these instances, coined “traveler” cases, the abuser will travel to meet the victim, or will persuade the child to meet them so that the abuser has the opportunity to commit a hands-on sexual offense. These types of cases have led to children being forced into sex rings and child prostitution. There are many facets to these types of investigations, but much of the evidence will still most likely be found on digital devices. It is important to note that if law enforcement is notified early on and before the suspect and/or child has travelled, the investigator’s best course of action may include taking over the child victim’s online account and impersonating the child in order to identify and capture the offender. These investigations require specialized training for successful apprehensions and prosecutions.

Section 311 of the Penal Code and the ensuing 311 sections contain the applicable laws and definitions related to the possession, manufacturing, and distribution of obscene materials depicting children under the age of 18 personally engaging in or simulating sexual conduct. It is important to note that online evidence of these crimes may be located in several places: victim devices, suspect devices, or cloud accounts.

5 Child Molesters: A Behavioral Analysis, 5th Edition (2010), Kenneth V. Lanning, through NCMEC

Guideline 49: Child Exploitation Indicators

The following are additional indicators that a child sexual exploitation may have occurred. While many of these characteristics on their own are not an absolute gauge, they are important to take into consideration, especially when trying to determine the scope of a suspect's actions and whether there may be additional victims:

- A. Child victim describes instances where he/she has been photographed, videotaped, or appears on electronic media
- B. Evidence of prostitution
- C. Evidence of nude modeling or live nude performance by the child
- D. Suspect(s) displays an unusual interest in children
- E. Suspect(s) possesses child erotica (*Appendix 12: Glossary*)
- F. Evidence is found of the suspect's membership in known pedophile organizations
- G. Suspect spends an abnormal amount of time at locations where juveniles congregate
- H. Suspect exhibits grooming methods with children
 - I. Evidence of unusual adult/youth associations
- J. Evidence of pornography
- K. Suspect occupies a position of authority or trust with children
- L. Suspect's use of electronic media, social media platforms to communicate with children
- M. Branding, tattooing (e.g. ink, ultraviolet), often in a prominent and/or visible location (Tattooing or branding of a minor is prohibited under *653 PC*)

Guideline 50: Child Sex Trafficking

The grooming process and subsequent sexual abuse, whether in person or virtual, may also lead to child sex trafficking. Children who are sexually trafficked, as described in Section 236.1 of the Penal Code, or who receive food or shelter in exchange for, or who are paid to perform, sexual acts described in Section *236.1 PC* or *11165.1 PC* are known as Commercially Sexually Exploited Children (CSEC).

One common factor in children who are victims of trafficking is that they almost always come from very dysfunctional homes and nationally, approximately 85% have a history of sexual abuse prior to their involvement in trafficking.

Traditionally, when we think of CSEC, we usually think of an adolescent girl or boy committing acts of prostitution and giving the money to a pimp. While that is the most obvious to spot, there are variations that are frequently missed.

- A. Children who engage in survival sex or traditional prostitution without a pimp are still victims of CSEC, as something of value has been traded for sexual access to the minor. On the survival sex side, the something of value can be food, shelter, or drugs.
- B. Preadolescent victims of child pornography can also be CSEC depending on the circumstances. Even if money is not changing hands, purveyors of child porn place an intrinsic value on the images, especially new images, and the supplier of the new child

porn images is almost always receiving something in trade, even if it is just different child porn.

Regardless of the sexual offender's ultimate goal, whether it be power, gratification, online sexual exploitation, or CSEC, it is important to remember that in each case a sexual assault occurred, and the ability to collect all related evidence is paramount to a successful investigation and prosecution.

Despite the importance of physical findings in helping to prove sexual abuse, many cases do not involve serious bodily injury and do not result in physical indicators. Additionally, long delays between the abuse and disclosure are common and further reduce the likelihood of finding specific physical signs of sexual abuse. The absence of physical findings is common in sexually abused children.

CHAPTER 7

Drug Endangered Children (DEC) Investigations

Law enforcement officers encounter illegal drug use and/or illegal drug related crimes almost on a daily basis. Officers should have a clear understanding of the risks children face when their caregivers are engaged in drug activity, substance abuse and/or drug manufacturing. Officers should always conduct a preliminary assessment of the risk to the child(ren) involved and evaluate the need to take the child(ren) into protective custody. See *Chapter 1, Guideline 8: Taking the Child in Protective Custody*.

Officers should be aware of the circumstances and conditions that can be of danger to children, which may be evidence of Child Endangerment, Neglect and Physical Abuse (*273a PC*).

Guideline 51: Drug Endangered Children Warning Signs⁶

- A. Children's access to drugs, paraphernalia and/or contraband
- B. Evidence of abuse
 - 1. Emotional, physical, sexual
- C. Evidence of neglect and maltreatment of children
 - 1. Emotional or physical
- D. Household substance abuse and/or household mental illness
- E. Incarcerated family member
- F. Household dysfunction/chaotic family life
- G. Presence of people under the influence, predators, parolees
- H. Child's appearance (e.g., poor overall hygiene, including dental; inappropriate or insufficient clothing; etc.)
 - I. Child being provided drugs and/or drug paraphernalia
- J. Child facilitating drug sales by parent(s)/guardian(s)/caretaker(s)
- K. Access to weapons (e.g., guns, knives, etc.)
- L. Pornography/sex paraphernalia
- M. Evidence of human trafficking of minors
- N. Access or exposure to chemicals, odors, fumes, toxic areas
- O. Marijuana grow
- P. Any type of lab operations (BHO, methamphetamine, cocaine base, etc.)
- Q. Any strong or noxious odors
- R. Raw sewage
- S. Lack of and/or contaminated food and/or rotten food in refrigerator, cupboards, floor, tables, counters
- T. Code enforcement violations
- U. Evidence of domestic or other violence

⁶ Drug Endangered Children Training and Advocacy Center

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- V. Illegal diversion of utilities
 - W. Sleeping conditions/arrangements
 - X. Fire hazards
 - Y. Pest and health hazards (e.g., rodents, roaches, human or animal feces, etc.)
 - Z. Poor home conditions:
 - 1. Building code violations
 - 2. Exposed wiring
 - 3. Broken windows
 - 4. Holes in flooring or wall
 - 5. Non-functional utilities (water, gas, air)
 - 6. Presence of mold
 - AA. Truancy
 - AB. Attachment disorders, failure to thrive, malnutrition
 - AC. Contaminated clothing, house, vehicles
 - AD. Evidence of gang lifestyle
 - AE. Dangerous animals/reptiles

Guideline 52: Responding Officer DEC Response⁷

- A. Notify supervisor and/or narcotics unit
- B. Contact CPS/CWS
- C. Document all evidence:
 - 1. Record smells
 - 2. Take pictures, measurements
 - 3. Video home, yard, surroundings, etc.
 - 4. Record all interviews
- D. Establish who lives in the home
 - 1. Clothing, bills, personal belongings
- E. Establish caregivers
- F. Account for all children, including those not present
- G. Conduct an *Initial Minimal Facts Victim Interview*
 - 1. Child friendly
 - 2. No leading questions
 - 3. Encourage children to draw pictures
- H. Interview relatives
- I. Interview neighbors
- J. Coordinate forensic interview
- K. Follow established medical protocols
- L. Charge child endangerment crime as applicable (e.g., *273a PC*)
- M. Decontaminate

⁷ *Drug Endangered Children Training and Advocacy Center*

Guideline 53: Notifications for Response in DEC Cases⁸

- A. Fire Department
- B. Code Enforcement
- C. EMS
- D. HazMat
- E. Welfare Fraud
- F. Public Health
- G. Animal Control

CHAPTER 8

Child Abuse and Neglect Within Domestic/Intimate Partner Violence (IPV) Cases

Always consider the possibility of child abuse and talk with children at the scene when responding to a domestic dispute. When investigating domestic violence cases, officers should be aware that child abuse also may be present.

Many victims of domestic violence are physically and/or sexually assaulted in front of their children. In some cases of domestic partner sexual assault, the victim may “give in to sex” they do not want because the perpetrator says that if they do not do it, they will just get one of their children to do it. Law enforcement officers must be aware that domestic violence perpetrators may be physically and/or sexually abusing the children as well.

Guideline 54: Law Enforcement’s Responsibility

In situations when officers respond to calls of domestic violence, it is the responsibility of law enforcement to determine whether there are children present in the home and to take appropriate action to protect them. Merely being present during domestic violence can be sufficient to sustain a petition under *300(b) W&I*.⁹ Case law establishes that being present during episodes of domestic violence constitutes neglect.¹⁰ Research has found the exposure to domestic violence has a deleterious effect on the development of the brain and can cause behavioral problems for children.¹¹

Guideline 55: Law Enforcement Response

When domestic violence is present and children are in the home, the officer should:

- A. Locate and identify all children in the home at a domestic violence scene.
- B. List all children in the report (full name and date of birth), who reside at the location, or who are in the home periodically for court ordered visitations, even if they were not interviewed.
- C. Interview all children in the home even if the parents state they did not observe the incident. Documentation of these interviews should include:
 1. A description of the child’s location
 2. A description of child’s demeanor
 3. Quotations of statements made by the child

9 In re Heather A. (1996) 52 Cal.App.4th 183, 194; Also see, In re T.V. (2003) 217 Cal. App. 4th 126, 134 for a discussion on what constitutes substantial risk of harm when exposed to domestic violence.

10 In re Heather A. (1996) 52 Cal.App.4th 183, 194 “It is clear to this court that domestic violence in the same household where children are living is neglect; it is a failure to protect Helen and Heather from the substantial risk of encountering the violence and suffering serious physical harm or illness from it. Such neglect causes the risk.”

11 Understanding Trauma and its Impact on Child Clients, American Bar Association, Child Law Practice Today, Sept. 1, 2014

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4. Interview children in order to:
 - a. Determine if they are victims of current or prior domestic violence incidents
 - b. Determine if they are witnesses to current or prior incidents
 - c. Obtain a family history, including:
 - (1) Patterns of discipline
 - (2) Family rules
 - (3) Family responsibilities of the children
 - D. Check for signs of physical abuse, neglect and emotional trauma
 - E. Assess imminent danger
 - F. Photograph all parties, adults and children, to document injuries or lack of injuries
 - G. Condition of any pets or animals in the residence
 1. Animal abuse may often accompany domestic violence¹²

Guideline 56: Protective Custody Considerations (Risk Assessment)

See *Chapter 1, Guideline 8: Taking the Child into Protective Custody*

Guideline 57: Investigative Considerations

- A. Statements of involved parties
- B. Witness interviews (neighbors, teachers, relatives)
- C. DOJ Child Abuse Central Index (CACI)
- D. Medical records
- E. School records
- F. Prior incidents/reports (check local, state and out-of-state/prior residences)
- G. Evidence collection
- H. Officer observation

Guideline 58: Legal Considerations

- A. Emergency Protective Orders
- B. Referrals for support and assistance (*13701 PC*)
- C. Safety plans and local agency protocols
- D. Restraining and other court orders (*166 PC* and *273.6 PC*)
- E. Arrest mandates
- F. Probation/parole status
- G. Welfare & Institutions Code 300/305

¹² *The Link Between Cruelty to Animals and Violence Toward Humans*; Animal Defense Fund

CHAPTER 9

Parental/Family Child Abduction

By definition, parental/family abduction involves the taking or keeping of a child by a parent or family member, or someone acting on his or her behalf, in violation of one's custodial rights.¹³

In California, the investigation of Parental/Family Child Abduction generally falls under the jurisdiction of the local District Attorney's Office. However, oftentimes the initial abduction is reported to the local police or Sheriff's Department, and the initial responding officer must immediately conduct a preliminary investigation to determine if a) the child is in danger, and b) if a crime has been committed.

In these cases, immediate and effective law enforcement response may help in the recovery of children who have been abducted by one parent or other family members. Officers need to remember that these cases can vary in their degree of severity and may be reported as a result of a child not being returned from visitation, as a domestic disturbance call in which a family member has forcibly removed a child from the home, or as the worst-case scenario of a hostage situation where a child is being held in response to a custodial dispute.

The safety and welfare of the child(ren) takes priority, and the first responding officer must immediately *conduct a risk assessment* of the situation and *determine if the child should be taken into custody pursuant to 305 W&I and/or 279.6 PC.*

Guideline 59: Initial Officer Response to Parental/Family Abduction

- A. Conduct a risk assessment
- B. Determine the level of violence, if any, associated with the abduction
- C. Determine the mental and/or physical health of the suspect
- D. Possible international or inter-state flight
- E. Enter the name and description of the child, suspect, and vehicle information into the appropriate California and Federal databases
- F. Obtain recent color photos of child and suspect
- G. Obtain information about possible locations or destinations the child may be at or taken to
- H. Preserve any evidence and crime scene
 - I. Notify the *National Center for Missing and Exploited Children (NCMEC)*

The first responding officer should consider requesting an AMBER Alert if the following *AMBER Alert Plan* criteria is met:

- A. Confirmation that an abduction has occurred, or the child has been taken by anybody including, but not limited to, parents and/or guardians
- B. Victim is 17 years of age or younger, or has a mental or physical disability

¹³ Missing and Abducted Children, Law Enforcement Guide, *NCMEC* Publication

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- C. There is reason to believe the victim is in imminent danger of serious bodily injury or death
 - D. There is information available that, if disseminated to the general public, could assist in the safe recovery of the victim

Note: An AMBER Alert cannot be used for custodial disputes or runaway cases that do not meet the criteria. Law enforcement agencies are encouraged to issue an Endangered Missing Advisory for cases that do not meet the criteria.

Here are the steps a law enforcement agency must take once it has been determined that the criteria have been met:

- A. If the agency is within Los Angeles, Orange, Alameda, or San Diego county, contact the local Sheriff's Department
- B. If the agency is not within one of the aforementioned counties, contact the California Highway Patrol
- C. The agency should set up a phone "hotline" to handle tips and appoint a public information officer to handle the press
- D. The agency should obtain current photos of the victim and if possible, the suspect

Guideline 60: Ongoing Parental/Family Abduction Investigation

As noted above, most California District Attorney's (DA's) Offices have a designated Child Abduction Unit to handle the long-term investigation of Parental/Family Child Abduction cases. Regardless of whether the investigation is handled by the DA's Office or the local law enforcement agency, the steps for the ongoing investigation remain the same. The following information is from the *Missing and Abducted Children: A Law Enforcement Guide to Case Investigation and Program Management*¹⁴ published by the National Center for Missing and Exploited Children (NCMEC). Law enforcement officers are encouraged to contact NCMEC for assistance with all child abduction cases.

Domestic:

- A. Examine court records, check with issuing court for validity and updates
- B. Conduct interviews of any people who may have information including family members, friends, landlords, and employers
- C. Develop residential history for both left-behind parent and alleged abductor
- D. Provide tasks for left-behind parent/guardian as appropriate
- E. Consult with prosecutor about the issuance of a criminal warrant
- F. Consider cellphone tracking
- G. Coordinate the issuance of a civil bench warrant if possible
- H. Secure the assistance of federal law enforcement agencies, in particular the Federal Bureau of Investigation (FBI) and U.S. Marshals Service
- I. Flag relevant sources of information about child and abductor

¹⁴ Missing and Abducted Children, Law Enforcement Guide, NCMEC Publication

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- J. Review public-record databases, internet resources including social media accounts, and criminal-history logs for potential leads
 - K. Coordinate with other agencies for investigative support including the:
 - 1. U.S. Postal Inspection Service (USPIS)
 - 2. U.S. Department of Defense's Military Criminal Investigation Organization (MCIO)
 - 3. U.S. Department of Homeland Security (DHS), including Secret Service (USSS)
 - 4. U.S. Immigration and Customs Enforcement (ICE)

International

- A. Contact local FBI field office for potential International Parental Kidnapping Warrant
- B. Contact the Office of Children's Issues (OCI) at the U.S. Department of State for investigative support and direct parent to follow up as well at: (888) 407-4747 or (202) 501-4444
- C. Request INTERPOL notices at (202) 616-9000
- D. Contact the Bureau of Diplomatic Security (DS) if passport fraud is alleged at: (571) 345-2973

Prolonged Investigation

- A. Conduct regular database checks
- B. Lexis/Nexis®, Accurint®, and other public-record databases
- C. Federal Parent Locator Service and additional federal information sources
- D. Statewide databases
- E. Travel and financial records
- F. Use physical and electronic surveillance to develop new leads
- G. Renew media efforts including age enhancement or updated photos

Recovery/Case Closure

- A. Coordinate apprehension with any involved agencies, local or federal, and arrange for it to be separate from the recovery of the child if possible
- B. Involve multidisciplinary team, such as social services and child advocacy centers, to address any child endangerment allegation that may arise
- C. Conduct separate, thorough interviews of the child and abductor
- D. Cancel any alerts previously requested and remove corresponding NCIC entries

CHAPTER 10

Victim Dynamics and Interviewing

Guideline 61: Common Misconceptions

Child abuse is a subject very few people want to discuss, including those in law enforcement. Whether the abuse is sexual, physical, neglect, emotional, or any combination of these, we do not want to think or talk about it. Because these types of abuse are kept secret, there are pervasive myths and misconceptions about the victims and the offenders. Officers need to be aware of the myths as the myths can affect their judgement when investigating child abuse cases.

Myth: Child physical, sexual, neglect, or emotional abuse does not happen in affluent parts of society.

Truth: Child abuse knows no geographical or economic boundary. It occurs in every demographic, no matter the income, education, family size, race, religion, or any other trait. Abuse happens in cities and rural communities, in homes, schools, and churches. One out of five (1/5) children will experience some form of abuse or maltreatment before their 18th birthday, and children with disabilities experience an even higher rate of abuse.¹⁵ Most likely, abuse will be inflicted by a parent, a relative, or a child's caregiver.

Myth: It is only abuse if it is violent.

Truth: Child abuse does not necessarily involve violence or anger. Abuse often involves adults exploiting their power over the child.

Myth: Child abuse must be seen to be considered abuse.

Truth: Child abuse can be physical, sexual, emotional, or neglect. Twenty-five percent of cases are emotional neglect or abuse which usually leaves no hard evidence.

Truth: Nationally, neglect is the most common form of abuse. Three-out-of-five (nearly 61%) of victims were neglected, more than 10% were physically abused, and 7% were sexually abused. Yet the statistics indicate a more complex problem where children experience multiple forms of abuse. More than 15% of abused kids were poly-victimized (suffered two or more forms of abuse).

- A. 49% of victims are under age 6.
- B. 42% of victims are ages 7-11.
- C. 24% of victims are 12-17.

Myth: Children will tell someone if they are being abused.

Truth: Some children are too young to say anything. Children may be too afraid, ashamed, or confused, and some children do not know the acts committed upon them is not normal.

¹⁵ *Child Welfare Information Gateway*

Myth: Children are usually sexual molested by strangers.

Truth: The abuser is almost always someone related to the child and/or is someone to whom the child was entrusted. In cases involving sexual abuse of girls and boys, over 90% of the offenders are someone the child knows and trusts.

Truth: Of the 90%, 88% are male, 9% female, and 3% are unknown.¹⁶

- A. Perpetrators are all ages including kids, teens, and seniors.
- B. Perpetrators known to victims included parents, stepparents, foster parents, other relatives, neighbors, daycare providers, teachers, coaches, and faith leaders.
- C. Many children are unable to tell they are being abused when someone familiar is the perpetrator. Disclosing what has happened (or is happening) to them also has a greater personal impact when it involves someone the child knows.

Myth: Doctors can tell when a child or adolescent has had vaginal or anal penetration.

Truth: Most sexually abused children will not have signs of genital or anal injury, especially when examined non-acutely. One study reported that only 2.2% (26 of 1160) of sexually abused girls examined non-acutely had diagnostic physical findings, whereas among those examined acutely, the prevalence of injuries was 21.4% (73 of 340).¹⁷

Myth: Children must have detectable physically injuries to suffer the consequences of abuse.

Truth: Child abuse has far-reaching and life-long consequences for the child.

Myth: The long-term effects of abuse or neglect are minimal.

Truth: According to the Center for Disease Control, adverse childhood experiences have a tremendous impact on future violence victimization, perpetration and lifelong health and opportunities.

- A. Generational embodiment/historical trauma
- B. Social conditions/local context
- C. Disrupted neurodevelopment
- D. Social, emotional, and cognitive impairment
- E. Adoption of health-risk behaviors
- F. Disease, disability, and social problems
- G. Early death

Myth: People report child abuse whenever they see it or hear about it.

Truth: Child abuse is underreported to Child Protective Services.

- A. Many abused children do not disclose the abuse until well into their adulthood.

Myth: All children know when to speak up about abuse.

Truth: Not even close. Only one in ten children tell anyone.

¹⁶ Source: Sex Offender Registration Map, (2018), National Center for Missing and Exploited Children.

¹⁷ ²Journal of Pediatric and Adolescent Gynecology, Vol. 31Issue 3, June 01,2018

Investigators often miss significant evidence of other acts of abuse when initially called upon to investigate an act of suspected child abuse. As has been stated in the discussion of domestic violence, children are often the subject of multiple incidents of other abusive conduct besides being in the presence of domestic violence.

This victimization has been referred to as poly-victimization and when investigating one type of reported abuse, the investigator must be cognizant of the potential of other crimes committed against the child. This victimization may take the form of physical assault, child maltreatment, sexual abuse, or bullying. They may also witness such events in their homes, schools, and communities. Some children suffer several different kinds of such victimization.¹⁸

Guideline 62: Delayed Disclosure

Law enforcement officers investigating allegations of child abuse should be familiar with the phenomena of delayed disclosure and reporting.

Most children who are abused know something is wrong, but they lack the maturity to understand what is wrong. They do not even know how to respond to the acts committed by the perpetrator. A delayed disclosure by a victim of child sexual abuse (or physical abuse) is quite common, whether the abuse was a onetime event or repeat offenses. Younger children are at a higher risk for longer delays and less disclosure overall.

The delay in reporting can range from days to decades. On average, only 33% of the children who are sexually molested disclose the molestation during their childhood.¹⁹ Abuse by a family member is less likely to be reported than abuses committed by someone outside of the family.

The reluctance to report may be because the child is too young or the child does not know what happened was abuse, but rather something that is done within families. A child may also delay disclosing the acts committed against them because the offender has committed the child to secrecy, the child is embarrassed, afraid he or she will not be believed, or afraid of financial or physical harm that could be inflicted on siblings, other family members, friends, or pets.

It is even common for a child to feel confused because of the emotional attachment and feelings of love for the offender. When the child realizes what happened was wrong, he or she may feel betrayed while at the same time conflicted because disclosing may get the person who has given the child attention and affection in trouble. The child may also believe he or she is in trouble.²⁰

Disclosure of sexual molest may be provided by children in different forms. Some children may immediately tell someone, while others may tell in small increments in order to “test the water” to see if the recipient of the information believes and supports the child. There are still other children who cannot verbally disclose, but may instead, disclose within a diary, or leave a note for a trusted person to find.

18 Polyvictimization: Children’s Exposure to Multiple Types of Violence, Crime, and Abuse, National Survey of Children’s Exposure To Violence, *Juvenile Justice Bulletin*, Oct., 2011, David Finkelhor, et al.

19 London, Bruke, Ceci, Shuman, *Psychology, Public Policy, and Law*, 2005, Vol. 11, No. 1, 194–226

20 Goldstein, Seth L. *The Sexual Exploitation of Children A practical Guide to Assessment, Investigation, and Intervention*, 2nd Edition, CRC Press, p 43

Victims of child physical and sexual abuse are often reluctant to report or withhold information due to one or more of the following factors:

- A. Age
- B. Gender
- C. Intellectual ability
- D. Guilt, shame, fear, embarrassment
- E. Cultural norms, religious and/or ethnic beliefs, race
- F. Dysfunctional family
- G. Relationship to the assailant
- H. Nature, severity and duration of the abuse
- I. Anticipated family response
- J. Anticipated peer response
- K. Potential retaliation
- L. Lack of family or other support system
- M. Lack of trust
- N. Not sure what happened
- O. Unaware they are actually being abused
- P. Perception of law enforcement officers
- Q. Sense of helplessness

Child abuse victims often fear their report of abuse will not be believed or taken seriously because of one or more of the following factors:

- A. They know their assailant
- B. The assailant is a family member
- C. They are intimidated by the assailant's position or power over the victim
- D. They engaged in drug or alcohol use
- E. They were engaged in illegal activity at the time of the offense
- F. They fear being perceived as having an ulterior motive

Sometimes a statement is made to a parent by a child that the parent does not understand is the child complaining of abuse and the child, receiving no response, does not say anything about it again for a long time, if at all. For example, a father molesting a child might be reported to the mother by the child as "Daddy makes me do things I don't want to." This may be interpreted as the child hasn't cleaned his/her room, taken out the garbage or other chores and the non-offending parent disregards the statement or minimizes the conduct.

This report is a critical bit of evidence if it can be established that it actually happened. The report, considered as “fresh complaint,” is admissible as non-hearsay under *Evidence Code 1228*, to establish that something occurred at or about the time of the events reported and offered to counter recent fabrication. Every investigation where there has been a delay in reporting the events currently under investigation must explore this possibility. Both the child and non-offending parent should be queried about the potential of the child having told someone about what was happening to him/her at or about the time of the actual events.

Guideline 63: Recanted Disclosure

Law enforcement officers must be aware that during child sexual molest investigations, it is not unusual for a child victim to recant their account. The recantation rate in substantiated child sexual assault cases is 23.1%. More specifically, the recantation rate is 18% among children 6 to 7 years old, and 41% for children ages 8 to 9 years old.²¹ If the child has a failed support system of immediate and extended family members, the child will experience emotional pain and rejection.

With intrafamilial abuse cases, the dynamics are complex and the compulsion to recant is understandable. A child sexually abused by a parent is more likely to be vulnerable to persuasion to recant when the child also has a non-offending primary care provider (usually the mother) who does not believe or support the child.

The perpetrator may have committed the child to “their secret” and the child’s disclosure is a violation of that secret. The perpetrator may have also told the child that any revelation about the sexual acts by the child will mean the offender will be arrested, the child will be “taken away,” the family will be separated or destroyed, or will lose their home. The offender may threaten physical harm to the child, himself, other people, or pets. Devastatingly, the very threats made may come to fruition if the child tells; the cost to the child and the family may be high.

With all child sexual abuse cases, it is important for investigators to understand and document the family dynamics. It is equally important to provide the information to the forensic interviewer and the prosecutor. During the formal forensic interview, the child may provide a credible disclosure that may also include a demonstration using anatomically correct dolls* or hand drawings to help describe the acts committed against the child. Despite a disclosure and illustrations, the child may still recant because of pressure by family, friends, and classmates.

* **Note:** The use of anatomically correct dolls during a child forensic interview should only be done by trained Child Forensic Interview Specialists. Law enforcement officers or investigators conducting the initial Limited Facts Interview should **not** use anatomical dolls during the interview.

21 Thomas D. Lyon, PhD. Abstract of “Filial Dependency and Recantation of Child Sexual Abuse Allegations.” *Journal of the American Academy of Child and Adolescent Psychiatry*, 46(2):162-70, Mar. 2007

Guideline 64: Initial/First Responding Officer Minimal Facts Victim Interview

See *Chapter 1, Guideline 7: Initial/First Responding Officer Minimal Facts Victim Interview*

Guideline 65: Interviewing Children at School

Law enforcement and other child protection workers may interview children at school, regarding child abuse allegations. The child may elect to be interviewed privately or have an appropriate support person present (also defined in this section).

Note: It is the interviewer's duty to inform the child of their right to have/not have a support person, not the school official's. Sometimes school personnel may attempt to insert themselves into an investigation citing school policy. You, as the investigator, have the right to conduct your interview on campus and inform the child of their rights. Understanding this law will enable you to prevent otherwise well-meaning school employees from needlessly interfering in your investigation. The child may choose to have an adult employee of the school as a support person. This person is not to interject themselves into the interview and you should make sure to document in your report that you advised the child of their right to a support person, their response and the full identity of any support person who attends the interview if applicable. (11174.3(a) PC)

Guideline 66: Trauma Informed Interview Overview

The following information is a brief overview of the *Trauma Informed Interview*. Law enforcement officers are encouraged to learn about this technique of interviewing victims of violent crimes. **A comprehensive child interview should only be done by a trained Child Forensic Interviewer.**

In addition to understanding how to conduct a *Trauma Informed Interview*, it is important that law enforcement officers keep this information in mind when observing a forensic interview and assessing a child's disclosure.

Traumatic events in a child's life such as physical abuse, neglect, sexual abuse, witnessing domestic violence, etc., affect many aspects of a child's developmental ability, including the ability to form attachments and relationships, their self-perception, their ability to trust others, and their sense of safety.

Background: Trauma victims, including child victims, do not generally experience trauma in the same way most of us experience a non-traumatic event. Most interview techniques have been developed to interview the more advanced portion of the brain (PFC) to obtain specific peripheral information (time frame, suspect description, shirt color, etc.). Most trauma victims are unable to provide this information, but when asked to do so, give accurate or fragmented details which leads the fact finder to become suspicious. One of the mantras of law enforcement is "inconsistent statements equal a lie."

The *Trauma Informed Interview* was developed and implemented as a proven method to properly interview the more primitive portions of the brain. It reduces inaccuracy of information

provided and increases understanding of the experience. This concept and approach of this technique can be described as a forensic psychophysiological investigation. It gives the victim the opportunity to describe the experience physically and emotionally.

The primary purpose of the Trauma Informed Interview is interviewing victims of traumatic crimes. However, the technique can also be used to interview witnesses and suspects.

The technique can increase the interviewer's ability to obtain psychophysiological evidence. It combines the principles of forensic child interviewing with the neurobiology of memory and psychobiological trauma. It can help document the "three dimensional" experiential aspect of the crime – that is, physically and emotionally.

Law enforcement officers need to be aware that people will only talk freely and fully under certain conditions. Investigators need to develop the capacity to hear about trauma, especially when dealing with child victims of physical and sexual abuse.

- A. Principles/techniques for forensic child interviewing
 - 1. Open-ended, non-leading questions
 - 2. Soft interview room
 - 3. Empathy
- B. Neurobiology of memory and psychological trauma
 - 1. Interviewing the lower brain to understand the experience
 - 2. Don't push for chronological or sequential order
- C. Victim interview considerations
 - 1. People will only talk freely and fully under certain conditions
 - a. Active listening
 - b. Non-judgmental
 - c. Must feel safe
- D. Investigators need to develop the capacity to hear about trauma
 - 1. Does not come easily
 - 2. Requires empathy and practice

The phrasing of questions during victim interviews is important. Depending on how a question is asked, it might be perceived by the child victim as blaming them for their actions, or for what they may be unable to recall.

In general, law enforcement should consider reframing questions that start with "why" to directives such as "explain to me..." and prompts such as "and then what happened?" Using open-ended questions and requests when possible, gives the person being interviewed the opportunity to share more information about what they are able to recall. For victims, this method helps their brain retrieve information from a traumatic event and offers them more control as they recount a time when they were violated and had no control.

Guideline 67: Child Forensic Interview Technique (CFIT) Overview

According to the definition by the Office of Juvenile Justice and Delinquency Prevention (OJJDP), “A forensic interview of a child is a developmentally sensitive and legally sound method of gathering factual information regarding allegations of abuse or exposure to violence. This interview is conducted by a competently trained, neutral professional utilizing research and practice-informed techniques as part of a larger investigative process.”²²

While training and education requirements for Child Forensic Interviewers can vary by local jurisdiction, forensic interviewers in California receive training to conduct interviews within the context of multidisciplinary team investigations. As part of this training, students study interview models and techniques, child language development and cognition as it applies to interviewing, memory, suggestibility, abuse and disclosure dynamics, childhood trauma as it relates to interviewing, and special topics including interviewing small children, adolescents, children with special needs, and cultural competency.

The CFIT training available to forensic interviewers in California is based on Dr. Tom Lyon’s Ten Step Forensic Interview Protocol, which is an adaptation of the National Institute of Child Health and Development (NICHD) Protocol.

In addition, Child Forensic Interviewers have received training in Trauma Informed Interview Techniques with special regard for child and adolescent victims.

Sample Forensic Questions may be found in [Appendix 9: Child Forensic Interviewing](#)

Guideline 68: Follow-up Interviews of the Child

In an ideal child abuse investigation, the child victim should only be interviewed once. The interview should be in a controlled child friendly environment and recorded with a child forensic interview specialist. The interview should be remotely viewed by the law enforcement investigator, the prosecutor, and the assigned social worker. As the interview progresses and it is determined additional information is needed, the observing professionals should be able to communicate with the forensic interviewer, who can then ask the additional questions in the proper format. This is especially desirable with younger victims.

With this in mind, there are children who are not willing to, or who are not comfortable disclosing details to even the best of forensic interviewers. This may be due to a variety of reasons including but not limited to, lack of sleep, distrust of the professionals, lack of support by non-offending family members, fear of being ridiculed by friends, teachers, or classmates, threats of harm to the child, to family, or to pets, or fear of loss of the offender through incarceration or suicide.

According to the National Children’s Advocacy Center, the single interview model is the approach currently recommended by Multidisciplinary Teams (MDTs), Child Advocacy Centers (CACs), and “best practice” resources throughout the U.S. This approach assumes a child is willing and able to discuss the allegation topic and can provide sufficient detail to inform the

²² OJJDP *Child Forensic Interviewing: Best Practices*

investigation and to support case decisions. While the single interview approach is sufficient for many children and cases, a subset of children is challenged to participate in such a focused conversation with a stranger and may benefit from more time and an expanded conversation over multiple sessions.²³

“Children who might be considered for an Expanded Forensic Interview (EFI) are those with developmental delays or cognitive disabilities, as well as extremely traumatized children. Cultural considerations may also indicate a need for an EFI, rather than a single-session interview.” (Supra)

Only if it is necessary for the law enforcement investigator to ask follow-up questions of the victim child or witness should the investigator conduct a follow-up interview. The interview should be recorded to prevent defense from accusing law enforcement of manipulating the investigation in favor of guilt of the accused.

²³ National Children’s Advocacy Center. *Child Forensic Interviewing: Best Practices. OJJDP Juvenile Justice Bulletin*, 2020

CHAPTER 11

Pretext Telephone Call/Pretext Texting/Digital Social Media/Online Communications

The pretext phone call is an investigative tool that can be used in a wide range of criminal investigations. It is especially useful in sexual assault and child abuse investigations. In the context of a law enforcement investigation, a pretext phone call is a recorded conversation facilitated by law enforcement with the objective of ascertaining the truth regarding an allegation. Generally speaking, the call is made by the victim to the suspect under the supervision of a law enforcement officer. However, there are circumstances in which it is not optimal or practical to have the victim place the call. Therefore, the call can be made to the suspect by a third party.

Although the planning of conducting pretext communication may vary depending on what form of media is being used, the process of conducting the actual communication remains the same.

- A. The communication is usually initiated by the victim to the suspect under the supervision of, and with, a law enforcement officer in a controlled environment.
- B. The suspect is unaware the communication is being recorded. It is optimal to have the communication occur via a telephone call due to the fact we can record the suspect's own words and voice which is less ambiguous with respect to identifying whom the victim was communicating with and it's more easily recorded. However, pretext communication can occur via texts, email, social media platforms, or instant messaging programs.

Guideline 69: Statutory Law for Pretext Calls

- A. **632 PC**: Prohibits Eavesdropping, Interception or Recording of “confidential communications” unless all parties to conversation consent.
- B. **633 PC**: Law enforcement officers or any person acting at the direction of a law enforcement officer who is acting within the scope of his or her authority, can record any communication that they could lawfully overhear or record.
 - 1. **Note**: The language in 633 PC states “law enforcement,” **not** “peace officer” (i.e., 830 PC), and it specifically names the included officials:
 - a. AG, Deputy AGs, AG Investigators, DAs, Deputy DAs, DA Investigators, CHP, Sheriffs, Deputy Sheriffs, Police Chiefs, Police Officers, CDCR Special Agents (assigned to OIA only), *or any person acting pursuant to the direction of any of these officers*
 - b. Therefore, peace officers under 830.35, 830.36, 830.37, 830.38, etc., **may not be protected under this section unless directed by any of the above listed officers** (e.g., your local DA). Check with your local prosecutor before conducting pretext calls on your own

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- C. **633.02 PC:** Allows any POST-certified university or college peace officer to overhear or record any communication in any criminal investigation related to sexual assault or other sexual offense.
 - D. **633.5 PC:** It is not a crime for a party in a communication to record that communication for the purpose of obtaining evidence reasonably believed to relate to the commission by another party to the communication of the crime of extortion, kidnapping, bribery, and any felony involving violence against the person including but not limited to human trafficking, domestic violence or violation of **653m PC**.
 - E. **Out-of-State Pretext Calls**
 - 1. If the crime alleged occurred in California and the pretext call is made from California at the direction of an officer described in PC633 to a subject in another state, the recording is admissible regardless of what state the subject of the call is in when the recording is made. (*People v. Clark* (2016) 63 Cal.4th 522, 595-96)
 - 2. If the call is being made from another state to California, you should consult your district attorney and the respective district attorney office(s) representing the involved state(s), as laws vary from state to state.

Guideline 70: Application of Fifth and Sixth Amendments

- A. **Fifth Amendment (Miranda):** If the suspect is not in custody, Miranda does not apply. If the suspect is in custody, Miranda warnings/waivers are not required where the suspect is unaware he is talking to a police agent. This is true, even though the suspect may already have invoked his Miranda right to silence or to counsel before the pretext call occurs.²⁴
- B. **Sixth Amendment (Right to Counsel):** Once the Sixth Amendment right to counsel has attached (indictment or first court appearance), agents may no longer make a pretext call about the charged offense. Since the Sixth Amendment is “offense-specific,” pretext calls may be made about other, uncharged offenses without violating this right. Pretext calls may be made before the Sixth Amendment attaches - even if an attorney has been retained.
- C. Remember: Case law can change. Keep up to date on the changes that affect your criminal investigation.

Guideline 71: Considerations before the pretext call

- A. How will the pretext communication affect the victim?
 - 1. The information gathered in a pretext communication can be invaluable. However, law enforcement officers must consider how the victim’s communication with the suspect may re-traumatize the victim.
 - 2. Law enforcement professionals, the victim, and victim advocates need to discuss the benefits, challenges, and potential negative effects when deciding if a victim should participate in a pretext call with the suspect.

²⁴ *One Minute Brief*, Los Angeles County District Attorney’s Office; by Devallis Rutledge, DDA. March 9, 2020

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- B. In some instances, it may not be appropriate for the victim to execute the communication based on factors such as their age, emotional state, etc.
 - 1. When this is the case, determine if someone else is suited to make the call.
 - C. Factors that can influence the pretext call
 - 1. Is the suspect aware of the investigation?
 - 2. What is the usual routine of victim/suspect?
 - 3. Is the suspect likely to be with anyone at the time of the call?
 - 4. Where would the caller normally be at the time of the call?
 - 5. Do you have a good phone number for the suspect?
 - 6. When is the best time to call (anniversary date, late at night, weekend, birthday, etc.)?
 - 7. Have you prepared a list of questions for the victim to read?
 - 8. How will you communicate with the victim during the call?
 - D. The investigator must be familiar with all aspects of the case, including witness statements.
 - E. The victim should be interviewed in detail before making a pretext call.
 - F. The information gained from the interview will help the investigator formulate questions for the victim to ask the suspect.
 - G. The information will also help the investigator analyze the statements made by the suspect during the recorded call.

Guideline 72: Necessary Equipment

- A. Be sure to record the conversation. This can be accomplished by using a digital recorder accompanied by a phone pick-up earpiece, or using recording apps such as:
 - 1. Callyo, PretextCalls.com or Law Enforcement Technology Solutions (LETS) (Orion).
 - 2. **Note:** These are paid subscriber services which require a cellular or an internet Wi-Fi connection.
- B. Regardless of the medium used, be sure to confirm the source is working properly prior to executing the call. This can include ensuring you have a fresh pair of batteries.
 - 1. If email or text is going to be used to facilitate the communication, be certain you have a way to preserve the correspondence.
- C. Equipment necessary for landline calls
 - 1. Landline phone recorder controller “splitter” (available through Radio Shack, Amazon and other electronics stores) or a wired in-the-ear microphone with a standard 1/8” headphone jack
 - 2. Digital Recorder with headphone jack
 - 3. Earphones

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- D. Equipment necessary for cellular calls when not using a service such as Callyo, PretextCalls.com or Law Enforcement Technology Solutions (LETS) (Orion)
 - 1. A wired in-the-ear microphone with a standard 1/8" headphone jack
 - 2. Digital Recorder with headphone jack
 - 3. Earphones
 - E. Equipment necessary for pretext social media conversations
 - 1. If using victim/witness device, need the ability to document and archive the communication.
 - a. Consider a program which can stream the mobile device's screen to a laptop/desktop, such as:
 - (1) QuickTime
 - (2) Vysor
 - (3) Lonelyscreen
 - b. Programs to then record the laptop/desktop screen and capture the communication:
 - (1) Native Windows program: Game Bar
 - (2) Snagit (paid program)
 - (3) Open Source Broadcaster (OBS)
 - 2. If victim/witness device is unavailable, consider a dedicated mobile device with ability to install social media applications.
 - 3. If mobile device is unavailable, consider using an android emulator.
 - a. An android emulator is a free and fully functioning virtual android device which operates from a laptop/desktop.
 - b. You can use the victim/witness's login credentials to access their account after downloading the application through the Google Play store.
 - c. It is important to note that not all social media platforms support emulators.
 - d. As of this publishing, the website [Genymotion Android Emulator](#) installs an emulator program in which you can create different android devices unique to your specific case.

Guideline 73: Planning the Pretext Call

A. Determine the victim's ability to make the call:

- 1. Attend the victim's interview and observe.
- 2. Talk to the victim/caller:
 - a. Obtain the caller's buy-in:
 - (1) Explain to the caller that pretext calls can be extremely powerful evidence
 - (2) Explain to the caller that the victim's account of the crime(s) may be validated
 - (3) Future crimes may be thwarted

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3. Some questions to consider when determining who may be best suited to make the call:
 - a. Who has a good relationship with the suspect?
 - b. Who is the victim most likely to disclose to?
 - c. Who would the suspect think is least likely to tell someone else?
 - d. Has the suspect already made admissions to someone else?
 4. Other victim/caller considerations:
 - a. Age appropriate
 - b. Mental ability
 - c. Developmental ability
 - d. Emotional strength
 - e. Articulate
 - f. Able to understand what is required of them (what to say, how to say it)
 - g. Ability to follow directions
 - h. Ability to improvise
 - i. Ability to multi-task
 - j. Ability to read
 - k. Language considerations
 5. You may determine that using another victim, family member, or in some instances, waiting may be the best option.

B. When to Make the Pretext Call:

1. It depends on the facts of the case.
2. The call does not have to be initiated immediately:
 - a. Depending on the circumstances, it may be beneficial to wait days, weeks, or even months after the incident or report.
 - b. Delaying the call may be optimal due to the fact it can cause the suspect's guard to be let down or that they "got away with it," and he/she may be more willing to talk about the incident.
3. Multiple pretext calls may be appropriate.
4. In lengthy investigations, consider initiating the pretext call on a date that coincides with an anniversary date of the crime(s) or on some other date that holds significance.
5. If possible, the call should be made before the suspect becomes aware of the investigation.
 - a. However, even if the suspect knows of the investigation, a pretext call may still be an appropriate strategy, especially in cases where the evidence is not yet strong enough to obtain a conviction.
6. If the investigator is concerned the suspect would immediately think a phone call from the victim must be some kind of trap, the call should be made on a weekend or late at night, when the suspect might be off guard and less suspicious.

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- a. A surveillance team can be used to observe the suspect's movement to determine a time that is optimal for the call to take place.
 - b. The surveillance team can be in place when the victim is ready to place the call. When the suspect reaches the desired destination, the victim can place the call.
 - c. This procedure may minimize the stress and inconvenience of making a pretext call, only to learn the suspect is not available.

C. Planning the specifics of the call:

1. It is extremely important that the caller understands what is expected.
2. Instruct them not to be confrontational from the outset.
 - a. The goal is to obtain evidence, not attack the suspect.
3. It may be appropriate for the caller to use compassion and empathy towards the suspect. Be non-judgmental.
4. If possible, know where the suspect is or is likely to be when making the call.
5. At the beginning of the call, the caller should plan to:
 - a. Confirm the suspect is in a private setting that allows them to discuss the incident.
 - b. Confirm the suspect has the time to talk. This can possibly be established prior to initiating the call by texting the suspect.
 - (1) This ensures the suspect feels comfortable and shows the caller is being considerate of the suspect's privacy.

D. Prepare a written script:

1. Plan what the caller is going to say before making the call.
 - a. Why is the caller calling the suspect?
 - b. Why does the caller want to talk about what happened?
 - c. Whenever possible, work together with the caller to prepare the questions in writing, using words and sentences the caller is comfortable with.
 - (1) Ensure the wording will encompass the corpus of the crime(s).
 - (2) Leave several lines of space underneath each question to write additional questions for the caller to ask while the call is taking place.
 - d. It is important for the caller to ask the suspect pre-prepared questions exactly as written.
 - (1) This can help to avoid future legal ambiguity.
2. Create a plausible scenario/ruse for the call:
 - a. Was the victim recently triggered?
 - b. Cannot concentrate at school?
 - c. Needs to seek counseling or tell someone?
 - d. Having problems at work?
 - e. Pregnancy test/abortion?
 - f. STI test?
 - (1) *"Do you have an STI I need to be aware of?"*

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- (2) *"I have (or may have) an STI you need to be aware of."*
 - g. Need closure: *"I just need to understand, why me?"*
 - h. Nanny cam?
3. Examples that may work:
- a. Counseling is a great theme. *"I am having problems concentrating in class because of what has happened between us, and I'm thinking about talking to a counselor."*
 - b. If appropriate, the caller can let suspect know they trust them and want to keep this a secret.
 - (1) *"I feel like I need to talk to someone about what happened between us and I feel like you're the only one I can talk to."*
 - c. *"I just took a pregnancy test, and I think I am pregnant."*
 - (1) Consider having a picture of a positive pregnancy test in case the suspect asks for a picture.
 - (2) Make sure the timing of the pregnancy is reasonable.
 - d. When in doubt, consider resorting to the actual reason the report came to light.
4. Ensure that the corpus of all (or as many as possible) of the alleged crimes is covered in the script.
5. **Note: Careful preparation of the language and terminology is paramount, especially when preparing a script for a child or underage victim.**
- a. Avoid vulgar terms for sexual acts and/or body parts.
 - b. Remember that the recorded call will likely be played in front of the court and jury.

E. Ensure Victim is Prepared to Answer Following Questions:

1. *"Is this conversation being recorded?"*
 - a. No.
2. *"Where are you?"*
 - a. The answer should be some place that the suspect cannot easily and immediately get to.
 - b. Suspects will often want to immediately come meet with the victim rather than talk on the phone.
3. Consider background noise:
 - a. The environment does not have to be silent. Soft, ambient noise can be realistic and beneficial.
 - b. However, consider things such as police department P.A. systems, etc.
4. *"Is anyone with you?"*
5. *"Have you told the police or anyone else?"*
 - a. Possible response: *"No, I'm embarrassed, and I would never tell anyone what happened."*
6. What if the suspect asks to meet in person?

-
- a. If the suspect wants to meet and talk in person, DO NOT AGREE. Possible responses:
 - b. *“I don’t feel comfortable meeting right now but maybe we can meet after we’ve talked.”*
 - c. *“I’m too upset right now. Maybe we can talk later.”*

F. If an in-person meeting is the only option, consider a covert recording device or a service such as Callyo.

1. **Consultation with the law enforcement supervisor and the prosecutor prior to in-person meetings is strongly recommended.**
2. Obviously, the safety of the victim is paramount.

G. Be Specific.

1. A vague admission is not an admission.
2. Avoid ambiguous questions like, *“Why did you do it?”*
 - a. Rather, the caller should use specific terms to describe the conduct.
 - b. Terms such as “it” and “that” can be explained away by the defense due to ambiguity.
3. Make it easy for the suspect to admit to the conduct. Take the burden off the suspect by having the victim articulate the conduct.

H. Expand and explain the conduct with specificity and follow up with a “why” question.

1. Example: *“I can’t stop thinking about you ever since we had sex for the first time last week. You could have any girl you want so why did you choose me?”*
2. Wait for a response.
 - a. Allow the suspect to talk and do not interrupt
 - b. Typically, innocent people do not hesitate to respond to egregious allegations
 - c. This could show a consciousness of guilt
3. Be mindful of the elements needed to prove the allegations
 - a. Consider using the California Jury Instructions for the respective crime(s) being investigated

I. Include specifics regarding the victim’s age and/or the timeframe surrounding the conduct.

1. This is especially true for [PC 288.7](#), [PC 269](#) and [PC 288\(a\)](#).
2. Helps the jury understand what happened and when it happened.
3. In instances where the abuse has occurred over an extended period of time or on multiple occasions, consider establishing time frames/ages by having the victim talk about the first, worst, or last times, or a time that was especially memorable (e.g., a birthday).
4. Examples:
 - a. *“I remember the first time you had sex with me was that time mom left for the*

week. I was only eight years old.”

- b. *“The time that sticks out most to me is when I was nine years old and you made me put my mouth on your penis.”*
 - c. *“I remember the last time you grabbed my breasts was right before my 11th birthday and you told me I was well developed.”*
 - d. *“Remember when I was 13 years old and you took my virginity?”*
5. An explanation or apology by the suspect can acknowledge guilt in the same manner as a direct confession:
- a. Example: **Victim:** *“I have been having a difficult time concentrating in class because I can’t stop thinking about that time you made me touch your penis. Can you please help me understand why you did that?”*
Suspect: *“I’m sorry. It was stupid. Please forgive me.”*

J. The victim should avoid harsh words and accusatory questions/statements.

1. **Don’t:** *“You raped me!”*
2. **Do:** *“I remember the first time you had sex with me. I was only nine years old.”*
3. A suspect’s usual answer to this type of question may be something similar to, *“I didn’t molest you.”*
4. A suspect may be more willing to admit to the conduct by saying he took advantage of the victim, and/or made a mistake, but he doesn’t want to be associated with the likes of a “rapist” or “criminal.”
5. A compassionate and empathic approach is more likely to elicit an incriminating statement.

K. Entrapment is illegal and cannot be used.

1. Do not say anything that could be interpreted as a threat of violence to get an admission.
 - a. Example: *“If you don’t admit what you did, then I’m going to have someone handle you.”*
2. Do not have or let the victim threaten suicide or say anything that would cause the suspect to believe they are going to hurt themselves.
3. **Remember, anything the caller says that would make a reasonable person admit to something he/she did not do would be considered entrapment and may hinder prosecution.**

L. Do NOT suggest or allow the caller to offer or promise leniency:

1. The caller is considered an agent of Law Enforcement; therefore, leniency cannot be offered.
 - a. This is the same as a law enforcement officer making a false legal promise.
2. **Examples of what not to say:**
 - a. *“I will not call the police if you confess.”*

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- b. *“You will not get arrested if you confess.”*
 - c. *“You will not be prosecuted if you confess.”*

M. Plan the ending of the call:

1. End the call on a good note, if possible.
 - a. The investigation may require additional calls.
 - b. *“Thank you for being willing to talk to me. I feel much better.”*
2. However, it is recommended that the caller tells the suspect not to call him/her.
 - a. This can be used later when interviewing the suspect:
 - (1) Example: *“When was the last time you spoke with [the caller]?”*

N. Rehearsing/Role Playing:

1. **Practicing by rehearsing through role playing is an extremely important part of preparing the victim/caller to make the actual call.**
2. Practice or “role play” the questions with the victim.
 - a. Helps victim avoid sounding like she is reading from a script.
 - b. The practice sessions should be as close to the “real thing” as possible.**
 - (1) Whenever possible, have the victim call the “suspect” (played by another investigator in another room).
 - (2) This second investigator should respond in different ways just like the suspect might respond.
 - (3) The primary investigator should coach the victim as he/she would during the real call.
 - c. The more the victim practices under “battle conditions,” the better prepared he/she will be to effectively conduct the pretext call.
3. Helps ensure the caller feels confident and has a clear understanding of what is expected.
4. Helps ensure the victim does not sound like he/she is reading from a script.
5. The caller gains an understanding of how the investigator will communicate with the caller during the call (handwritten notes, app on smartphone, notepad, etc.).
 - a. If the investigator plans on communicating in writing during the call, he/she should consider the neatness of his/her handwriting when forced to write fast. Is it legible? Will the caller be able to read it?

O. Coaching the caller during the actual call:

1. It is important for the investigator to be able to communicate with the victim through hand signals during the call to avoid the suspect overhearing.
2. Examples:
 - a. “Don’t talk” or “shush” the caller:
 - (1) As in any interrogation, prolonged silence can compel the other party to speak. Have the caller wait the suspect out.

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- (2) If the caller and suspect are talking at the same time, the caller's voice often overrides the suspect's voice, making it harder or impossible to hear the suspect.
 - b. Keep the caller talking:
 - (1) If the suspect sounds as if he/she is getting suspicious, often keeping the caller talking and/or rambling will distract the suspect from his/her suspicions.
 - c. Point to a question on the pre-pared list of questions:
 - (1) Sometimes callers need encouragement to ask the pre-prepared questions.

Guideline 74: Making the Pretext Call

- A. Double check the equipment:
 - 1. New batteries, test recording, record mode
- B. Investigator positioning:
 - 1. Avoid being above or towering over the caller
 - 2. Close enough to show the caller the tablet with pre-prepared questions and notes
- C. Put an introduction on the recording:
 - 1. Date, time, case number, investigator, who is calling who, etc.
- D. Ensure caller does not talk over suspect
- E. Encouragement
- F. Investigator's handwriting while taking notes or writing additional questions for caller to ask
- G. The investigator should listen to the call as it is occurring due to the fact the caller may need additional coaching as the call is taking place:
 - 1. Listen carefully to both sides of the call
 - a. Things the suspect says will likely give you additional follow up questions to ask
 - b. Suspect may give you "Themes" and "Thinking Errors" to use later
 - c. Additional questions for the caller, things he/she may have left out of interview
 - 2. Write down additional questions for victim to ask
 - 3. Keep your victim focused
- H. Ending the call:
 - 1. Prepare in advance how you will have the caller end the call
 - 2. Ensure the caller knows to end the call on your signal to end
 - 3. Plan the words ahead of time
 - 4. Examples:
 - a. *"Do not call me anymore"*
 - b. *"I don't want to talk to you"*
 - 5. It is recommended that the caller tells the suspect not to call him/her
 - a. Often the suspect will call the victim/caller back anyway

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- b. This can be used by the investigator during the suspect interrogation

Note: It is recommended that the suspect not be told about the existence of the pretext call until well into the investigator's interrogation of the suspect. The suspect will likely not mention this call with the victim/caller.

Guideline 75: After the call

- A. Praise the caller regardless of outcome
- B. Ask caller how they feel
- C. Ask caller what they heard the suspect say:
 - 1. The suspect may have said things the caller understood that you did not pick up on
 - 2. Were there any code words used by the suspect?
- D. Further instructions to the victim/caller:
 - 1. **DO NOT** contact the suspect
 - 2. Tell the victim/caller to immediately let you know if the suspect tries to contact them
- E. Inform the victim/caller of what to expect next
- F. Warn the victim/caller (and family as appropriate) about the prospect of defense investigators possibly attempting to contact the family to conduct their own investigation
 - 1. Victims and witnesses ***do not have to communicate with defense investigators***

Investigators need to be aware that conducting a pretext call may re-traumatize the victim. The victim's emotional experience may include:

- A. Stress
- B. Fear
- C. Helplessness
- D. Guilt
- E. Relief
- F. Self-harm and/or suicidal thoughts

It is important that the investigating officer ensure that the victim is aware of and has access to victim services through the county's Victim/Witness Office, CPS, etc.

When effectively used, pretext calls are an invaluable tool that have assisted in countless investigations. In many instances, pretext calls may be the piece of evidence that ultimately tips the scales of justice. Pretext calls must be conducted with the utmost consideration for the victim's safety and emotional well-being. Attention to detail is critical when utilizing this tool.

CHAPTER 12

Suspect Dynamics/Interview and Interrogation

As with any criminal case, the investigating officer's goal is to conduct a thorough investigation to ascertain the facts and to present a legally comprehensive case. Many physical and sexual child abuse investigations lack victim statements and, in the case of child sexual assault, medical evidence is available in less than 5% of the reported cases.²⁵ Whether or not there is the existence of evidence, statements from the perpetrator are a key factor in the prosecutor's evaluation of a criminal case.

The investigator should be mindful to consider not only what the suspect may have said to witnesses, but also to the fire department, social worker, etc.

If a defendant is in custody, the investigator should attempt to monitor jail visits and jail phone calls. The investigator should always share this information with CPS and the prosecutor if it bears on the child's safety.

The investigator should try to forecast what defenses the suspect might use to mitigate the offense(s).

Guideline 76: Law Enforcement Responsibility

The primary responsibility regarding suspect dynamics is to have an awareness of the behavior and characteristics associated with a child physical abuser and a child sexual molester. Stranger assaults occur in cases of child physical and sexual assaults, but it must be kept in mind that most offenders are acquaintances or family members.

Acts of physical abuse and/or neglect of children are predominately committed by parents and/or caregivers.²⁶ Children who are victims of sexual abuse are perpetrated on by a wider group of people, including parents, extended family members, siblings, friends, or others known to the child (e.g., sports coach, teacher, priest).

Guideline 77: Common Defenses in Child Physical and Child Sexual Molest Cases

Being familiar with the common defenses that child physical and child sexual abusers use will help law enforcement officers conduct a thorough investigation which includes asking questions of witnesses and the alleged offender that will reduce or eliminate excuses in a criminal prosecution.

Common Defenses in Child Physical Abuse Cases

Parents and other care providers most likely do not plan to injure an infant or small child, but

²⁵ Block & Williams, *The Prosecution of Child Sexual Abuse*, 2019

²⁶ National Children's Alliance, Australian Bureau of Statistics [ABS], 2005; May-Chahal & Cawson, 2005; Sedlak et al., 2010

rather “snap” in a moment of frustration. Unfortunately, the amount of force used on the child can be great enough to cause internal and external injuries.

Injuries to the head, eyes, bones, and body must be considered in light of a child’s age and skill level. The highest rate of non-accidental injuries occurs in children from birth to one year. The rate of non-accidental injuries is also high among children from ages 1 to 6 years.

When investigating cases of physical injuries to infants and small children, law enforcement should ask questions of the care provider, as well as video record reenactments of the caretaker to get explanations and demonstrations for the alleged cause. Law enforcement needs to provide this information to the medical child abuse experts and/or coroner to determine if the history given is consistent with the injuries. In addition, having a general understanding of the biomechanics of injuries can help the investigating officer with the line of questions and reenactments needed in physical abuse cases.

Causes of injuries given by the suspected parent(s) or care provider(s) include:

- A. The suspect accidentally dropped the infant
 1. The child fell from the suspect’s arms
 2. Child fell off the couch, bed, counter, changing table, etc.
 3. A result of CPR
 4. Another child shook or threw an object at the victim
 - a. The force needed to cause Abusive Head Trauma (AHT) is greater than another small child can inflict
 5. Bouncing the child on the knee or in a bouncy seat caused the injuries
 6. Tossing child into the air caused the injuries
 - a. Serious pediatric head injury in children younger than six years, and especially in those younger than three years, is caused by inflicted trauma in a substantial number of cases. When these injuries are seen in cases with no history or with a history of short falls leading to severe signs and symptoms, the likelihood of abuse should be strongly suspected. Subdural hematomas and subarachnoid hemorrhages (SAHs) are markedly more common in abusive injuries. Retinal hemorrhages are, if not diagnostic, compelling findings; most are seen in AHT.²⁷
 - b. AHT, which includes shaken baby syndrome (SBS), is a severe form of physical child abuse that results in an injury to the brain of a child. AHT often happens when a parent or caregiver becomes angry or frustrated because of a child’s crying. It is caused by violent shaking and/or with blunt impact. The resulting injury can cause bleeding around the brain or on the inside back layer of the eyes.²⁸
 7. The child is clumsy or accident-prone
 - a. Children who are old enough to walk often fall and have bruises over boney surfaces such as the forehead, knees, shins where blood vessels are breaking between two hard surfaces (the floor for example and the underlying bone).

²⁷ JAM Pediatrics, Childhood Head Injuries Accidental or Inflicted? January 1, 2000

²⁸ American Society for the Positive Care of Children (SPCC), Physical Child Abuse, 2020

However, simple falls and even disciplinary spanking with an open palm should not be forceful enough to cause bruising to the buttocks. Protected areas such as ears, neck, and upper lip are more concerning because it is difficult to accidentally bump or fall on these areas. Patterned injuries such as loop marks, slap marks, or grab marks are highly suspicious and in some cases indicative of inflicted trauma.

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Common Defenses in Child Sexual Molest Cases

- A. **Actual innocence** - The accused child molesters may argue that they could not have committed the crime because there was never an opportunity to be alone with the child.
 - 1. There are documented cases of molesters sexually abusing children in the same bedroom, living room, kitchen, classroom etc. where other people, including family members, friends, or students are present or in close proximity, but not paying attention to the actions taken by the offender. See [Appendix 18: for Case Example](#).
- B. **Attack** - Child sexual molesters during an investigation and well into the criminal court proceedings may go on the offensive by attacking the reputation of the child, the non-offending parent, law enforcement, and the prosecutor.
- C. **Denial** - The accused child molester will most likely deny any inappropriate sexual contact or intent to commit sexual molestation.
 - 1. The offender may act surprised, confused, shocked, and even indignant. He or she may say he or she would never commit such an act.
 - 2. The accused may admit to physical contact with the child, but that the contact was misinterpreted or accidental.
 - 3. The accused may say touching occurred, but that he thought the contact was with his consenting adult partner, especially in cases of bed sharing with the child.
- D. **Fabrication** - Some accused child molesters may provide stories to explain his or her actions.
 - 1. He or she may claim to have been providing an “education” to the child which is the parent’s obligation.
 - 2. He or she may blame someone else who must have had access to their computer and who viewed the images without the accused’s knowledge.
 - 3. Possessors of child pornography or erotica may say the material accidentally appeared on their computer during an unrelated search on the Internet or attached to a link the offender did not intend to open.
- E. **Fantasy** - The defendant accused of attempting to entice a child into sexual activity claims they never intended to complete the crime. Instead, they claim they were engaged in a fantasy and, in the case of luring a minor, believed they were dealing with an adult.³⁰
 - 1. The fantasy defense was developed by Donald B. Marks, the attorney for Disney Executive Patrick Naughton, who successfully argued in a jury trial that he thought

29 American Society for the Positive Care of Children (SPCC), Physical Child Abuse, 2020

30 [Child Molesters: A Behavioral Analysis](#), 5th Edition (2010), Kenneth V. Lanning, [National Center for Missing and Exploited Children](#).

the child he was meeting was actually a grown woman who shared his “daddy/daughter” fantasy and was “playing the part” of a young girl.³¹

2. Fantasy defense is also called “Internet-addiction syndrome,” which can be used by the accused in proactive investigations. The offender will claim the internet is to blame for their behavior because it created sexual urges toward children or lowered their inhibitions after they became addicted.³²

F. **Justification** - Many child sexual molesters justify their sexual acts with children as “special” and as a unique relationship he or she has with the child. Their justification focuses on what they may see as a loving relationship between themselves and the victim. They see themselves as high-minded and misunderstood. They attempt to convince themselves they are not immoral, sexual deviants, or criminals. (Lanning, Kenneth V.)

G. **Minimization** - The accused may admit to some acts that are “lesser” offenses such as merely touching or caressing the child victim.

1. He or she may admit to kissing on the cheek, but deny kissing the child on the mouth.
2. In cases where the accusation includes touching genitalia, the offender may say the touch was misinterpreted or accidental while playing, changing a diaper or during toilet training.

H. **Sexsomnia** - The alleged offender claims the act of sexual abuse may have occurred, but that he or she was not culpable because of abnormal sexual behaviors or experiences in sleep.³³

Guideline 78: General Interview and Interrogation Information

The suspect(s) should be interviewed/interrogated using the following criteria as a guide:

- A. Advise the suspect of Miranda rights only when appropriate (in custody or its functional equivalent). See [Appendix 5: Miranda Rules](#).
- B. Consider providing the suspect with *Beheler* admonition (non-custodial interrogation) when appropriate.
- C. Corroborate information already obtained through the investigation.
- D. Obtain incriminating statements including admissions and confessions.
- E. Consider audio/video recording of interview/interrogation.

31 Ferraro, Monique Mattei; Casey, Eoghan (2005). *Investigating Child Exploitation and Pornography: The Internet, the Law and Forensic Science*. Academic Press.

32 Donald S. Yamagami, *Prosecuting Cyber-Pedophiles: How Can Intent Be Shown in a Virtual World in Light of the Fantasy Defense*, Santa Clara Law Review

33 American Academy of Psychiatry and the Law (2018). *Sexsomnia as a Defense in Repeated Sex Crimes*. National Library of Medicine

Guideline 79: Behaviors and Characteristics of Sexual Molesters

Law enforcement officers clearly understand that motive cannot be seen. No one can see what motivates one person to do something to another. That is equally true for anyone who chooses to sexually abuse a child. What we do know is that thought precedes action, even if the action was impulsive.

There has been a great deal studied and written about those who are sexually attracted to children. This guideline provides only brief information. ***It is incumbent upon any law enforcement officer investigating sexual molestation of children to seek out relevant literature and studies upon which behavioral analysts rely to determine characteristics and traits of an offender.***

There are always variants, but what can be considered are consistencies in behaviors and characteristics of child sexual molesters that may help identify the offender. Understanding the behaviors and characteristics will help with “theme building” during the interview and interrogation of the accused. More importantly, they can help the officer communicate with the offender to corroborate the victim’s statement at the very least, and at best help the offender confess to acts committed upon the child, or in many cases, upon multiple children.

In general, child sexual offenders are either “stranger” or “acquaintance” molesters. However, the concept of a “stranger” is too abstract for a young child to understand; every person a child meets for the first time is a stranger. With that in mind, it is easier for law enforcement to use the two separate terms to distinguish between an offender the child has not seen before versus the offender with whom the child is familiar. The acquaintance offender includes interfamilial members such as the biological father, the stepfather, the mother’s live-in partner, a roommate, etc.

The child sexual molester is generally considered a ***situational-type molester or a preferential-type molester***. According to Kenneth Lanning, “The situational-type offender does not usually have a compulsive-paraphilic sexual preference.” This offender may offend one time or over several years and with multiple victims. The preferential-type offenders, according to Lanning, “...have definite sexual inclinations.” All offenders (not just child molesters) are on a motivational continuum between the situational and the preferential sex offenders.

For detailed information, this guideline encourages the user to refer to [*Child Molesters: A Behavioral Analysis*](#), For Professionals Investigating the Sexual Exploitation of Children, 5th Edition, Copyright 2010, provided by the [*National Center for Missing & Exploited Children \(NCMEC\)*](#), written by Kenneth V. Lanning, former Supervisory Special Agent (SSA) for the Federal Bureau of Investigation (FBI).

Note: Law enforcement officers should not use the term “pedophile” when describing the child molester. Law enforcement officers are investigating the allegation of child sexual molestation, not determining if the offender is a pedophile, which is a clinical psychiatric diagnosis with specific criteria. The diagnosis of “pedophile” can only be determined by mental health professionals.

Guideline 80: Grooming/Seduction Techniques

Although the public perception may be that the child molester is a creepy stranger hiding in the bushes, the truth is that at least 93% of child victims know and may even trust the perpetrator, 48% of children under the age of six who are sexually abused are molested by a family member, 44% of the time the offender is an acquaintance.³⁴ The list of offenders includes trusted family friends, childcare providers, neighbors, teachers, coaches, and faith leaders.

In his aforementioned book *Child Molesters: A Behavioral Analysis*, retired FBI SSA Kenneth Lanning defines the Grooming/Seduction of child sexual abuse victims as, “a variety of techniques used by a sex offender to access and control potential and actual child victims.”³⁵

Thought precedes action and before a child is seduced, the offender must earn the trust through loyalty and affection. How then is it that trusted individuals can engage in sexual acts with a child, and how is it that the victimization can continue for several years? The answer is the perpetrator’s effective use of grooming behaviors.

Grooming behaviors are used to establish an emotional connection with the child which, for the sexual molester, will lead to his or her sexual gratification. The offender’s grooming techniques are often used to gain a position of trust with the child’s family and with the family to lower inhibitions.

The offender may take on a parental role or other role of authority. It is likely the offender will engage in sports, provide gifts, meals, and emotional support to the child as part of the grooming behaviors. Grooming can take just a few moments or a long period of time to gain the trust of the child. Child sexual abusers are patient and will take whatever time is needed to gain the needed trust.

As noted in *Chapter 6: Sexual Abuse and Exploitation of Children*, the Child Forensic Interviewer should ask the victim questions and document what the offender did, or what techniques he/she used, to groom/seduce the child. Answers to these questions may aid in determining whether there are additional victims, or where additional evidence may be found.

Guideline 81: Behaviors and Characteristics of Physical Abusers

Physical abuse of children is a complex problem with a multitude of causes. In the United States, at least one in seven children experience child abuse and/or neglect.

The abusers and those who neglect children in their care come from all socio-economic backgrounds and cross all socio-economic strata. However, the rate of child abuse and neglect is five times higher for children in families with low socio-economic status compared to children in families with higher socio-economic status.³⁶

Studies support that perpetrators of child abuse and neglect are most often the child’s own parents, with 40% of maltreated children abused by their mothers acting alone, 17.3% are

34 Characteristics of Crimes against Juveniles David Finkelhor & Anne Shattuck, 2012

35 *Child Molesters: A Behavioral Analysis*, 5th Edition (2010), Kenneth V. Lanning, through NCMEC

36 *Preventing Child Abuse and Neglect*, DHHS, National Center for Injury Prevention and Control (2019)

abused by both parents, with the next largest pool of abusers consisting of unmarried partners of the parents of child victims.

The next largest group of people who physically abuse or neglect children are adults in parenting roles such as the mother's live-in partner, who are at risk of abusing or neglecting a child who is seen as disruptive or disobedient, or where there may be unrealistic expectations for the child's developmental skill level.

There is no specific typology of a person who physically abuses or neglects a child, but those who are at risk may display characteristics of:

- A. Indifference
- B. Aggression
- C. Anger
- D. Controlling
- E. Inflexibility
- F. Intolerance
- G. Being distant

All of the listed characteristics causally relate to how a care provider might react to children who:

- A. Cry excessively
- B. Experience failure during toilet training
- C. Do not want to breast feed or take a bottle
- D. Do not want to eat
- E. Throw up
- F. Are challenging
- G. Are defiant
- H. Are disliked

Helplessness and stress can overcome a person, which can contribute to abusive tendencies. Care providers who abuse or neglect children tend to experience a greater stress response to personal complications, which interferes with their coping skills. Stressors that may contribute to a person's decision to inflict injury upon a child include:

- A. Anxiety
- B. Depression
- C. Low self-esteem
- D. Low educational opportunities
- E. Alcohol abuse
- F. Chemical abuse
- G. Relational problems
- H. Domestic violence
- I. History of child abuse

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- J. Cultural tolerance of violence
 - K. Lack of support
 - L. Job loss
 - M. Lack of employment
 - N. Health complications
 - O. Disabilities
 - P. Unrelated mental illness
 - Q. Absent parent during their own childhood
 - R. Death of a family member
 - S. Lack of access to services such as housing, education, or medical care

When investigators are developing a criminal case of child physical abuse or neglect, the investigator should consider the stressors that may have contributed to the offender's decision to harm the child. Identified stressors can be used in the theme building portion of any interview or interrogation to help the offender to communicate what brought him or her to the point of committing the act(s) of physical abuse or neglect.

Guideline 82: Law Enforcement Interview and Interrogation

Prior to conducting an interview or interrogation of the suspect in a child abuse case, it is important for the interviewing officer to be intimately familiar with the case in order to anticipate specific defenses and counter them with facts, evidence and/or statements from the investigation.

In addition, before interviewing a suspect(s) in child molest cases, investigating officers should be familiar with the behavioral characteristics of preferential vs. situational child molesters. See *Behavioral Characteristics of Sexual Molesters* elsewhere in this chapter and the book *Child Molesters: A Behavioral Analysis* (available free online as a PDF through the *National Center for Missing and Exploited Children*).

When conducting interviews and interrogations, the investigating officer should consider the following procedures:

- A. Plan and prepare carefully for the interview/interrogation:
 - 1. Know the suspect.
 - 2. Obtain as much personal information as possible from the victim, spouse, partner, family, friends, social workers, criminal record, CWS records, etc. Having such information will give the interviewer greater command of the interview.³⁷
- B. Determine the purpose of the interview/interrogation:
 - 1. Review the Penal Code crimes committed.
 - 2. Know the major corresponding CALCRIM Jury Instructions.
- C. Determine the developmental and functional level of the victim, witnesses, and suspect.
- D. Determine the various relationships between all parties involved in the allegation.

³⁷ <https://www.missingkids.org/>

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- E. Determine if there are additional victims, witnesses, or suspects.
 - F. Record the interview with an audio recorder, and video whenever possible.
 - G. Know the benefits and legal use of a *Beheler* admonishment and Miranda rights when conducting a non-custodial/custodial interrogation.
 - H. Establish the existence of evidence:
 - 1. Consider any injuries the offender may have because of the actions taken against the victim and document the injuries.
 - 2. In cases where medical evidence may exist, it may take one day to ten weeks for medical reports to become available from medical providers or the medical examiner.
 - I. Instruct all parties involved to maintain confidentiality.
 - J. Protect confidentiality of all parties involved in the allegation (*293(a) PC* and *11167.5 PC*.)
 - K. To prevent contamination, avoid disclosure of case information to all parties involved in the allegation.
 - L. If there is an indication of suicidal ideations on the part of the accused, determine the appropriate services required for intervention.
 - 1. Sex-Only Child Sexual Offender (CSO) suicides are 183 times the general population and 15 times the multi-criminal CSO rates.³⁸
 - 2. The ramifications of offender suicide may weigh heavy on the victim and the victim's family.

Guideline 83: Apology Letters

As with all crimes, neither the investigator nor anyone in the justice system can see a person's motives for criminal acts committed against a child. However, if the offender is given the opportunity to write an apology letter, the offender may provide his or her mindset and the feeling he or she has for or against the child and the child's family.

The offender may also provide his or her perspective regarding the circumstances that led to the abusive physical or sexual acts. Depending on the characteristics of the offender, the letter may place some culpability on the child or other external circumstances. An apology letter is the offender's own words and feelings which can be powerful evidence.

The offender may minimize his/her conduct during the apology letter. An apology letter can serve as the gravamen and may ensure the case never goes to trial, but rather settles with a plea of guilt. For the child, a letter validates what happened.

Note: Law enforcement should never show or give the apology letter to the child (or the child's parent(s)/guardian(s)); the letter should be turned over to the District Attorney as part of the case file.

See *Appendix 21: Use and Examples of Apology Letters*

³⁸ Colin Pritchard & Elizabeth King (2005)

Guideline 84: Procedure for Obtaining an Apology Letter

When offering the option for the offender to write an apology letter, the investigator should consider whether to:

- A. Continue video and/or audio recording the construction of the letter as part of the interview and interrogation process
- B. Provide the tools needed to write, type, or dictate the letter (offender may be illiterate)
- C. Admonish the offender not to contact the victim directly
- D. Ask the offender what he or she wants to say to the victim or the family of the victim to help facilitate the suspect's clearing of his conscious:
 - 1. "If you could speak to (name), what would you want to say?"
 - 2. "What do you want the family of (name) to know?"
 - 3. "If you could apologize in person, what would you say?"
- E. Consider asking the offender to read the letter out loud
 - 1. This helps to avoid misreading his or her handwriting
 - 2. The offender's voice and tone become part of the record
 - 3. Helps to avoid allegations of coercion on the part of law enforcement

If the offender wrote an apology in a language other than English, ask him or her to read it in English, if possible. This will help to reduce the possibility that a defense attorney will argue the letter was misinterpreted.

CHAPTER 13

Family and Witness Considerations

Guideline 85: Family Dynamics in Child Abuse Cases

In the vast majority of cases, the offenders are trusted authority figures such as family members, neighbors, babysitters, members of the clergy, scoutmasters, or teachers who physically or sexually abuse or neglect the children in their care. Unlike victims of most other crimes, child victims of abuse are sometimes castigated as villains by the family members and friends who hold them responsible for the breakup of the family.³⁹ Accommodation of the abuse by the child, whether it be physical, sexual or both, becomes the norm.

Family abuse related factors include:

- A. Threats by abuser
- B. Continued presence or absence of abuser
- C. Intimate partner violence in the child's home
- D. Disruption of family integrity
- E. Victim knowledge of (or concern for) other victims, especially within the family

Research has found a substantial amount of overlap between adult and child sexual abuse and family (i.e., domestic) violence.

Child sexual abuse cases tend to be “intrafamilial.” When investigators interview victims in these cases, the children have usually first disclosed or reported the abuse to someone else. Family members frequently pressure the child to keep the family “secret” and either not report or recant it once reported. In general, there is usually less corroborative evidence.⁴⁰

Drug and/or alcohol abuse by parents and caregivers has an affect on children, often resulting in neglect of the children and threatened abuse. Drug abuse is non-discriminate, affecting all socio-economic groups and people from all walks of life.

Child abuse and/or maltreatment increase when:

- A. The compulsive use of alcohol by the parent/caretaker is not of a temporary nature
- B. The compulsive use of drugs by the parent/caretaker is not of a temporary nature
- C. There is abusive, violent, coercive, forceful, or threatening acts inflicted by one member of a family or household on another

Guideline 86: Cultural Differences in Child Abuse Investigations

Culture shapes the way individuals experience childhood and how they raise their children. Behaviors that are considered abusive in one culture, such as corporal punishment or harsh verbal discipline, may be considered acceptable in another.

³⁹ Child Abuse Prosecution Toolkit, Kentucky Attorney General's Office

⁴⁰ Child Molesters: A Behavioral Analysis, 5th Edition (2010), Kenneth V. Lanning, through NCMEC

Guideline 87: Non-Offender Family Member

Although time consuming, the investigating officer should endeavor to get detailed statements from non-offending family members, whether they are living in the home or not. Oftentimes, non-offending members of the family have information on the behavior changes in the victim(s) and may have even witnessed instances of abuse.

In some cases, the non-offending family members have enabled the abuse and/or allowed it to go on. Officers should be aware that when a family member has witnessed physical and/or sexual abuse, they can be held criminally liable just as the perpetrator.

CHAPTER 14

Evidence in Child Abuse Cases

Guideline 88: Crime Scene Investigation

Whether the investigating officer's agency has a dedicated Crime Scene Investigation Unit available to examine and process the crime scene, or the processing and handling of evidence is the responsibility of the investigating officer, it is incumbent upon the investigating officer to be thoroughly knowledgeable about the case and personally examine the crime scene.

It is critical for the investigating officer to attend the victim's forensic interview. By attending the interview and being knowledgeable about the case, the investigating officer will have a good idea of what locations and types of evidence are likely to be found at the crime scene.

When investigating an allegation of child sexual abuse within the child's home and family, knowing the location(s) of the sexual abuse conduct becomes extremely important. If the victim alleges the conduct occurred in the child's or suspect's bedroom (or another bed in the home), special care should be taken to examine those areas for potential evidence. While it would be expected to find the suspect's seminal fluid in the adult's bedroom as a result of normal adult sexual activity, it would be unlikely to find his seminal fluid in the child's bed or bedroom. In addition, even if the suspect did not (or it is unknown) ejaculate during the abuse, pre-ejaculation seminal fluid may be present on the child's bedding, clothing or elsewhere in the child's bedroom (e.g. on the floor, or the suspect wiping himself with clothing, tissue, etc.) Likewise, it would be unlikely for the victim's vaginal or other body fluids to be present in the suspect's bedding or on the suspect's clothing.

Even if the sexual abuse did not happen within the child's bedroom, evidence of the abuse may be located within the child's bedroom. Children will sometimes hide the clothing and/or undergarments they were wearing at the time or after the assault, fearing their discovery by the non-offending parent or another family member. Children may also hide articles used by the suspect.

Officers should remember biological evidence may be detectable for months or years after the abuse.

If the sexual abuse conduct is recent, the dirty laundry in the clothes hamper and other locations should be thoroughly checked. Keeping in mind that adult and children's undergarments, clothing, bedding, etc., are often co-mingled within the laundry basket. Therefore, it is incumbent upon the investigator to carefully remove and check each item of clothing, documenting in writing and photos (video recording if possible) the removal and examination. Package each item separately (clothing, bedding, etc.) to prevent any cross-contamination (or claims of cross-contamination by the suspect).

Crime scene examination by the investigating officer is equally important in cases of alleged physical abuse. Blood and other biological evidence consistent with physical abuse may be located in the child's bed, clothing, washcloths, or other material in the child's bedroom and/or laundry.

Guideline 89: Evidence Collection and Handling

As part of the evidence collection process, the responding officer(s) should do the following:

- A. Request assistance or direction from crime scene investigators and forensic scientists, if available
- B. Understand the differences associated with evidence collection on stranger versus non-stranger child sexual assaults
- C. Document the crime scene
 - 1. Write detailed notes
 - 2. Photograph
 - 3. Sketch and diagram (to scale if possible) the crime scene(s) before it is disturbed or processed
- D. Photograph any suspected bite marks with a scale and swab for DNA. (This may be completed at the forensic medical examination.)
- E. Protect the integrity of the evidence and maintain the chain of custody by properly photographing, packaging, marking the packaging, and labeling all evidence collected. Whenever possible, collect the entire object.

The following are proper evidence collection procedures:

- A. Use clean, disposable gloves and change them frequently to avoid cross contamination
- B. Use sterile swabs, papers, solutions, and tools
- C. Always separate victim evidence from suspect evidence
- D. Air dry evidence before packaging
 - 1. Air dry before refrigeration or freezing
- E. Package evidence in individual envelopes, paper bags, and/or cardboard boxes
- F. Avoid touching the areas where potential evidence may be present
- G. Avoid talking, sneezing, and coughing over evidence
- H. Collect all potential sources of DNA or other biological evidence such as:
 - 1. Blood, sweat, tissue/skin, semen, saliva, hair, vomitus, teeth, and bones
 - 2. Clothing worn at the time of the assault and immediately afterward, especially the clothing worn closest to the genitals such as undergarments, pants, and shorts
 - 3. If possible, collect the victim's clothing at the scene and place them in a clean paper bag
 - a. This reduces the chances of loss and/or contamination during transportation to the medical facility. Document the condition of the underwear such as inside out, stretched, or torn.
 - 4. Sexual Assault Kit from the victim
 - 5. Sexual Assault Kit from the suspect
- I. If a stain is observed on a large item, identify the location of the stain using arrows or other markers:
 - 1. For potential semen stains cut out the area on items that cannot be collected

2. Bloodstains can be swabbed

Collect other potential sources of DNA including, but not limited to, the following:

- A. Anything used to clean genital areas of the victim and/or suspect – washcloths, towels, tissue
- B. Any foreign object used to penetrate the victim
- C. Condoms, wrappers, boxes
- D. Sheets, blankets, pillows
- E. Bottles, cans, drinking cups, straws:
 - 1. These items can also demonstrate the levels of alcohol use
 - 2. Photograph and collect as many containers as possible and note their location at the scene
- F. Baseball caps, hats, headbands, ski masks
- G. Partially eaten food items, chewing gum
- H. Physical restraints – ropes/ligatures:
 - 1. Do not cut or untie the knots
 - 2. Cut the restraints at a place away from the knot
 - 3. Cut the tape away from the edges
 - 4. On rope, wire or cord, mark the cut to show where the pieces fit together
 - 5. Don't mark smooth surfaces such as tape, it could alter fingerprints/DNA
- I. Guns, ammunition, knives
- J. Envelopes, ransom notes, etc.
- K. Feminine hygiene products
- L. Toothbrushes, hairbrushes, ear plugs
- M. Telephone
- N. Tape
- O. Eyeglasses

Process any fingerprints, footwear, and tire tread impressions.

The proper collection and preservation of biological evidence are critical to the corroboration of facts or allegations, and to the successful prosecution of a case. All biological evidence (except whole blood) collected from the scene, victim(s) or suspect(s) must be:

- A. Carefully preserved by air drying
- B. Stored by freezing
- C. Whole blood (blood drawn and put in tubes) must be refrigerated, not frozen

Guideline 90: Evaluation of Evidence

Law enforcement officers should be familiar with the responsibilities associated with processing the crime scene(s). It is critical that the investigating officer ensures all evidence gathered throughout the investigation is properly collected, analyzed, evaluated, and preserved.

Consider the different analyses that can be done on an item and the order in which it should be processed. Contact the laboratory for guidance.

Types of evidence and may include:

- A. Biological (e.g., body fluids)
- B. Medical
- C. Pretext recorded conversations
- D. Photographic
- E. Lineup
- F. Computer (e.g., hardware, data, e-mail, storage media)
- G. Corroborative
- H. Trace (e.g., fibers, hairs, ligatures, shoe/tire impressions)
- I. Re-enactments
- J. Fingerprints

As noted above, it is critical for the investigating officer to attend the victim's forensic interview. By attending the interview and being knowledgeable about the case, the investigating officer will have a good idea of what types of evidence are likely to be found at the crime scene.

It is important for the investigating officer to "know your evidence." When the investigating officer knows the evidence, he/she also knows "what's missing?" and "does it add up?" Whenever possible, the investigating officer should be familiar with as much of the evidence in the case as possible before interviewing the suspect.

Many of the offenses involved in child abuse investigations require specific intent. As a means of proving conduct non-accidental, a mistake nor committed for some reason other than the specific act prohibited by law (sex crimes being the most frequent type of crime involved), the investigator must consider looking for evidence of conduct that establishes a conscious course of conduct and/or consciousness of guilt.

Once proved, it also helps to establish the credibility of the victim when they describe acts committed against them where the offender tries to explain away their conduct with excuses or by misrepresenting their actual intentions.

For example, a father says while sleeping with his daughter he was dreaming it was his wife when he engaged in sexual intercourse with his seven-year-old daughter who was sleeping in his bed. Investigation determines that he would insist that the child sleep with him on every occasion when his wife was gone. When he would awake in the morning or immediately after he had sex with the girl, he would tell her not to tell anyone. He would wash the sheets and bedding and on occasion, his wife found the laundry going with the bedding being cleaned when she returned. His insistence that the girl sleep with him over and over demonstrates a conscious course of conduct giving him access and opportunity. His cleaning the bedding demonstrates consciousness of guilt in trying to cover up evidence of having had sex while the mother was gone.

Such evidence also enhances the victim's credibility as it demonstrates independent evidence

of his incriminating conduct. These events must be called to the prosecutor's attention in reports and meetings when discussing the merits of a case or when preparing for trial, as the statements concerning the conduct are especially important evidence.

Guideline 91: Digital Evidence Handling

A. Best practices for seizing digital evidence devices:

1. Desktop computers
 - a. Avoid manipulating/viewing in a non-forensically sound manner
 - (1) If absolutely necessary, document steps taken
 - (2) Forensic examiners work off images, not original evidence
 - b. Document/Photograph state of device and cables/connections
 - c. Consider capturing RAM (Random Access Memory)
 - (1) May contain passwords for running programs
 - (a) Passwords can be later used for forensic attacks on locked/encrypted programs
 - (2) Archives running programs/data at time of seizure
 - (3) RAM is volatile. Once power is severed, data is non-recoverable
 - d. Recognize active encryption programs
 - (1) Situation may call for a forensic image of the live system
 - e. Best practices shutdown method
 - (1) Sever power by pulling cord
 - (2) DO NOT use keyboard shutdown method
 - (a) Will cause manipulation of data
2. Laptop computers
 - a. Same takedown procedure as desktop, but remove battery in addition to cable
3. Gaming systems
 - a. Same takedown procedure as desktop
4. Cellular/Mobile Devices
 - a. If off, leave off
 - b. If on, leave on and keep powered
 - c. Disconnect device from the network:
 - (1) Faraday bag
 - (2) Airplane mode
 - (3) Allowing the phone to remain connected allows for the potential of remote wipe/lock
 - d. If device is locked, other potential solutions exist:
 - (1) JTAG
 - (2) Chip-off

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- (3) Cellular device forensic companies with unlock solutions
 - e. Collect all cables
 - 5. External storage devices:
 - a. Flash drives, SD cards, micro-SD cards, etc.
 - b. If you are unsure what a device does, do a quick online search to determine whether to seize
 - 6. Modem/wireless routers:
 - a. May contain evidence of devices seen on network
 - b. Some contain hard drives for storage
 - 7. Internet of Things devices/wearables:
 - a. Some devices do not have onboard storage but may have serial numbers or identifiers which may lead to a connected cloud account
 - 8. Business servers/systems (school communications):
 - a. Consider enlisting the aid of IT employees
 - (1) Avoid disrupting/corrupting their system
 - 9. Collect any and all passcodes:
 - a. People are creatures of habit and tend to use the same password or variations thereof for multiple devices

B. Forensic examinations of physical devices

- 1. Provide examiner with facts surrounding the case
 - a. Assists in efficiency/speed of the exam
 - b. Avoid the “Find evidence” request
- 2. Potential evidence
 - a. Images
 - b. Videos
 - c. Internet history
 - d. Communications/Chat
 - e. Documents
 - f. Third party Applications/Social Media
 - g. Linked evidence items
 - (1) Links to cloud accounts
 - (2) Links to other devices
- 3. Remember evidence beyond viewable content
 - a. Metadata
 - b. Advertising Identifiers

C. Online Investigative Techniques

- 1. Undercover accounts
 - a. Liabilities
 - (1) Proper avatar/profile pic

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- (2) Do not use someone's profile without permission
 - b. Best practices
 - (1) Avoid cross-contamination of unrelated accounts
 - (a) Potential IP address/device ID issues
 - (b) Proper Internet browser set-up
 - (c) Consider using email accounts which don't aggressively aggregate data (i.e., Gmail)
 - i) Lesser-known services
 - a) Shaudomail, ProtonMail
 - (2) Obfuscation
 - (a) Virtual private network
 - (b) Virtual machines/emulators
 - 2. Open source and paid tools/resources for documentation
 - a. Investigative add-ons/extensions for Chrome/Firefox
 - (1) YouTube downloader
 - (2) Video DownloadHelper
 - (3) Internet Archive (Wayback Machine)
 - (4) FireShot
 - b. Archiving tools
 - (1) Hunch.ly
 - (2) Snag-it/Camtasia
 - (3) Snipit tool

Guideline 92: Combined DNA Index System (CODIS)

The *Combined DNA Index System (CODIS)* is the United States national DNA database created and maintained by the FBI. The database is comprised of several databases including DNA profiles of convicted offenders, profiles developed from evidence in other crimes, and profiles developed from missing persons. CODIS automatically searches these databases for potential candidate hits. When a match, or "hit", occurs to a convicted offender, arrestee or other forensic unknown sample, the laboratory will coordinate with law enforcement to learn the identity of the suspect, or the case-to-case hit through CHOP (Cold Hit Outcome Project). This program, developed in 2009 for the state of California, links your agency with the lab, and the District Attorney's Office.

Law enforcement officers should be familiar with additional investigative steps required for cold hit or CODIS child abuse and sexual assault cases.

The investigating officer should take the following investigative steps when assigned to a cold hit child abuse or CODIS investigation:

- A. Order crime reports, communication tapes/transcripts, crime scene photos, and medical photos

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- B. Locate original investigative files such as notes, photos, and crime scene logs
 - C. Identify any statute of limitation issues
 - D. Locate suspect and determine custody status. If out of custody, conduct threat assessment
 - E. Locate victim(s) and witness(es)
 - F. Verify what evidence exists. Where is it and what analysis has been completed?
 - G. Review reports to determine if any other comparable evidence exists and request analysis
 - H. Complete suspect criminal history and identify other crimes the suspect may have committed
 - I. Prepare a search warrant for the suspect's DNA reference samples
 - J. Determine the possibility of a search warrant uncovering evidence of the crime from the suspect's home, office, or vehicle
 - K. Determine if the interview should be conducted pre- and/or post-arrest
 - L. Interview the victim to determine her or his willingness to prosecute
 - M. If the suspect is in custody, identify location and arrange for a visit (prison request letter)
 - N. Interview the suspect regarding the crime being investigated and/or any other crimes, being cognizant of *Miranda* and *Beheler* admonitions
 - O. Obtain reference samples and book into evidence
 - P. Request DNA confirmation from serology criminalists
 - Q. Complete follow-up report detailing the status of the investigation

CHAPTER 15

Search Warrants in Child Abuse Cases

Guideline 93: Search Warrants for Physical Evidence of Child Abuse

Whenever a law enforcement officer responds to or investigates a report of suspected child abuse (or any other crime for that matter), she or he should always think about what crime scene(s) there may be, where those crime scene(s) might be, what general types of evidence might be part of the crime scene(s), what specific items might be at the crime scene(s), and how he or she will gain legal access to them.

Physical evidence gathered may link the suspect to the victim, the victim to the crime scene, and/or the suspect to the crime scene.

In addition, officers should always be thinking about the probable existence of digital evidence, including cell phone data (calls, texts, photos, audio and video recordings, websites, apps, GPS, etc.), computers, tablets, cameras, home and business security systems, etc. Based on the circumstances of each case, digital evidence may be in the possession of the suspect(s), victim(s), parent(s)/guardian(s), witnesses, neighbors, cellular and Internet providers, websites, etc. See [Guideline 94: Search Warrants for Digital Evidence](#) below.

Through training and experience, officers gain a general knowledge of what common types and specific items of evidence are consistent with the crime(s) being investigated. Investigating officers gain knowledge of the specific items and crime scene(s) in an individual case through interviews of the victim, witnesses (and sometimes suspects), expert witnesses, etc. Officers may also gain knowledge of specific items through such investigative techniques as pretext phone calls. See [Chapter 11: Pretext Phone Calls in this Guideline](#).

While the investigating officer may obtain consent to search from the suspect, she or he needs to keep in mind that the suspect can always withdraw that consent at any time. In addition, the investigating officer should always assume that the voluntariness of the suspect's consent will always be challenged later in court proceedings. Therefore, it is recommended that officers obtain a search warrant whenever possible, regardless of whether consent was obtained from the suspect.

In obtaining probable cause for a search warrant in child abuse cases, it is critical for the investigating officer to attend the victim's forensic interview. By attending the interview and being knowledgeable about the case, the investigating officer will have a good idea of what locations, general types and specific items of evidence are likely to be found at the crime scene(s).

When writing the affiant expertise section of a search warrant in child abuse cases, the affiant should list the following:⁴¹

- A. Summary of agencies affiant worked for

41 California District Attorneys Association Search Warrant Manual, 5th Edition (2019), Mike Galli, DDA, Santa Clara County DA's Office

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- B. Summary of academy training specific to child abuse investigations
 - C. Summary of specialized classes and conferences attended related specifically to child abuse investigations
 - D. Total number of child abuse investigations conducted by the affiant
 - E. The number of search warrants the affiant has been an affiant on, or involved in the execution of, related to the investigation of child abuse
 - F. The number and types of arrests for the types of items being sought under the search warrant
 - G. The number of times the affiant has qualified in court as an expert in matters related to the investigation of child abuse

Types of potential evidence in child physical and sexual abuse cases include:

- A. DNA
 - 1. This can include bodily fluids (e.g., semen, blood), skin, touch DNA
 - 2. The possible existence and location(s) of DNA evidence may be learned through interviews of the victim, parent(s), witness(es), etc.
 - 3. May be detected on and collected from clothing, bedding, furniture, and other items
- B. Trace
 - 1. Hairs
 - 2. Fibers
 - 3. Paint
- C. Impressions
 - 1. Shoes
 - 2. Tires
- D. Fingerprints
 - 1. Helpful to prove the allegations, which includes the presence of the suspect in a home, room, vehicle, or other location
- E. Medical records
- F. Photographs (printed and digital)
- G. Written materials, such as:
 - 1. Diaries and journals (victim, suspect, parent(s), etc.)
 - 2. Notes
 - 3. Calendars or appointment books
- H. Recorded Admissions/Statements of the Suspect
 - 1. Statements made to the victim, witnesses, friends, family members and others
 - 2. Statements and/or admissions to others may be used as probable cause for search warrants
- I. Items that were given as gifts to the victim(s)

Guideline 94: Search Warrants for Digital Evidence

- A. Physical devices
 - 1. Legal authority
 - a. Search warrant
 - (1) Legal Requirements and Return Time Frame for Search Warrants *1524 PC*
 - (a) Warrant must be executed within 10 days, forensic exam does not need to complete
 - (b) No need for time extension language
 - b. Probation with *1546 PC* condition
 - c. Parole/PRCS
 - d. Consent
 - e. Cal-ECPA compliance
 - (1) Must have specificity in items to be searched
 - (2) Must have specificity in timeframes for search
 - (3) Must seal all non-relevant data
 - (4) Must notify or request delay notification
- B. Cloud evidence items
 - 1. Search warrants to service providers
 - a. CLOUD Act
 - 2. Preservation orders
 - 3. Cal-ECPA compliance
 - a. Proper language to request specific evidence
 - (1) Specific content
 - (2) Metadata to include EXIF data
 - (3) IP address login sessions
 - (4) Device identifier information
 - b. Geofence warrants
 - (1) Social media sites
 - (a) Google
 - (b) Advertising Identifier geolocation
 - c. No requirement for service providers to maintain any data
 - (1) Encrypted communications are becoming more prevalent
 - (2) Only mandated to report online child exploitation files
 - (a) Online child exploitation is a link to
 - i) Sextortion
 - ii) Contact offenses
 - iii) Human trafficking

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- d. Internet Service Providers outside of US
 - (1) MLAT (Mutual Legal Assistance Treaty)
 - 4. Consent
 - a. Download archive options exist for social networking sites
 - 5. Forensic tools
 - a. Cellebrite Cloud Analyzer
 - b. Magnet Forensics
- C. Online Investigative Techniques
- 1. Undercover accounts
 - a. Liabilities
 - (1) Proper avatar/profile pic
 - (2) Do not use someone's profile without permission
 - b. Best practices
 - (1) Avoid cross-contamination of unrelated accounts
 - (a) Potential IP address/device ID issues
 - (b) Proper Internet browser set-up
 - (c) Consider using email accounts which do not aggressively aggregate data (i.e., Gmail)
 - i) Lesser known services
 - a) Sudomail, ProtonMail
 - (2) Obfuscation
 - (a) Virtual private network
 - (b) Virtual machines/emulators
 - c. Documentation
 - (1) Hunchly
 - (2) Screen recording software

See [Appendix 26: Cal ECPA](#)

Guideline 95: Medical Records and History

Per [1543 PC](#), medical records maintained by a health care facility, doctor's office, clinic, hospital, etc. are privileged, and may only be disclosed to law enforcement upon:

- A. Written consent of the patient
- B. Court order
- C. Issuance of a search warrant ([1524 PC](#))

[11171.2 PC](#): Allows doctors and dentists to take skeletal or dental x-rays of children without parental consent in suspected abuse cases, as part of their diagnosis. Some medical professionals may not be aware of the law and want to call parents for permission. As the

parent is often the suspect, being aware of this law can allow you to prevent the suspect from learning of your investigation prematurely.

11171.5 PC: Permits a police officer to apply to a magistrate for an order directing that the victim of child abuse be X-rayed without parental consent.

CHAPTER 16

Burn Investigations

A comprehensive investigation is imperative to determine if a burn is accidental or intentional. The investigator must maintain objectivity and avoid stereotypes. It is just as important to determine if the accused is innocent as it is to prove guilt. Anyone can be the suspect. An on-scene investigation is paramount. It is also recommended the investigator see the victim's injury in-person to get a full perspective of the injury.

Guideline 96: Law Enforcement Response to Burn Investigations

When investigating any suspected burns, best practice is to conduct an on-scene investigation to help determine if the injuries are consistent with the history provided by witnesses. Doctors do not go to the scene, but law enforcement and social workers do. The investigator's findings greatly help the medical professionals understand the mechanism by which the injury occurred and help to determine if the burn is accidental or inflicted.

Guideline 97: On-Scene Investigation

Conduct a limited re-enactment during the initial interview of the direct witness(es) and a second, thorough, re-enactment at the alleged scene of the incident. The on-scene re-enactment is best conducted when the conditions of the environment are the same or similar to the original event. As an example, if the injury occurred in an apartment complex on a weekday at 7:00 p.m., the re-enactment should be on the same weekday and at the same time. The pattern of water usage for dish washing, showering etc. may affect the temperature at the source of the burn on the child. If the suspect states the burn occurred in a bathroom sink at the same time someone turned on the shower or flushed the toilet causing the temperature to surge at the sink faucet, it will be necessary to recreate the events. The use of a doll will help determine if the location of the child's burn is consistent with the suspect's statement.

Guideline 98: Types of Burns

There are several indicators that will help establish that the injury was accidental or non-accidental.

A. Thermal Burns

1. Thermal burns are classified as superficial, partial, or full thickness.
2. The degree of thermal burns is causally related to the following three conditions:
 - a. Temperature of the source
 - b. Time of exposure
 - c. Skin sensitivity
3. Burn Investigations should determine the following:
 - a. Is there a recorded 9-1-1 call for review?

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- b. Did the care provider seek immediate medical aid or delay professional treatment? (70% of child victims with non-accidental burns receive delayed medical treatment.)
 - c. Was the child wearing clothing and/or a diaper prior to the injury?
 - (1) If so, look for the presence of feces which may indicate the child was burned as a form of punishment over toilet training.
 - d. Are there indications of old and new burns?
 - e. Are there indications of old and/or new physical injuries?
 - f. Are there any soft tissue injuries such as bruising, which may indicate that the child was forcibly held while the child was being burned?
 - g. Are there additional splash injuries on the victim from the fluid?
 - h. Are there splash injuries on the suspect?
 - i. Is there any history of prior abuse upon the child or other family members with law enforcement or social services?
4. Obtain statements from witnesses, including extended family members, friends, neighbors, teachers, emergency responders, hospital and field social workers, and medical professionals.

B. Immersion Burns

Immersion burns are the result of a child falling or being placed into a tub, shower, sink, or other container of hot liquid. Deliberate immersion burns are often a punishment for failing to respond to toilet training. In a deliberate **immersion burn**, the depth of the burn is uniform. The wound borders are very distinct. The burn will likely have a sharply defined line of demarcation or little tapering at the edge of the injury. A line of demarcation shows the boundary, or waterline, between tissue that is burned and the tissue that is not burned. A vertical or horizontal line indicates the affected area was stationary and that the child's body or body part was forcefully held in the liquid.

A child who is accidentally subjected to hot water will thrash about to escape the pain rather than remain stationary. If the burn is accidental and the subject of the investigation stated he/she pulled the child out of the hot water, the subject may also have burn injuries. Whether the burn is accidental or intentional, photograph the presence or absence of injuries on the subject.

If feet or hands are immersed in hot water, the burn is likely to have a stocking or glove pattern injury with a line of demarcation. These patterns are seen when the child's feet or hands are held in the water indicating the burn was non-accidental.

Sparing is the area that did not get burned, the area that did not get effected by the source of the burn. Sparing in a burn injury can often **tell more about how the burn occurred than the burn** itself. Sparing may help the investigator determine the position of the child's body and may indicate if clothing was worn or not worn during a re-enactment. Patterns left by sparing include doughnut patterns on the buttocks, zebra stripped patterns on areas of the skin where it was folded, diamond patterns behind the knees or where any body part was flexed. Sparing also includes absence of a burn on the bottom of the feet or on the palms of hands

C. Scalding

Scalding is a burn caused by either hot liquid or steam. These burns result most frequently when the child's skin is exposed to hot water, beverages, and food. If the child is scalded by steam, the temperature of the steam must have been at least 212°F.

D. Dry Contact Burns

Dry contact burns are caused by a hot solid object. They are a specific pattern injury that is a mirror image of the object. These burns can be difficult to prove as accidental or intentional. Even brief accidental contact with a hot item can result in partial, second-degree burns.

An accidental burn can be the result of a child walking into a lit cigarette, a clothing or curling iron, or a heater grate. These types of burns will likely be shallow and have an irregular pattern such as a comet tail pattern moving away from the center of an accidental cigarette burn. It may be reasonable for an accidental cigarette burn to be located on the arms or upper body as opposed to the bottom of the feet, the palms, or the genital area.

Intentional burns with an object will be more clearly defined. Intentional cigarette burns are most often inflicted on the palms, soles of the feet, and the buttocks.

An intentional burn from a clothing iron may have a mirror image of the iron plate including the steam holes, as opposed to an accidental contact with the iron which may be less defined. The same may also be true with any other hot object. The pattern of the burn will be consistent with the part of the object that came in contact with the child's skin. The investigator can recreate the burn pattern by using items like banana skins or skinless chicken breasts.

E. Chemical Burns

A chemical burn occurs when skin or other tissue is exposed to a corrosive substance or a cytotoxic agent.

A common chemical burn in infants and toddlers may happen through prolonged contact of the skin around the genitals and buttocks with urine, which may result in severe skin irritation and long-term injury. This generally results when a child's diapers are seldom changed (i.e., severe "diaper rash") and may be indicative of criminal neglect and possibly suggestive of other physical and/or sexual abuses.

Phytophotodermatitis is a condition that can appear to be a thermal burn because of the significant discoloration of the skin and blistering in some cases. It is a phototoxic reaction to contact with certain plants and exposure to UVA light rays. This condition affects only the outer layer of the skin and is highly likely not an inflicted, intentional injury.

Some plants that may cause phytophotodermatitis include citrus fruits, especially limes and lemons, carrots, celery, figs, wild dill, wild parsley, and wild parsnips.

Guideline 99: Equipment Needed to Test the Source of the Burn

A. Equipment unique to immersion burn investigations:

1. Testing needs to be conducted at the source of the incident, and under the same conditions.
2. If the caretaker said the hot water heater was at a specific setting/temperature, the setting must be the same at the time of testing.
3. When testing water or other liquid temperatures, a **shockproof/waterproof thermometer** must be used.
 - a. This type of thermometer records the highest and lowest temperature readings over any period of time.
 - b. The solid-state construction eliminates dangers inherent in breakable glass and toxic mercury thermometers.
 - c. Most importantly, the reading is updated every second.
4. Make sure the calibration of the thermometer is up to date.
 - a. Photograph the serial number on the back of the thermometer;

AND

 - b. include a copy of the calibration sheet belonging to that specific thermometer with the investigator's report.

B. Equipment unique to dry contact burn investigations:

1. When testing objects hot or dangerous to touch such as clothing irons, curling irons, flat irons, or stove tops, an infrared thermometer (temperature laser gun) should be used.
2. When having the caretaker recreate the circumstances of the injury, care should be taken to document the various lengths of time it takes the item to attain temperatures, beginning with the "Off" setting to the high temperature setting the caretaker said the item was set at, as well as any higher temperature the item reaches at its highest setting.

CHAPTER 17

Medical Examination Evidence in Child Abuse Cases

Guideline 100: Factors to Consider Prior to the Child Sexual Assault Victim Forensic Examination

Law enforcement should be knowledgeable about the child abuse victim examination and the proper protocols.

The responding officer should be aware of the following:

1. A timely, professional forensic examination increases the likelihood that injuries will be documented and photographed, and evidence will be properly collected and packaged.
2. There are no set time limits for when evidence can be gathered and injuries documented, especially if the victim is injured, bleeding, and/or experiencing pain. The sooner the evidence is collected, the better.

Important to know: All victims 12 years and older have the sole right to make decisions about the exam. (*Family Code §6921, 6927, 6928.*) For victims under 12, parental consent or a court order is required, except for medical emergencies or if the evidence may dissipate. (*Wallis v. Spencer* (2000) 202 F. 3d 1126.)

If a parent is not available or refuses to give consent, a court order is necessary. If a parent is not on site but can be contacted and is willing to give consent for the examination of their child, local policy will govern if consent may be given telephonically.

Parents, unless they are suspected of abuse, have a right to be present at investigatory physical examinations which may be potentially traumatic unless there is some valid reason to exclude them. If the physician present believes a valid reason exists, they may be excluded and/or asked to remain in a waiting room or other nearby area. (*Wallis v. Spencer* (2000) 202 F. 3d 1126.)

Guideline 101: Types of Forensic Medical Exams

There are two types of medical examinations for sexual abuse victims. The type of examination required is usually determined by the physical condition of the child and/or the length of time since the alleged abuse. Unless a child requires immediate medical attention, or the last incident occurred within 120 hours, a suspected victim of sexual abuse should only be physically examined by medical specialists with forensic expertise in child sexual abuse.

An **acute sexual assault examination** should be requested if the sexual abuse/assault is very recent. A timely exam may recover body fluid and/or trace materials that will link the victim to the suspect. Law enforcement has the responsibility to authorize the examinations as there is usually an evidence packet collected that will need to be transferred to law enforcement and

taken to the crime lab. For those jurisdictions that utilize Rapid DNA Testing (RDA), this will also be collected, prepared and mailed by the examiner to the crime lab.

A **non-acute (late disclosure) examination** may be requested by law enforcement or Child Welfare Services. There is likely no body fluid or trace material evidence to collect due to the passage of time. Indications for a non-acute exam consist of disclosure of sexual acts that may have caused injury, history of pain or bleeding, history of concerning medical or behavioral symptoms, or the possibility of a sexually transmitted infection (STI). The exam may detect old injuries if present. Medical history and medical test results may be relevant to the assessment.

Summary:

- A. Acute Child Sexual Abuse Examination (Evidentiary Examination); within 120 hours:
 - 1. Complete medical examination (total body)
 - 2. Genital/perianal examination (with colposcope where available)
 - 3. Collection of all appropriate forensic (biological) specimens
 - 4. Evaluation/treatment of STI and/or pregnancy
 - 5. Completion of California Office of Emergency Services (OES) abuse report form (CalOES 923 or 925)
- B. Non-acute Child Sexual Abuse Examination; 11 years old and younger; occurring after 120 hours:
 - 1. Complete medical examination (total body)
 - 2. Genital/perianal examination (with colposcope, where available, to document old or healing injuries)
 - 3. Evaluation/treatment of STI and/or pregnancy
 - 4. Completion of the CalOES sexual abuse report form (CalOES 923 or 925)

Guideline 102: Investigating Officer’s Actions Prior to Victim Forensic Examination

- A. Explain the role of the different members of the Child Abuse Response Team (CART) to the parents and/or guardians and to the child, if appropriate, and facilitate the introductions of the team members. Be aware that the victim may bond with the first responding officer.
- B. Explain to the victim, or victim’s parent/guardian, the purpose and importance of medical screening and the forensic examination.
- C. When the victim is 12 years and older (an adolescent victim), inform them of their right to decline any or all parts of the examination, and the potential consequences for refusal.
Note: This is more for adolescent victims rather than pediatric victims.
 - 1. When the victim is 11 years of age or younger (a pediatric victim), the parent/guardian has the authority to consent or decline the examination.
 - 2. Note that if a child under 12 years of age refuses to be examined, many medical examiners will not examine the child even if the parent/guardian consents.

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- D. When the victim is an adolescent, ask if he/she will consent to a forensic examination.
 - 1. Obtain a signed authorization form for access to all related medical records.
 - E. For pediatric victims, the parent/guardian will be the person to sign the authorization.
 - 1. Obtain a signed authorization form for access to all related medical records.
 - F. Advise the victim, or parent/guardian as appropriate, that a counselor/advocate or support person of the victim's choosing can be present in the room during the examination.
 - G. For a recent assault, advise the victim, or victim's parent/guardian as appropriate, that the forensic examiner will collect any clothing worn during or immediately after the sexual assault if it has not been previously collected. If a pediatric victim has a late disclosure, no clothing will be collected by the forensic examiner.
 - H. Assist in arranging for clothing the victim will need after the examination.
 - I. Transport the victim to the designated medical facility familiar with established protocols for forensic examinations of sexual assault victims.
 - J. Encourage a victim who is unwilling to undergo a forensic examination to seek medical attention, including testing for pregnancy and STDs.
 - 1. If the victim undergoes a forensic examination, these issues will be addressed.
 - 2. For pediatric victims, the parent/guardian will be the person to address this.

Guideline 103: Investigator's Actions at the Medical Facility

The investigating officer should take the following actions at the hospital:

- A. Brief the forensic examiner on the details of the sexual assault, as known at the time.
 - 1. If a drug-facilitated sexual assault is suspected, it is critical to obtain a urine sample from the victim as soon as possible.
 - 2. A blood test and urine test should be obtained and collected for all victims.
 - 3. For patients 12 years and older, follow the police agency's guidelines for submitting urine and blood samples.
- B. Whenever possible, the investigating officer should be present while the forensic examiner obtains the victim's history of the events.
 - 1. Follow the CART Forensic Examiner protocols concerning police presence during obtaining history.
- C. At the conclusion of the examination, discuss the findings with the forensic examiner.
- D. Obtain a copy of the forensic examination medical forms, if available, and attach it to the police report. Summarize the findings in the police report, noting significant information or injury. (The officer needs to have a basic understanding of human anatomy and medical terminology.)

See [California Clinical Medical Forensic Training Center](#) (CCMFT) for Cal OES Forensic Medical Report Forms 2-923 (Acute (<120 Hours) Adult/Adolescent), 2-924 (Abbreviated Adult/Adolescent), 2-925 (Non-Acute Child/Adolescent) and 2-930 (Acute Child/Adolescent).

See [Appendix 11: Medical and Anatomical Terminology for Non-Medical Professionals](#)

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- E. Provide the victim or victim's parent/guardian with the investigator's contact information.
 - F. Encourage the victim to contact the investigator with any additional information or evidence.
 - G. Remind the victim, or victim's parent/guardian, that visible evidence of injury may appear later, and to contact the investigator for additional photographs and/or other documentation if this occurs.
 - H. Assist the victim or victim's parent/guardian in obtaining protection orders, when appropriate.
 - I. Inform the victim or victim's parent/guardian about the next steps in the investigation process, such as in-depth interviews, possible identification of the suspect, and the lengthy court process.
 - J. Notify the victim or victim's parent/guardian of her or his rights including, but not limited to:
 - 1. The right to request his/her name not to become a matter of public record. (*293 PC*)
 - 2. The right to be notified of arrests and court dates.
 - 3. The right to have a counselor/advocate present during all follow-up interviews.
 - K. Ensure that the victim, or victim's parent/guardian, has received written referrals for victim services and compensation organizations. See *The California Victim Compensation Board*

Guideline 104: Forensic Medical Examination Results – Findings vs. No-Findings

Investigating officers should be aware that most exams after child sexual abuse and even adolescent sexual assault will have normal or non-specific physical findings. "Normal" findings as a result of a forensic medical examination are common and does not necessarily mean the sexual abuse did not happen. Reasons for non-specific and/or normal findings include:

- A. Anogenital tissues are designed to heal quickly
- B. After puberty, genital tissues (including the hymen) are much more flexible
- C. Adolescents are usually sexually assaulted by someone they know. Stranger assault, use of brute force, and restraint are uncommon as compared to sexual assault of adults
- D. Many types of contact do not cause major tissue injury: e.g., fondling, digital penetration, penetration that does not pass beyond the hymen
- E. Children typically delay disclosure for days or weeks
- F. Familial perpetrators typically seek ongoing contact with their victims and avoid overtly painful acts

Guideline 105: Suspect Forensic Examination

Law enforcement officers should be familiar with the protocols associated with suspect sexual assault forensic examinations.

Protocols and forms have been developed to provide recommended methods for documenting all injuries observed and collecting all biological samples from a child and adult sexual assault suspect.

The investigating officer should determine if a sexual assault forensic examination should be conducted on the suspect. This may depend upon:

- A. Type of sexual assault involved
- B. Time-lapse between crime and contact with the suspect
- C. Injuries such as lacerations, bruises, and bite marks may be visible for a longer period and identifying characteristics may be lasting
- D. Amount of force used (possible injuries to the suspect)

For suspect forensic medical examination forms, see [CalOES 2-950 Form and Instructions](#).

The investigating officer should be familiar with the following:

- A. If the suspect consents to the examination, the investigator should clearly document that the suspect was advised of the right to decline any part of the examination.
- B. If exigent circumstances can be articulated and destruction of evidence is imminent, a search warrant may not be needed even if consent is refused.
- C. A search may be conducted of the suspect's body if done incident to an arrest.
- D. The forensic examiner should collect and document the suspect's pertinent medical history, document all visible injuries, and collect biological and trace evidence from the suspect's body.
- E. The investigating officer should be aware that any questions asked during the forensic examination could be considered custodial interrogation and should consider if it is appropriate to give Miranda admonishments to the suspect prior to the examination.
- F. If the suspect invokes his or her right to remain silent, the examiner should bypass the medical history portion of the examination and continue documenting any visible injury and collecting the appropriate specimens.
- G. Both the examiner and attending officer should be prepared to document any spontaneous statements made by the suspect regardless of whether or not the suspect was in custody and whether or not the suspect was given Miranda admonishments.

Guideline 106: Other Important Medical Exam Information

11171.2(a) PC: Allows doctors and dentists to take skeletal or dental x-rays of children without parental consent in suspected abuse cases, as part of their diagnosis. Some medical professionals may not be aware of the law and want to call parents for permission. As the parent is often the suspect, being aware of this law can allow you to prevent the suspect from learning of your investigation prematurely.

11171.5 PC: Permits a police officer to apply to a magistrate for an order directing that the victim of child abuse be X-rayed without parental consent.

CHAPTER 18

Community Child Care Facilities

Guideline 107: California State Community Care Licensing (CSCCL) Overview

The *California Community Care Licensing* is a division of the California Department of Social Services. It is tasked with the licensing and monitoring of Child Care Facilities, Children's Residential Programs, Adult Facilities and Senior Care Facilities.

The Child Care Licensing Program provides oversight and enforcement for licensed Child Care Centers and Family Child Care Homes through 19 Regional Offices located throughout California.

The Children's Residential Program has regulatory oversight of licensed facilities caring for minors, age 0 through 17 and non-minor dependents age 18 through 21 in out-of-home care.

Guideline 108: Law Enforcement Responsibility

Law enforcement agencies have the authority and responsibility to investigate allegations of child abuse occurring in the following types of licensed and unlicensed community childcare facilities:

- A. Family day care homes
- B. Child day care centers
- C. Foster family homes/resource family homes
- D. Group homes
- E. Small family homes

Guideline 109: Initial Receipt, Evaluation of Information, and Level of Response

The urgency of response by law enforcement personnel to allegations of child abuse in a community childcare facility should be governed by the:

- A. Nature and seriousness of the allegation
- B. Present risk to children
- C. Credibility of allegation
- D. Need for coordination with other appropriate regulatory agencies
- E. Need for discretion to protect the rights and credibility of the childcare provider
- F. Potential for loss and/or contamination of evidence
- G. Impact of the action taken on further case development

Guideline 110: Coordination

Coordination of the initial response to an allegation of child abuse in a community childcare facility with one or more of the following agencies should be considered by the investigating officer:

- A. California Department of Social Services (Community Care Licensing Division)
- B. Local child protective service
- C. Child placement agencies
- D. Other regulatory agencies (fire department, public health department, etc.)

Guideline 111: Reporting Requirements (Group Home or Institution)

If suspected child abuse occurs in a group home or institution, the investigation of that abuse must be done in accordance with the regulatory “Guidelines for Investigation of Child Abuse in Group Homes or Institutions” (*11174 PC*).

Guideline 112: Cross-Reporting Requirements (Group Home or Institution)

If suspected child abuse occurs in a group home or institution, the local law enforcement agency is required to notify the following agencies:

- A. Child Protective Services
- B. Licensing agency
- C. District Attorney’s Office

Guideline 113: Follow-Up Reporting Requirements (Group Home or Institution)

If suspected child abuse occurs in a group home or institution, the investigating law enforcement agency is required to make written notification of the results of the formal disposition of the matter to the appropriate agencies/person. These agencies shall include:

- A. Department of Justice - Division of Law Enforcement
- B. District Attorney’s Office
- C. Child placement agency involved
- D. Child Protective Services
- E. Licensing agency with jurisdiction over the facility
- F. Administrator of the group home or institution, as long as disclosure does not violate confidential information
- G. Parent/guardian of the child, if the child is not a dependent or ward of the court
- H. Mandated reporter
- I. State funded resource and referral agency for that jurisdiction, as long as disclosure does not violate confidential information

Guideline 114: Community Care Licensing/Social Services Reporting Requirement

When a law enforcement agency receives a report of abuse alleged to have occurred in facilities licensed to care for children by the Community Care Licensing Division of the State Department of Social Services, it is required, within 24 hours, to notify the licensing office with jurisdiction over the facility (*11166.1 PC*).

Contact Information for Community Care Licensing:

Phone: (844) 538-8766

Fax: (916) 414-2551

Email: letusno@dss.ca.gov

Guideline 115: Preliminary Investigation Procedures

The initial responding officer should consider, but not be limited to, the following procedures:

- A. Ensuring the safety of the child
- B. Taking an immediate count of all the children present in the facility
- C. Conducting an immediate visual inspection of the condition of the facility and personnel
- D. Identifying the licensee, all employees and persons residing in the facility
- E. Noting the degree of cooperation by persons contacted

Local agencies should establish and have a policy in place for the handling of multi-victim and multi-suspect cases.

Guideline 116: Legal Action

A child abuse investigation in a community childcare facility may lead simultaneously to three types of action:

- A. Criminal
- B. Civil
- C. Administrative

Rules of evidence and burdens of proof differ in each of the above proceedings. Evidence which is not admissible in a criminal trial may well be admissible in administrative proceedings. An administrative action could lead to the closure of the facility, exclusion of staff, a citable offense issued to the facility, and will serve to document the incident in criminal history records.

Guideline 117: Follow-up Investigation Procedures

The investigator should review the actions taken by the officer handling the preliminary investigation. It is crucial that:

- A. All statements are complete and accurately documented
- B. All physical evidence has been identified and documented
- C. A search has been considered (if appropriate)
- D. All mandatory notifications have been made

Guideline 118: Use of CSCCL Analysts and Investigators

The California State Community Care Licensing (CSCCL) Division maintains its own staff of analysts and Special Investigators. Law enforcement officers are encouraged to contact a CSCCL Special Investigator immediately whenever investigating allegations of child abuse within a licensed or unlicensed Child Care or Residential Facility.

CSCCL Investigators are sworn California Peace Officers. CSCCL investigators and/or analysts will respond to scenes of death or serious abuse, can identify who may or may not be an employee of the day care center, the maximum number of children allowed to be cared for at the center, and other information valuable to the investigation.

See [*Appendix 24: Out-of-Home Care Facilities Checklist*](#)

CHAPTER 19

Strangulation and Choking Breath Play

The child sexual offender who performs breath play strangulation or choking on a child does so as part of a sexual fantasy and for sexual gratification. During the act, a child may experience unconsciousness within seconds and death within three minutes according to the Centers for Disease Control and Prevention (CDC).⁴² Extensive studies and documentation point out that when a victim is strangled, he or she is on the edge of death. Clinically, children have an increased risk of presenting with significant airway compromise from strangulation injuries due to the smaller size of their larynx and the relative laxity of their soft tissues. This means swelling of the neck has the potential to expand faster in children and may have a more dramatic effect.⁴³

The terms “strangulation,” “suffocation,” and “choking” are often confused. All lead to a lack of oxygen to the brain (cerebral hypoxia), but “strangulation” is the intentional restriction of normal breathing or circulation of blood by applying external pressure on the throat or neck. Law enforcement officers should always use the term “strangulation” to describe any external neck compression. If a victim, witness, or perpetrator uses the term “choking” rather than “strangulation” when referring to external pressure, the officer should document the statement with quotation marks since, in nearly all cases, they are describing strangulation, not choking (Connie Mitchell ed., Oxford Univ. Press 2009). Choking, an internal obstruction with foreign objects, may also be used to suppress breathing during the sexual assault of a child.

Social media platforms and video sharing contain breath play strangulation “how to” tutorials. Pornography and mainstream movies labeled for mature audiences depict squeezing on the throat (strangulation breath play) as a “normal” part of some sexual acts and sexual roleplay. Exposure to breath play strangulation may create an expectation or desire to repeat the behavior in auto erotica, with sex partners, during rape, or child sexual assault. Law enforcement officers who investigate child sexual molestation should know that breath play may be part of a child sexual molester’s sexual fantasies. Knowing this is a potential act committed against a child means law enforcement can be aware of signs and symptoms of strangulation even though the child victim may not have the experience or vocabulary to disclose that he or she was strangled.

Guideline 119: How Kids Present

The Alliance for Hope and the Strangulation Institute describes a child’s clinical presentation as follows:

- A. Children may present a need for care, days to weeks after strangulation.
- B. The clinical spectrum may range from mild self-limiting symptoms to severe neurologic sequelae or death.

42 Health Day. Young risk-takers drawn to dangerous ‘choking game’. Available at: <http://consumer.healthday.com/Article.asp?AID=663736>. Accessibility verified January 16, 2013.

43 Bean AS. Trauma to the Neck. Tintinalli’s Emergency Medicine – A Comprehensive Study Guide. 8e. 2016. Chapter 260 pp 1733-1740.

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- C. Some symptoms in adults may not be as helpful in young children (i.e., incontinence). Up to 50% of children will not have clinically apparent signs of strangulation (similar to adults). Children may describe symptoms in ways different than adults, but that are developmentally appropriate.
- D. Child victims may have no visible external injuries but may have injury to underlying vital structures causing pain or other symptoms. There may be underlying brain damage due to the lack of oxygen during the strangulation assault. Signs and symptoms are often the best indication of injury. Cutting off a child's air supply by forceful choking is an extremely dangerous and violent form of abuse that could easily endanger the child's life.⁴⁴

Guideline 120: Typical Signs and Symptoms of Strangulation to Children

Agitation
Altered level of consciousness
Altered mental status
Aspiration
Bloodshot eyes
Confusion
Difficulty breathing
Disorientation
Dizziness
Facial/neck petechiae
Head or musculoskeletal trauma
Headache
Inability to recall details
Loss or near loss of consciousness
Lung injury
Marks on the neck
Neck pain
Problem swallowing
Unexpected neck bruising
Raspatory depression
Seizures
Sore throat or neck
Stroke symptoms
Subconjunctival hemorrhages
Sudden visual loss
Urinary and/or fecal incontinence
Voice changes

44 Ramowski, SK, Nystrom, RJ, Rosenberg, KD, Gilchrist, J, Chaumeton, NR. Health risks of Oregon eighth-grade participants in the "choking game" Results from a population-based survey. *Pediatrics*. 2012; 129: 846-851.

SIGNS AND SYMPTOMS OF STRANGULATION

(VISIBLE SIGNS MAY NOT BE PRESENT)

NEUROLOGICAL

- Loss of memory
- Loss of consciousness
- Behavioral changes
- Loss of sensation
- Extremity weakness
- Difficulty speaking
- Fainting
- Urination
- Defecation
- Vomiting
- Dizziness
- Headaches

SCALP

- Petechiae (tiny red spots)
- Bald spots (from hair being pulled)
- Swelling on the head (from blunt force trauma or falling to the ground)

EYES & EYELIDS

- Petechiae to eyeball
- Petechiae to eyelid
- Bloody red eyeball(s)
- Vision changes
- Droopy eyelid

EARS

- Ringing in ears
- Petechiae on earlobe(s)
- Bruising behind the ear
- Bleeding in the ear

FACE

- Petechiae
- Scratch marks
- Facial drooping
- Swelling

MOUTH

- Bruising
- Swollen tongue
- Swollen lips
- Cuts/abrasions
- Internal Petechiae

CHEST

- Chest pain
- Redness
- Scratch marks
- Bruising
- Abrasions

NECK

- Redness
- Scratch marks
- Finger nail impressions
- Bruising (thumb or fingers)
- Swelling
- Ligature or Clothing Marks

VOICE & THROAT CHANGES

- Raspy or hoarse voice
- Unable to speak
- Trouble swallowing
- Painful to swallow
- Clearing the throat
- Coughing
- Nausea
- Drooling
- Sore throat
- Stridor

BREATHING CHANGES

- Difficulty breathing
- Respiratory distress
- Unable to breathe

Illustration & Graphics by Yesenia Aceves

Source: Strangulation in Intimate Partner Violence, Chapter 16, Intimate Partner Violence, Oxford University Press, Inc. 2009.



strangulationtraininginstitute.com

v 10.5.2017

Guideline 121: Steps to Take During an Interview with the Child Victim and Any Witnesses

- A. Assess the safety of the child's home
- B. Evaluate the situation in which the strangulation occurred
- C. Ask about symptoms the child experienced during the strangulation
- D. Observe current symptoms
- E. Note the presence of any witnesses
- F. Ask what the child saw, heard, and smelled
- G. Ask additional questions as recommended by the *Alliance for Hope and the Training Institute on Strangulation Prevention* and the Pediatric-Adolescent Follow-up Evaluation (see *Appendix 15*) as well as those that follow your local jurisdiction relating to cases during which strangulation may have occurred.
- H. Consider the use of a mannequin, Styrofoam head, doll or stuffed animal, which can be effective in understanding the physical position of the child and the offender at the time of the strangulation. Photograph the demonstration.

Guideline 122: The Choking Game

Law enforcement investigating child physical abuse, child sexual assault, or child deaths may, as part of the interviewing process learn the victim is or was involved with manual or mechanical bi-lateral compression of the carotid arteries in the neck, known as the Choking Game.

According to the American College of Emergency Medicine:

The choking game, or self-asphyxial risk-taking behavior (SAB), is defined as “self-strangulation or strangulation by another person with the hands or a noose/ligature to achieve a brief euphoric state caused by cerebral hypoxia.” The activity causes obstruction of the cerebral venous and arterial blood flow, along with an increase in carbon dioxide, leading to a dizzy sensation. A brief euphoric or “high” feeling is experienced just before unconsciousness. It is then followed by a “rush” sensation from the surge of blood flow when the external pressure is removed. Unfortunately, serious injuries, long-term complications, and even death can occur as a result of this behavior.

This destructive behavior is generally practiced by adolescents and teenagers but has also been adopted by younger children. The game has been considered an activity in which high achieving children participate; however, according to studies, it is more common among children who use tobacco, drugs, and alcohol as well as children who engage in sexual activity or who have experienced sexual assault.

The Choking Game, in fact, does not involve internal choking, but rather strangulation by an external force or pressure applied to the exterior of the neck or throat to restrict blood flowing to and from the brain, which causes a lack of oxygen (cerebral hypoxia). On-line video sharing and social media platforms contribute to normalizing the Choking Game. Testimonies have been

given describing the pleasurable sensation experienced after regaining consciousness, making it an attractive activity to try.^{45 46}

The external pressure is applied manually by another person using the heel (thenar) of the palms or arm pressure against the arteries along the sides of the neck. The pressure may also be self-administered using objects like belts, ropes, or scarfs. When the pressure is released, blood flow to the brain returns giving the child a euphoric experience or “high.” According to the CDC, children can lose consciousness within seconds and can damage their brain and central nervous system after just three minutes.⁴⁷ The game is more likely to be deadly when such items are used, and when practiced alone rather than with a friend or group.

Investigative Actions When the Choking Game is Suspected

- A. Interview or arrange a forensic interview of the child to ask questions without the presence of the parent(s).
- B. Interview family members, friends, classmates, and teammates to determine if anyone has knowledge or has participated in the Choking Game with the victim.
- C. Follow through with any leads and/or provide the appropriate investigative unit, medical professionals, or, if appropriate, the coroner with any information indicating the child or children may have been involved in this activity.
- D. If a child has incurred physical or mental impairment or death because of manual or mechanical strangulation, the investigating officers should help to determine the manner and the motive for the strangulation. If a child dies as a result of the Choking Game, the manner of death will help surviving family and friends understand if the death was from suicide or if the death was accidental.
- E. Take photographic documentation as recommended in the Secure Forensic Digital Imaging Pediatric Non-Fatal Strangulation.⁴⁸

Other References to Strangulation During the Choking Game:

Breath Play
Choke Out
Cloud Nine
Dream Game
Flatliner
Funky Chicken
Gasp
Hangman
Harvey Wall Banger

45 Linkletter, M, Gordon, K, Dooley, J. The choking game and YouTube: A dangerous combination. *Clinical Pediatrics*. 2010; 49: 274-279.

46 Lewis, SP, Heath, NL, St. Denis, JM, Noble, R. The scope of non-suicidal self-injury on YouTube. *Pediatrics*. 2011; 127: 552-557.

47 Centers for Disease Control and Prevention. Research update, the choking game: CDC’s findings on a risky youth behavior. Available at: http://www.cdc.gov/homeandrecreationalafety/Choking/choking_game.html. Accessibility verified January 16, 2013.

48 Secure Digital Forensic Imaging. Pediatric Non-Fatal Strangulation PhotoDocumentation Protocol 2021, Supplemental Edition for Pediatric *Cases. Available at <http://www.SDFI.com>.

High Riser
Hyperventilating
Knock-Out
Lions and Tigers
Natural High
Purple Dragon
Rising Sun
Rush
Sleeping Game
Sleeper Hold
Suffocation Roulette
Snuff
Space Cowboy
Space Monkey
Something Dreaming
Speed Dreaming
The Pass Out Game
The French Term “Jeu Du Foulard”
Twitching Game

Guideline 123: What to Look for During a Search for Evidence

- A. Digital media related to “strangulation,” “breath-play,” “choking,” or other phrases used to name the behavior such as “Kinging” or “Queening”.
- B. Digital evidence of social media platforms and video sharing how-to videos on asphyxiation or, “how to play the pass out game.”
- C. Objects/ligatures that may be used for the act of strangulation such as ropes, belts, martial arts belts, scarves, slip knots or other items to strangle themselves, either alone or within a group.

CHAPTER 20

Preparing and Submitting the Case to the Prosecutor

Guideline 124: Prosecutorial Filing Considerations

A prosecutor must determine, based upon the evidence provided by the investigation, whether he/she can convince a jury comprised of citizens from the venue that a crime was committed beyond a reasonable doubt.

In reaching that decision, the prosecutor will do four things:

1. Examine the documentation to determine if all of the elements of the crime are contained/detailed in the reports submitted, i.e., three legs of a stool:
 - a. Whether there is a child involved
 - b. The child was harmed/endangered
 - c. Whether the requisite mental state was established
2. Consider the possible defenses available to a defendant given the particular facts and circumstances of the case. I.e., mistake, accident, identity, etc.
3. Consider the legal issues raised by the facts as it relates to admissibility of evidence gathered and proper criminal procedure employed during the investigation. I.e., search and seizure, statements made by victim(s), suspect(s), statute of limitation, etc.
4. Consider the impact the prosecution will have on the victims of child abuse and their families. I.e., can a child withstand the rigors of cross examination, will the trial be more traumatic than the abuse itself, are there any alternatives to prosecution that would be less traumatic and serve the victim and community better than prosecution, etc.

Any one of these factors could determine that a case might not be ready for prosecution/filing and result in a rejection for further information or reason not to prosecute all together.

Therefore, it is incumbent upon the investigator to anticipate and consider the first three of these factors during the course of the investigation and to clearly outline, in as easy and simple a manner as possible, answers to each of the above considerations. Any comments or concerns regarding the last consideration should be relayed to the district attorney in a manner consistent with police and local practice.

When, as is often the case in child abuse investigations, a prolonged investigation produces many reports over time and which contain many statements of victims, suspects, and witnesses, a good practice is to provide the prosecutor with a case summary that sets forth, in an easily referenced document, the individual names of the victim(s) with a description of the charge suggested for prosecution and brief summary of the elements.

Once submitted for review, the prosecutor will also likely consider the potential long-term harm to the victim if the case is not pursued, such as whether the offender will have ongoing opportunities to continue to abuse the child physically, emotionally, or in any other way.

Although a trial is stressful in the short term, many children do well if properly prepared and the long-term benefits often outweigh any short-term anxieties. Investigators can help the prosecutor by being familiar with the pre-trial motions that can be filed to ease the stressors of testifying as well as trauma-informed practices of preparing a child for court.

Guideline 125: California Criminal Jury Instructions (CalCrim) Overview

In addition to knowing the elements of the crimes listed in the Penal Code, Health and Safety Code and other California Codes, all peace officers should be familiar with the California Criminal Jury Instructions (CalCrim, formerly CalJic). The California Criminal Jury Instructions contain the elements of each crime the prosecution (and therefore the investigating officer) must prove beyond a reasonable doubt in order to secure a conviction.

Law enforcement officers investigating allegations of child abuse must be knowledgeable of each of the elements required to be met in each crime. It is strongly recommended that officers download a free copy of the [California Criminal Jury Instructions](#) for their personal use.

The CalCrim sections specifically related to child abuse and sexual assault begin with Instruction 1000. Important instructions include:

1190 – Other evidence not required to support testimony. Conviction of an assault crime can be based on a witness alone

1191 – Evidence of prior acts ([1108 EC](#))

1191 – A charged offense as evidence of pre-disposition

1193 – Child Sexual Abuse Accommodation Syndrome and the Believability of a Child

1110 – Lewd Act on a Child ([288\(a\) PC](#))

1111 – Lewd Act on a Child by Force or Fear ([288\(b\)\(1\) PC](#))

1112 – Lewd Acts on a Child 14 or 15 years old ([288\(c\) PC](#))

1120 – Continuous Sexual Abuse ([288.5 PC](#))

CHAPTER 21

Testimony and Trial

Guideline 126: Preparing for Trial

When a matter is set for trial, the investigator should consider contacting the prosecutor in advance to determine exactly what the attorney will expect of the investigator during trial. Many prosecutors desire the investigating officer to sit with them at the counsel table. It is incumbent upon the investigator to determine how the prosecutor intends to be assisted during the course of the trial. Some DA's offices have investigators who will also assist during the trial and it is of great value that the investigator participate in the trial preparation.

When the investigator meets with the prosecutor who is preparing for trial, a good practice is to ask what the prosecutor needs to prove, and what issues the prosecutor sees that will be raised by the facts and circumstances of the case that may arise during the trial. At that time, the investigator will have the ability to consult with the attorney to consider what may be done to overcome any pitfalls or stumbling blocks the attorney has identified.

It is also important to be sure that the prosecuting attorney knows about and has examined all of the evidence and the investigator's view of its importance or significance. Do not assume that the prosecutor knows everything that the investigator knows. It is a critical mistake in child abuse cases to assume that, unless the prosecutor litigates only abuse cases, they are aware of the things of which the investigator knows.

The investigator should re-read all reports prior to meeting with the DA. The investigator should ensure that the prosecutor has all the the evidence that is available for examination, as well as the reports that have been generated by the agency. If the DA or the DA investigator has not reviewed the statements taken from the players and witnesses, the investigator should recontact them and review those statements with the individuals to assure accuracy (if not done immediately after original preparation), to see if they have learned or remembered anything new or different and report any changes to the prosecutor.

If there is a multidisciplinary forensic interview of the victim in the case, the officer should review the recorded interview and become acquainted with what the victim has said.

If an officer has given testimony in the case previously (usually at a preliminary hearing or motion to suppress), it is a good idea to obtain a copy of the transcript from the DA and read it over carefully. This will also help bring the facts into focus. In addition, the officer may notice that something he said at the hearing was incorrect. If so, the officer should be sure to tell the DA so the jury will hear about the mistake from the prosecution—not the defense.⁴⁹

49 Alameda County District Attorney, Point of View, Summer, 1999

Guideline 127: Courtroom Testimony

Testimony from a law enforcement officer has certain expectations that are drawn from the ethical constraints in which law enforcement officers operate, the policies and practices each agency work under, the law itself and, lastly, the public's perception of what law enforcement is about, mostly gained from television, movies, and the media. Unfortunately, for those who have had bad experiences with law enforcement, there are negative expectations of a law enforcement officer's testimony.

To ensure that all expectations, including the latter, are addressed, the testifying law enforcement officer must be professional, honest, transparent and above reproach. A law enforcement officer is expected to be an impartial investigator of fact. If all of the former concerns are met, one can only hope that those who have had bad experiences will be convinced that the testifying officer can be trusted.

The officer testifying, whether testifying as a percipient witness (fact witness) or as an expert witness (to be discussed below), will, generally, always be looked at as an expert. The public, and to a large degree the professionals who interact with law enforcement investigators, think of the officer as being well educated about child abuse dynamics, the nature of how child abuse crimes are committed by offenders, how to properly collect evidence, and how to describe, on the stand, all of these things in ways that are clear, concise and to the point. When any of these factors are missing or impugned by the defense attorney, the testifying officer will lose credibility, and a child may be at risk if the defense is successful in achieving an acquittal. Therefore, it is incumbent upon law enforcement officers who testify in court to follow certain practices to ensure they do not succumb to any of these concerns.

Whether in a preliminary hearing, evidentiary hearings or trial, officers should always demonstrate impartiality. There should be no indication of taking sides on the facts and they must be presented in as neutral a manner as possible. Phrasing of answers must be without judgment (except if specifically directed by the question) and presented in a straightforward manner. The facts of child abuse are shocking enough, and judgmental responses that include adjectives describing what was seen or found by the investigator that imply more than is obvious by the facts can lead to discrediting the testimony. The only time a judgmental opinion should be offered by the investigator is when directly asked by the examining attorney or when the testimony is considered "expert testimony" as described below.

One of the ways to ensure the image of impartiality is when interacting with the defense attorney and prosecutor. The testifying officer must treat each attorney in the same manner. An officer should never become defensive or demonstrate a negative attitude toward the defense attorney, such as a change in the tone of voice or body language. If the prosecuting attorney is addressed as "sir," "ma'am" or "counselor," call the defense attorney the same thing.

The point is to be a neutral observer and reporter of the facts. If an investigator exhibits traits that signal a personal interest in convicting the defendant, such a bias can, and often does, undermine the investigator's credibility. When the results of a trial rely upon the independence of the investigator's work, this can result in jurors discounting the investigator's testimony and any evidence produced by the investigator. This is especially true when the investigator's word

is questioned after an interview or interrogation with a suspect that was not recorded, and the defendant denies the statements or evidence the investigator has attributed to the suspect.

See article on [Testifying in Court, in Point of View, Alameda County District Attorney's Office, Winter 2018](#).

Guideline 128: Trial Dos and Don'ts

Do:

Do read your report several times to familiarize yourself with the facts.

Do know the content of your report(s).

Do look at your report when asked on the stand to quote a victim and/or suspect.

Do memorize important details like dates and times, day of the week, ages of the victim(s) during key events.

Do admit when you don't know the answer if you do not know it.

"I don't know" is a perfectly good answer provided it is not given to all questions a defense attorney asks. It demonstrates the investigator is willing to admit any fault they might have. The same with your memory. "I don't recall" is appropriate when there is no clear recall of an event. Once again, it lends credibility provided it is not repeated in response to many defense questions.

Admit when there are other interpretations of fact offered by the defense attorney. Again, it shows your impartiality. There is nothing wrong with admitting alternative explanations of fact. That will give the prosecutor the opportunity to come back to that subject to have you explain why such an alternative suggested by the defense is not plausible.

Do admit when errors are pointed out by the defense if they in fact are errors.

Do listen carefully to the questions posed by the defense.

Oftentimes, the attorney will ask the same question worded differently in hopes of getting a different answer. Be sure that the words used by the attorney to describe the subject of the question are what you either testified about or are factual and not incorrectly altered in some way that favors the defendant.

Do ask for an opportunity to refresh your memory from your report or other documentation if you don't recall a specific fact or circumstance mentioned in a question.

Do appear to be interested in each question and answer in a fashion that is not monotone or curt.

Do sit straight and lean slightly forward indicating your interest.

Do look at the jury as you speak if the answer requires a narrative or lengthy description to show your interest in conveying what you are saying to them.

Don't:

Don't memorize facts such as license plate numbers, quotes from the victim and/or suspect. To do so could be interpreted as having been rehearsed.

Don't be evasive. If a question isn't sufficiently clear or confusing, ask for clarification.

Don't volunteer information. Answer only the question presented to you.

Don't get angry.

Don't argue with the defense attorney.

Don't make snide remarks or inflection of tone that is demeaning or dismissive.

Do not guess a response to a question. If you are not sure, ask to have your memory refreshed. Remember, most questions will have come from some documentation the defense attorney has reviewed.

Do not try to anticipate or guess where the defense attorney's questions are leading. Simply answer the question that is posed to you at the time.

Unless asked directly for your opinion or conclusion, do not state your opinion or conclusion.

Guideline 129: Expert Testimony

Oftentimes, child abuse investigators are asked for their opinions as experts. An expert witness is different from a lay witness in that the expert may offer opinions that are based upon facts they did not personally experience, but instead on their relevant professional experience and training. California's Evidence Code defines expert testimony as follows:

Evidence Code Section 801, states:

"If a witness is testifying as an expert, his testimony in the form of an opinion is limited to such an opinion as is:

- (a) Related to a subject that is sufficiently beyond common experience that the opinion of an expert would assist the trier of fact; and
- (b) Based on matter (including his special knowledge, skill, experience, training, and education) perceived by or personally known to the witness or made known to him at or before the hearing, whether or not admissible, that is of a type that reasonably may be relied upon by an expert in forming an opinion upon the subject to which his testimony relates, unless an expert is precluded by law from using such matter as a basis for his opinion."

Law enforcement investigators are often asked to testify about the significance of evidence, common experiences of abuse victims (syndromes or counterintuitive conduct), grooming behaviors and modus operandi characteristics of offenders. These are the kinds of things that are beyond the experience of the jury (and often the judge), and they require special knowledge

investigators gain from the specialized training they have taken and their own experiences.

In preparing for expert testimony, it is imperative that the investigator meet with the prosecuting attorney in advance and for the officer to learn exactly what the prosecutor needs to prove or establish for the jury. An expert law enforcement officer testifying before a jury will be a teacher, instructing the jury on certain areas they will, highly likely, have never experienced. The testimony will be intended to educate the jury so as to be able to see the case with a new set of eyes adjusted such that things they might not have understood become clear to them.

The form of the questions posed to such an expert witness may be based upon the actual facts of the case or upon hypothetical facts as made by the attorneys (both prosecutors and defense attorneys may call an officer as an expert). When responding to questions posed on these issues, it is critically important to pay attention to the facts that are stated in the question. The responses given to those questions must state how the facts can be interpreted, explaining the basis of the opinion, either on research known to the investigator or the investigator's training and experience, or any combination of the aforementioned factors.

When testifying as an expert it is especially important for the witness to be an impartial interpreter of the facts and willing to concede there are other possible alternative conclusions. A defense attorney will very likely pose various options that favor the defendant. However, as an expert witness, when given an implausible option to consider, it is not impermissible to explain immediately why that alternative is inappropriate. In doing so, politely decline to accept the supposition or premise posed and explain why its premise or proposed conclusion is faulty. It is important to be careful not to overstate the evidence.

Here is how our Supreme Court described the function of a police officer's testimony as an expert in a sexual abuse case. First, they described why the officer was qualified as a witness:

“The prosecutor proposed to call Police Officer Jeffrey Miller as an expert on child molestation investigations. Defense counsel examined Officer Miller at length on voir dire. It appeared from such examination that the witness had received from 350 to 400 hours of specialized training in such topics as juvenile and adolescent psychology, physical, sexual or emotional abuse of children, intervention in family crisis situations, investigation of child abuse charges, behavioral responses of child abuse victims, and the dynamics of child abuse offenders. Officer Miller received his training not only from law enforcement personnel but also from physicians, social workers, probation officers, school administrators, attorneys and judges. The witness put his training to use on a daily basis in his work as the juvenile investigator for his local police department, and in that capacity, he had investigated over 100 cases of child abuse or molestation during the preceding 4 years. He had also taught and spoken extensively on the topic, and had testified several times as an expert witness.” *People vs McAlpin* (1991) 53 Cal.3d 1289, 1298

Then the Court discussed why his testimony would be important [and the reason officers are often called to testify as an expert in child abuse cases]:

“Most jurors, fortunately, have been spared the experience of being the parent of a sexually molested child. Lacking that experience, jurors can rely only on their intuition or

on relevant evidence introduced at trial. It is reasonable to conclude that on the basis of their intuition alone many jurors would tend to believe that a parent of a molested child, naturally concerned for the welfare of the child and of other children, would promptly report the crime to the authorities, just as a parent would be likely to do if the child complained of someone who had beaten him or stolen his pocket money. Yet here the prosecution had evidence to the contrary—the expert opinion of Officer Miller that in fact it is not at all unusual for a parent to refrain from reporting a known child molestation, for a number of reasons. Such evidence would therefore “assist the trier of fact” (Evid. Code, § 801, subd. (a)) by giving the jurors information they needed to objectively evaluate Anita’s [the mother’s] credibility. And the evidence was clearly relevant . . . because it tended to rehabilitate the testimony of Anita as a corroborating witness.” 53 Cal.3d 1289, 1302

For the occasions that the officer is called to testify as an expert, it is helpful to have a resume or curriculum vitae pre-prepared in order that the jury can see the expertise the investigator has in writing. Investigators who anticipate being called in such a capacity should keep track of all training and other relevant experiences they have during their career in order to have an adequate document for such purposes.

CHAPTER 22

Victim/Witness Requirements

Guideline 130: Victim/Witness Assistance Centers

There are 59 Victim/Witness Assistance Centers (VWAC) in California, one in each county's District Attorney's Office and one in the Los Angeles City Attorney's Office. Each VWAC works directly with the California Victim Compensation Program (CalVCP) to assist victims.

Investigating officers should provide victims and their families with information pertaining to the benefits afforded crime victims by the state of California. The victims should be referred to the VWAC in their counties.

Victims should also be given a copy of the *Marsy's Card* and Sexual Assault Victim's Bill of Rights

CHAPTER 23

Officer Wellness

Investigating child physical or child sexual abuse cases may mean the difference between life or death for children; at the very least, the abuse may have lifelong physical and psychological consequences for the children. The children are not they only ones impacted by the crimes committed against them. Those who respond to and investigate child abuse crimes may also be negatively impacted and can experience vicarious trauma.

The suicide rate among active and retired law enforcement officers, and child abuse investigators in particular, is significantly higher than among the general population.

Suicide Prevention and Mental Health Resources:

CopLine is an international law enforcement hotline that is manned by retired law enforcement personnel. It is completely confidential. It was established as a lifeline for police officers both active and retired across the USA and Canada. It is a non-profit organization providing 24/7 coverage of trained peer support volunteers to help callers navigate the many stressors they face on and off the job. They also provide referrals to vetted mental health professionals.

The *National Suicide Prevention Lifeline* is a national network of local crisis centers that provides free and confidential emotional support to people in suicidal crisis or emotional distress 24 hours a day, 7 days a week.

Other resources providing information and training to law enforcement officers and first responders include *The Pain Behind the Badge* and *CopsAlive*. The POST Course Catalog is another resource for officer wellness training courses.

Guideline 131: Vicarious Trauma (VT) and Compassion Fatigue (CF)

According to the **U.S. Department of Justice Office, of Victims of Crimes**, vicarious trauma is:

An occupational challenge for people working and volunteering in the fields of victim services, law enforcement, emergency medical services, fire services, and other allied professions, due to their continuous exposure to victims of trauma and violence. This work-related trauma exposure can occur from such experiences as listening to individual clients recount their victimization; looking at videos of exploited children; reviewing case files; hearing about or responding to the aftermath of violence and other traumatic events day after day; and responding to mass violence incidents that have resulted in numerous injuries and deaths.⁵⁰

Law enforcement officers, and specifically those investigating child abuse cases who have prolonged exposure to other people's trauma, can be vulnerable to vicarious trauma, which is also referred to as compassion fatigue. Those effected can experience acute symptoms that put

⁵⁰ Vicarious Trauma Toolkit, US Department of Justice

their physical and mental health at risk. In other words, *Vicarious Trauma (VT)* and *Compassion Fatigue (CF)* are the cost of caring for, or caring about, people who have been traumatized. The *Vicarious Trauma Toolkit (VTT)* is a resource provided by the U.S. Department of Justice, Office of Justice Programs.

Guideline 132: Signs and Symptoms of Vicarious Trauma (VT) and Compassion Fatigue (CF)

Law enforcement officers investigating child abuse cases (and their immediate supervisors and agency administrators) must be cognizant of and recognize the physical, behavioral and emotional/psychological signs and symptoms of vicarious trauma (VT), or compassion fatigue (CF), and develop a warning system.⁵¹

Reactions to VT or CF include:

- A. Social withdrawal
- B. Avoidance
- C. Excessive alcohol use
- D. Prescription drugs
 - 1. Anti-depressants
 - 2. Sleeping pills
- E. Weight gain or loss
- F. Sleep habits change
 - 1. Nightmares, exhaustion, flashbacks
- G. Spiritual detachment
 - 1. Used to love God, now hate God
- H. Moody
- I. Argumentative
- J. Road rage
- K. Impatient
- L. Develop biases
- M. Lack of trust
- N. Cynical
- O. Laugh at sadness
- P. Gambling
- Q. Domestic violence/intimate partner violence
- R. Child abuse
- S. Animal abuse
- T. Sexual dysfunction from looking at porn
- U. Addiction to idols, golf, TV, etc.

⁵¹ *Warning Signs of Vicarious Trauma/Secondary Traumatic Stress and Compassion Fatigue*, Amanda O'Handley (2017).

Investigators and supervisors should also know the difference between *Burnout* and VT/CF.

- A. Burnout can be fixed with time off, vacation, a change in jobs, etc.
 - 1. The changes to the brain as a result of burnout are not permanent, and the brain does not become damaged.
- B. On the other hand, VT/CF means the brain's "hard wiring" changes.
 - 1. Memories and flashbacks flood the mind and DON'T go away, even after self-medicating, drinking, or taking a vacation.

As a result of VT/CF, officers start slowly making excuses such as, "I'm fine," "I'm a professional and I can handle it," "It's stressful, but I am okay," and "I'm used to the stress."

Common responses from law enforcement and support systems after a single trauma incident include phrases such as, "Stay strong," "You'll be okay," "This will pass," "All we can do is pray," "Time heals all wounds," "Suck it up" "You knew this job was tough," and "If there is anything I can do, please let me know."

- A. If you are the one asking, don't ask, just do something.
- B. Take them to dinner, bring a meal, spend time with them, mow their grass, watch their kids for them for the weekend.

However, when a single incident turns into multiple incidents, they will eventually take a toll. The effects of VT/CF are cumulative and will manifest as time goes on.

Other stressors that can increase the negative effects of VT/CF include:

- A. Unit drama
- B. Dislike boss
- C. Dislike coworkers
- D. Caseload
- E. Do more with less
- F. No resources
- G. Caregiving to children
- H. Caregiving to elderly parents
 - I. Relationship problems
- J. Organizational complications

The toll the VT/CF takes on law enforcement officers compounds stress outside of work and impacts others. This results in The Ripple Effect, affecting family life, spouse or significant other, children, friends, and the organization.

Officers experiencing VT/CF often fail to recognize it and/or deny it. Officers should be aware of and recognize signs that VT/CF may be a problem:

- A. The boss suggests taking time off
- B. Co-workers offer to help
- C. Your pride says, "My unit/job/cases need me"

-
- D. You take a vacation and cannot stop thinking about work
 - E. You ignore your body's signals
 - F. You make excuses for your bad health or bad habits
 - G. Depression/hopelessness
 - H. Suicidal thoughts/attempts
 - I. Unhealthy sex life

Guideline 133: Child Abuse Investigator Wellness Tips

- A. Limit interactions with victim:
 - 1. Use advocates
 - 2. Limit your accessibility to victim
 - 3. Set boundaries with victim & their family members
 - 4. Work with non-profit crisis centers for victim services
 - 5. Use District Attorney Investigators (DIA) or District Attorney victim advocates to drive victim, call victim, etc.
- B. Evidence Collection/Evidence Review:
 - 1. Enlist co-workers for assistance to photo, impound or process the evidence in your child abuse case
 - 2. Limit video viewing
 - 3. Watch video evidence, specifically pornography in fast forward (this may reduce impact on your personal intimate relationships)
- C. Be aware of VT/CF and the effects of stress:
 - 1. Sights, i.e., seeing objects or behaviors that trigger negative memories
 - 2. Sounds
 - 3. Smells
 - 4. Touch
- D. Debrief (not just OISs, but every critical child abuse incident):
 - 1. Supervisors may consider allowing the officer to take time off to decompress and get counseling
 - 2. Peer Support Officer
 - 3. Wellness Unit employees
 - 4. PHD/therapists
 - 5. Chaplain
 - 6. Journalizing
- E. Units with child abuse detective may consider a custom wellness plan/strategy ahead of time:
 - 1. One size does not fit all
 - 2. Everyone is different
 - 3. Buddy system
- F. Educate yourself on what your agency has for wellness

G. Other tips:

1. Exercise
2. Develop hobbies with family
3. Stay connected with friends
4. Therapy
5. Write
6. Read
7. Turn phone off
8. Therapy dogs
9. Rhythmic chair
10. Remodel a room for wellness
11. Manage your exposure
12. Work in teams
13. Check your ego
14. Faith, etc.

APPENDICES

Appendix 1

Statutory Laws Pertaining to Child Abuse

Part A: California State Laws:

A. Penal Code Sections: Child Abuse

Child Sexual Abuse Statutes

1. *PC 288 (a)* Lewd Act on a Child
 - a. Touching +
 - b. Child Under 14 years old +
 - c. Intent to arouse, gratify self or child
 - d. With Specific Intent
2. *PC 288 (b)* Lewd Act on a Child with Force
 - a. Touching +
 - b. Child Under 14 years old +
 - c. Intent to arouse, gratify self or child
 - d. Touching done with force, violence, menace or fear of injury or death to child
 - e. Specific Intent
3. *PC 288 (c)(1)* Lewd Act on a Child
 - a. Touching
 - b. Victim is 14
 - c. Defendant is 10 years older
 - d. Specific Intent to arouse self or child
4. *PC 288.7* Sex with child 10 and under
 - a. Defendant over 18 and victim is 10 or under-sex or sodomy
 - b. Defendant over 18 and victim 10 or under-oral copulation or penetration with a foreign object
5. *PC 289* Penetration by Foreign Object
 - a. Purpose of sexual arousal, gratification, or sexual abuse
 - b. Participates in the act of penetration, however slight, of the genital or anal opening or causes a minor to penetrate defendant's or another person's genital or anal opening by any foreign object, substance, instrument, device or any unknown object
6. *PC 269* Aggravated Sexual Assault of a Child under 14
 - a. Defendant is 7 years older
 - b. Includes: rape, sodomy, oral copulation, sexual penetration

-
7. **PC 288.5** Engaging in Three or More Acts of Substantial Sexual Conduct with a Child under Age 14
 - a. Person resides in the home with the child or has recurring access to the child
 - b. Not less than 3 months in duration
 - c. Engages in 3 or more acts of substantial sexual conduct
 8. **PC 286(c)** Sodomy
 - a. Sexual conduct consisting of contact between the penis of one person and the anus of another person
 - (1) Sentencing range depends on the relative ages of the defendant and the victim
 9. **PC 287** Oral Copulation
 - a. Act of copulating mouth with sexual organ or anus of another, any contact, however slight, between mouth and sexual organ or anus of another is sufficient
 - b. Sentencing range depends on the relative ages of the defendant and the victim
 10. **PC 261.5** Unlawful Sexual Intercourse
 - a. Act of Intercourse with non-spouse under the age of 18
 - b. Determination of misdemeanor or felony depends on age differences
 11. **PC 647.6** Child Molesters
 - a. A person engaged in acts or conduct directed at child under 18 which would unhesitatingly disturb or irritate a normal person if directed at that person; and
 - b. The acts or conduct were motivated by an unnatural or abnormal sexual interest in the alleged victim;
 - c. Not necessary that child be actually disturbed
 - d. Can be a misdemeanor or felony if:
 - (1) Commits PC 647.6 after entering an inhabited dwelling
 - (2) Prior conviction for Misdemeanor PC 647.6. (16, 2, or 3)
 - (3) Prior convictions for other specified sex offenses: PC 261, 269, 285, 288a, 288.5, or 289 involving a minor under the age of 16, PC 288, or 311.4 involving a minor under the age of 14 years
 12. **PC 311** Obscene Matter
 - a. **311.3:** Develops, duplicates, prints, or exchanges any representation of information, data, or image of a minor under 18 engaged in an act of sexual conduct
 - b. **311.11:** Every person who knowingly possesses or controls any matter, representation of information, data, or image...that depicts a person under the age of 18, knowing that the person depicted is under the age of 18, personally engaging in or simulating sexual conduct is guilty of a felony or misdemeanor
 - c. **PC 311.4(a):** Employment/Use of Minors
 - d. To Aid in Distribution of Prohibited Materials

-
- e. *PC 311.4(b)*: Employment/Use of Minors-Posing/Modeling Involving Sexual Conduct For Commercial Purposes
 - f. *PC 311.4(c)*: Employment/Use of Minors-Posing/Modeling Involving Sexual Conduct
 - g. *PC 311.10*: Distribution of Obscene Matter Involving Minors
13. *PC 314* Indecent Exposure
- a. Person intentionally exposed his private parts in any place where there were other persons to be offended or annoyed
14. *PC 288.2, 288.3, 288.4* Child Luring Laws
- a. 288.2 Sending harmful materials with the intent to arouse/seduce a minor, can be through electronic means
 - b. 288.3 Contact with minor for a sexual purpose
 - c. 288.4 Arranging a meeting with a minor... (enhancements for priors, and actually showing up)
15. *PC 266j* Child Procurement
- a. Every person who intentionally gives, transports, provides, or makes available to another person, a child under 16 for the purpose of a lewd act
 - b. Offers to give, transport, provide, or make available to another person, a child under 16 for the purpose of any lewd act
 - c. Causes, induces, or persuades a child under 16 to engage in any lewd act with another
16. *PC 266h* Pimping
- a. Any person who, knowing another person is a prostitute, lives or derives support or maintenance in whole or in part from the earnings or proceeds of the person's prostitution, or from money loaned or advanced to or charged against that person by any keeper or manager or inmate of a house or other place where prostitution is practiced or allowed, or who solicits or receives compensation for soliciting for the person, is guilty of pimping

Physical Abuse and Neglect Statutes

1. *PC 273a* Abusing or Endangering the Health of a Child
- a. Willfully inflicts, causes or permits unjustifiable physical pain or mental suffering, or
 - b. Having care and custody of child, willfully cause or permits person or health to be endangered, and
 - c. Conduct is under circumstances other than those likely to produce great bodily harm or death (Includes criminal negligence)
2. *PC 273ab* Felony
- a. Willfully inflicts, causes or permits unjustifiable physical pain or mental suffering, or

-
- b. Having care and custody of child, willfully cause or permits person or health to be endangered, and
 - c. Conduct is under circumstances likely to produce great bodily harm or death
3. *PC 273d* Felony to Inflict Corporal Injury Upon Child
 - a. Any person who willfully inflicts upon a child any cruel or inhuman corporal punishment or an injury resulting in a traumatic condition
 4. *PC 271* Child Under 14 years of Age- Abandonment
 - a. Every parent of any child under the age of 14 years, and every person to whom such child has been confided for nurture or education who deserts such child in any place with the intent to abandon

Welfare and Institutions Code

1. *W&I 300* – Defines under which circumstances minors may become dependents of the juvenile court
2. *W&I 305* – Defines under which circumstances peace officers may, without a warrant, take custody of a minor
3. *W&I 306* – Defines when CPS/CWS may, without a court order, take custody of a minor
4. *W&I 307* – Describes the procedure for peace officers after taking a minor into custody, per W&I 305

Evidence Code

1. *EC 782* – Procedure for the admission of sexual conduct of the complaining witness
2. *EC 1103(d)* – Evidence of victim's sexual conduct with anyone other than the defendant inadmissible to prove consent
3. *EC 1108* – Evidence of another sexual assault by defendant
4. *EC 1228* – Hearsay exception for fresh complaint of sexual abuse by a child under 12 years of age
5. *EC 1370* – Hearsay exception for infliction or threat of physical injury

Part B: Case Laws Relating to Child Abuse

Warrantless Entry

In re Dawn O. (1976) 58 Cal.App.3d 160

Reasonable suspicion of young child left alone in residence justifies warrantless entry. Reasonable suspicion in this case based on officer's return of lost five-year-old to residence at 10:30 p.m. and no answer when officer knocked on the door. Officer acted properly in entering to determine whether another child was alone inside.

Child Homicide

People v. Mincey (1992) 2 Cal.4th 408

First degree torture murder requires 1) the acts causing the death involve a high degree of probability of death and 2) the defendant committed the acts with the intent to cause cruel pain and suffering for the purpose of revenge, extortion, persuasion or for any other sadistic purpose. Intent to kill is not an element. Intent to inflict torture can be proved by the number and severity of the injuries, the length of time over which the injuries were inflicted, and the variety of objects used to inflict them.

People v. Salinas (1982) 131 Cal.App.3d 925

Implied malice can be based on the application of violent force to the body of a child, such as beating a four-year-old to death.

People v. Moten (1991) 229 Cal.App.3d 1318

Implied malice can be based on omission as well as an act, such as the failure of the caretaker to provide food and water for the child.

People v. Burden (1977) 72 Cal.App.3d 603

Implied malice can be based on act or omission of the secondary care giver (the father) as well as the primary care giver (the mother).

Physical Abuse/Neglect

Estelle v. McGuire (1991) 116 L.Ed.2d 385

A medical expert can state his or her opinion that the child was a victim of battered child syndrome. This opinion can be based on prior injuries as well as the current injuries. The identity of the perpetrator of the prior injuries need not be proved.

People v. Odom (1991) 226 Cal.App.3d 1028

Felony child endangerment requires a gross, reckless or culpable departure from ordinary due care resulting in a reasonable risk of great bodily injury, not actual injury. The risk of great bodily injury to a child was based on loaded weapons, faulty wiring and toxic chemicals in the defendant's meth lab/residence.

People v. Harris (1966) 239 Cal.App.2d 393

Risk of great bodily injury to a child found where residence was extremely filthy (unwashed clothes, old dried food, human and animal feces, flies and cockroaches).

Sexual Abuse

People v. McAlpin (1991) 53 Cal.3d 1289

Officer allowed to testify as expert witness on common reactions of children to sexual abuse (Child Abuse Accommodation Syndrome).

People v. Ewoldt (1994) 7 Cal.4th 380

Prior sex offenses of defendant admissible under Evidence Code Section 1101 (b) to show common plan or scheme, motive, and/or intent in charged offenses.

People v. Jones (1990) 51 Cal.3d 294

Child victim must be able to describe, 1) the types of conduct (e.g. sexual intercourse, oral copulation), 2) the number of acts (e.g., “every time we went camping”, “at least once a week”), and 3) the general time period within the statute of limitations (e.g., “every weekend after he came to live with us”, “the summer before I was in fifth grade”).

People v. La Fontaine (1978) 79 Cal.App.3d 176

Annoying or molesting a minor (Penal Code Section 647.6) can be verbal. Touching is not required.

Pretext Calls

Telish v. State Personnel Board (2015) 234 Cal.App.4th 1479, 1487-1494.

A participant in a telephone conversation, which otherwise would have been in violation of P.C. § 632, may properly record a telephone conversation at the direction of a law enforcement officer, acting within the course and scope of his or her authority, in the course of a criminal investigation.

People v. Towery (1985) 174 Cal.App.3rd 1114.

In finding that having an informant secretly record telephone conversations with the defendant, the court ruled that “the looseness of law enforcement direction to [the informant] in making the tape recordings properly goes to the weight given to those recordings and not their initial admissibility.” The court also rejected the claim that, because the recorded calls were not directly supervised by law enforcement, the recordings should be inadmissible.

Kearney v. Salomon Smith Barney, Inc. (2006) 39 Cal.4th 95.

The restrictions on eavesdropping apply for the benefit of a person outside the state as well, so long as one party to a telephone conversation is in California. **Note:** This is applicable if your caller (victim, witness, etc., is in another state, and the recipient of the call (suspect, other victim, accessory, etc.) is in California. In this situation, it is highly recommend to involve your District Attorney’s office prior to making the call.

People v. Clark (2016) 63 Cal.4th 522, 595-96.

A California law enforcement officer described under 633 PC may direct a person in California to record call(s) to a recipient (suspect) located in another state (in this case Nevada). As in Towery, the court also rejected the defendant’s claim that, because the recorded calls were not directly supervised by law enforcement, the recordings should be inadmissible.

People v. Trever P. (2017) 14 Cal.App.5th 486.

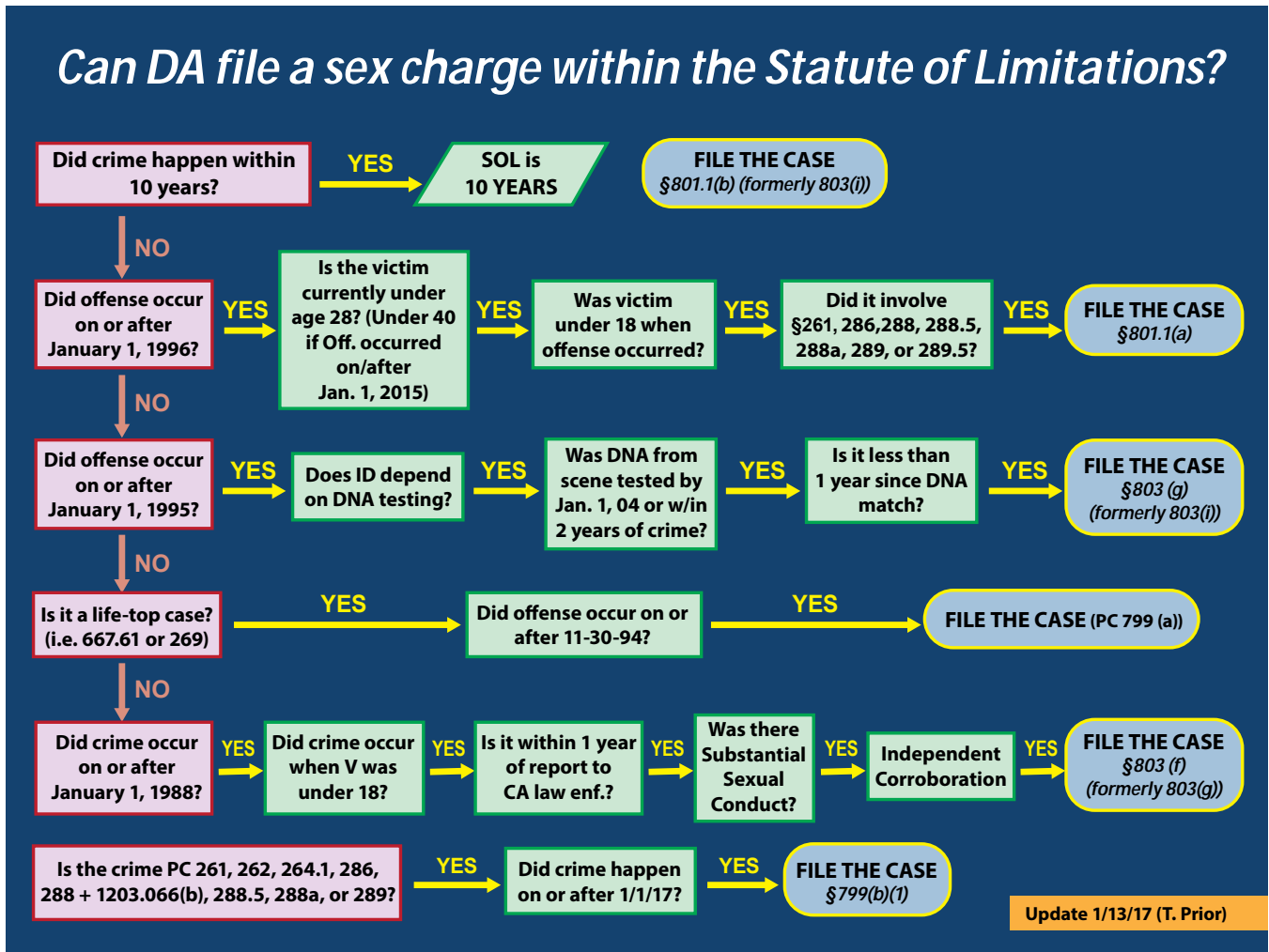
A juvenile child molest victim may be a party to a telephone conversation with her adult molester when the consent to recording the telephone call is given by the minor’s parent.

People v. Guzman (Dec. 11, 2019) 8 Cal.5th 673.

California’s “Right to Truth-in-Evidence” provisions abrogates the exclusionary provisions of Pen. Code § 632(d). Under Proposition 8, California does not have an

exclusionary rule based upon “independent state grounds.” The exclusion of illegally obtained evidence is pursuant to federal U.S. Constitutional principles only. Proposition 8 applies to both judicially created, as well as statutorily mandated, exclusionary rules. A tape recording of a P.C. § 632 confidential conversation is both relevant and the best evidence of what was said. Even though article I, section 28(f)(2) may apply to criminal proceedings only (as opposed to civil cases), a defendant’s equal protection and due process rights are not violated because criminal and civil defendants are not similarly situated. A criminal defendant’s “right to privacy” does not outrank Proposition 8’s “right to truth-in-evidence” provisions. Subsequent legislative amendments to P.C. § 632 do not serve to re-enact the section’s exclusionary provisions, even with a legislative vote of over 2/3’s majority, absent an expressed legislative intent to do so and so long as it continues to basically say the same thing.

Part C: Statute of Limitations Charging Flow Chart



CALIFORNIA CHILD ABUSE CRIME CHARGING SECTIONS

FELONIES:

- 1) PC 288(a) Lewd Act on a Child less than 14 years old
- 2) PC 288(b) Lewd Act on a Child less than 14 year old w/ force, violence, duress, menace or fear
- 3) PC 288.5 Continuous Sex Abuse of child <14 (3 acts + 90 days)
- 4) PC 286(c)1* Sodomy of a Child < 14, by someone 10 years or older than the victim
- 5) PC 287(c)1* Oral Copulation of child <14, by someone +10 years older (was: PC 2ssa before 1/1/19)
- 6) PC 289(a)1(C)* Sexual Penetration w/ force of a child <14 (but see 288. 7)
- 7) PC 236.1 Human Trafficking for sex

LIFE CRIMES:

- 8) PC 269 Sex Assault of Child that is <14 and >7 years older (rape, in concert, penetration, sodomy, oral cop or sexual penetration)
- 9) PC 209(b) Kidnap for sex or robbery
- 10) PC 288.7(a) Intercourse/Sodomy w/ victim 10 or younger
PC 288.7(b) Oral/Digital Penetration w/ victim 10 or younger
- ** PC 667.61 One Strike Sex Crimes: applies to 288(b), 289(a), 287(c)2, 3, (d), 288(a) BUT requires additional case facts such as: 209, 205, 206, 459/ 460, GBI, weapon, tying and binding, burglary, administration of drugs, or in concert, ALSO allowed if the defendant has a prior felony sex crime conviction; this allegation results in punishment ranges from 15- life to LWOP.

MISDEMEANORS:

- 11) PC 647.6 Annoy or Molest of a child (<18)
- 12) PC 288(c)1 Lewd Act on a child 14/15 by >10 years older (wobbler)

* *Consider charging these crimes differently (as 288(a)'s or 288.7's) because additional facts required here.*

** *Not a charging section, as an allegation only; it is added to a base sex crime but elevates the punishment based on additional facts or priors.*

Pen. Code § 207, 207(b)	Kidnapping; kidnapping for child molestation
Pen. Code § 208(b)	Punishment for kidnapping; victim under 14 years of age
Pen. Code § 209(b)(1)	Kidnap for purpose of committing robbery, rape, spousal rape, oral copulation, sodomy, or any violation of Section 264.1, 288, or 289
Pen. Code § 220	Assault with intent to commit lascivious acts
Pen. Code § 220(b)	Penal Code § 220 in the commission of a residential burglary
Pen. Code § 236.1	Human trafficking and human trafficking of a minor for sexual exploitation
Pen. Code § 261	Rape defined
Pen. Code § 261.5	Unlawful sexual intercourse with person under 18; age of perpetrator; civil penalties
Pen. Code § 266	Inveiglement or enticement of unmarried female under 18 for purposes of prostitution, etc.; aiding and abetting; procuring female for illicit intercourse by false pretenses; punishment
Pen. Code § 266h	Pimping and pimping a minor; punishment
Pen. Code § 266i	Pandering and pandering with a minor; punishment
Pen. Code § 266j	Procurement of child under age 16 for lewd or lascivious acts; punishment
Pen. Code § 267	Abduction; person under 18 for purpose of prostitution; punishment
Pen. Code § 269	Aggravated sexual assault of a child; penalty
Pen. Code § 270	Failure to provide; parent; punishment
Pen. Code § 271	Desertion of child under 14 with intent to abandon; punishment
Pen. Code § 272	Contributing to delinquency of persons under 18 years; persuading, luring, or transporting minors 12 years of age or younger
Pen. Code § 273a	Willful harm or injury to child; endangering person or health; punishment; conditions of probation
Pen. Code § 273ab	Assault resulting in death of child under eight; imprisonment
Pen. Code § 273d	Corporal punishment or injury of child; felony; punishment; enhancement for prior conviction; conditions of probation
Pen. Code § 273e	Places of questionable repute; minor not to deliver messages, etc., or enter
Pen. Code § 273f	Sending minors to immoral places
Pen. Code § 273g	Immoral practices or habitual drunkenness in presence of child in care or custody; misdemeanor
Pen. Code § 278	Noncustodial persons; detainment or concealment of child from legal custodian; punishment
Pen. Code § 278.5	Deprivation of custody of child or right to visitation; punishment

Pen. Code § 278.7	Exception; belief of bodily injury or emotional harm; report by person taking or concealing child; confidentiality
Pen. Code § 285	Incest
Pen. Code § 286(b)-(d)	Sodomy (with minor); punishment
Pen. Code § 288	Lewd or lascivious acts on child or dependent person; penalties; prevent psychological harm to victim
Pen. Code § 287	Oral copulation (with minor); punishment
Pen. Code § 288.1	Lewd or lascivious acts; suspended sentence; report on mental condition as prerequisite
Pen. Code § 288.2	Harmful matter sent with intent of seduction of minor [amended 2012]
Pen. Code § 288.3	Luring a minor
Pen. Code § 288.4	Contact with minor with intent to commit sexual offense; punishment
Pen. Code § 288.5	Continuous sexual abuse of a child
Pen. Code § 288.7	Intercourse, sodomy, sexual penetration, or oral copulation of child under the age of 10
Pen. Code § 289(a); (h-j)	Sexual penetration (on minor); punishment
Pen. Code § 311 et seq.	Sexual exploitation of minor
Pen. Code § 647.6	Annoying or molesting a child under 18; punishment
Pen. Code § 653b	Loitering, about schools or public places; registered sex offenders; punishment
Pen. Code § 653f(c)	Soliciting commission of certain offenses (including lewd act or forcible penetration against a minor); punishment; degree of proof
Fam. Code § 6250 et seq.	Emergency protective order for child abuse and child abduction
Fam. Code § 6500	Minor defined
Fam. Code §§ 6927; 6928	Consent of minor for treatment of rape or sexual assault
Pen. Code § 288.1	Lewd and lascivious acts, report on mental condition a prerequisite to probation
Pen. Code § 294	Conviction of sexual offenses; restitution fine; transfer to children's trust fund for child abuse prevention purposes
Pen. Code § 667.15	Exhibiting harmful matter to a minor, additional term
Pen. Code § 667.51	Lewd or lascivious act with child under 14; enhancement for prior convictions
Pen. Code § 667.6	Prior sex offenses (including against minors); enhancement of prison terms for new offenses; consecutive terms for certain offenses

Pen. Code § 667.61	One Strike felony sex offenses (including against minors); punishment; specified circumstances; probation; striking offenses
Pen. Code § 667.71	Habitual sexual offender
Pen. Code § 667.8	Kidnapping victims to commit felony sexual offenses; victims under 14 years of age at the time offense committed; additional terms
Pen. Code § 674	Defendant is daycare provider and the victim is a minor; additional term
Pen. Code § 675	Additional term of imprisonment for specified sexual offenses committed with minor for money or other consideration
Pen. Code § 784	Jurisdiction for kidnapping; false imprisonment; seizure for slavery; abduction
Pen. Code § 784.5	Jurisdiction for child abduction
Pen. Code § 784.7	Jurisdiction for more than one violation of enumerated sexual, domestic, harm to child, human trafficking, and stalking offenses; jurisdiction
Pen. Code § 799	Statute of limitations for crimes punished by death or life imprisonment
Pen. Code § § 801.1; 801.2; 802(b); 803	Statute of limitations and tolling provisions
Pen. Code § 859.1	Confidentiality of testimony of minors who are victims of sexual and other offenses
Pen. Code § 868.5	Supporting person; attendance during testimony of prosecution witness; specified offenses
Pen. Code § 868.7	Examination closed to public during witness testimony; prosecutor motion; conditions
Pen. Code § 868.8	Precautions and protections for minors who are victims of certain crimes
Pen. Code § 1000.12	Referral to counseling or psychological treatment in lieu of prosecution for physical abuse or neglect; deferral of judgment in lieu of trial; dismissal of charges; eligibility standards
Pen. Code § 1048	Calendar priority for cases where minor is witness or victim
Pen. Code § 1170.71	Lewd or lascivious acts with child under age 14; use of obscene or harmful matter: aggravation of crime
Pen. Code § 1202.4(f)(3)(F)	Restitution for non-economic losses; Penal Code § 288 crimes
Pen. Code § 1203.065	Probation prohibited for certain sex offenses
Pen. Code § 1203.066	Lewd or lascivious acts or continuous sexual abuse of child under 14; probation, suspension of sentence, and striking of finding prohibited

Pen. Code § 1203.067	Sex offender treatment program must be imposed if probation granted. Probation for specified felony offenders; court procedures; child molestation and sexual offender treatment programs
Pen. Code § 1203.1g	Sexual assault on minor; restitution for costs of medical or psychological treatment of victim; condition of probation
Pen. Code § 1203.1h	Payment of medical exam costs to law enforcement upon conviction of child abuse or neglect or child molestation
Pen. Code § 1346	Videotaped examination at preliminary hearing when victim is 15 years of age or less
Pen. Code § 1347	Examination of child witnesses by closed-circuit television
Pen. Code § 11164 et seq.	Child abuse or neglect mandatory reporting
Pen. Code § 11167.5	Confidentiality and disclosure of reports
Pen. Code § 11174.32 et seq.	Interagency child death team; autopsy protocol; records disclosure; other information
Welf. & Inst. Code § 300	Children subject to jurisdiction; legislative intent and declarations; guardian defined
Welf. & Inst. Code § 324.5	Lance Helms Child Safety Act; medical examination of child in protective custody when child abuse suspected
Welf. & Inst. Code § 355.1	Injuries or detrimental condition resulting from those who have care or custody as prima facie evidence; presumptions and burden of proof

Appendix 2

Child Abuse Reporting Forms

Suspected Child Abuse Report (SS-8572) (pdf)

Child Abuse or Severe Neglect Indexing Form (BCIA 8583) (pdf)

Facsimile Inquiry for Child Abuse Central Index (CACI) Search (BCIA 4084) (pdf)

Child Abuse Central Index Self Inquiry Form (BCIA 4056) (pdf)

Notice of Child Abuse Central Index Listing (SOC 832) (pdf)

Grievance Procedures for Challenging Reference to the CACI (SOC 833) (pdf)

Request for Grievance Hearing (SOC 834) (pdf)

Appendix 3

Medical Reporting Forms

Domestic Violence/Intimate Partner (IPV) Examination CAL OES 2-502 (pdf)

Protocols for Suspected Child Physical Abuse and Neglect CAL OES 2-900 (pdf)

Mandated Suspicious Injury Report CAL OES 2-920 (pdf)

Acute (<120 Hours) Adult/Adolescent Sexual Assault Examination CAL OES 2-923 (pdf)

Abbreviated Adult/Adolescent Sexual Assault Examination CAL OES 2-924 (pdf)

Invoice for CAL OES 2-924 Exam Reimbursement Only (pdf)

Non-Acute (>120 Hours) Child/Adolescent Sexual Abuse Examination CAL OES 2-925 (pdf)

Sexual Assault Suspect Examination CAL OES 2-950 (pdf)

Appendix 4

Triage Information Form – Acute or Non-Acute Examination?

1. Disclosure of sexual abuse
 - a. Last contact with suspect was less than 120 hours: Immediate Acute Evidentiary Examination (EE)
 - b. Last contact with suspect was greater than 120 hours: Non-Acute Examination
 - (1) Exceptions (i.e., immediate Acute EE even if greater than 120 hours):
 - (a) Within seven days, known sexual contact with bodily fluids
 - (b) Within 14 days, pain, bleeding, or discharge
 - (c) Within any timeframe, ongoing unexplained complaints of pain, bleeding, discharge
 - (d) Recent positive cultures for Neisseria Gonorrhoea or Chlamydia
2. No disclosure, but reasonable suspicion of sexual abuse within last 120 hours: Immediate Acute EE
 - a. Indicators of potential sexual abuse:
 - (1) Pain
 - (2) Bleeding
 - (3) Discharge
 - (4) Blisters
 - (5) Injuries (e.g., abrasions, bruises, lacerations)
 - (6) Mismatch between provided history and extent of acute injuries
3. Behavioral changes alone do not generally warrant an immediate Acute EE, but should be explored for underlying reason(s):
 - a. Precocious sexual activity
 - b. Eating disorders
 - c. Unusual fears
 - d. Unusual anger
 - e. Sleep disturbances
 - f. Toileting changes
 - g. Avoidance behaviors

Appendix 5

Miranda (Fifth and Sixth Amendment Rules)

California Peace Officers Legal Sourcebook (CDAA/California DOJ) – available through CopWare

Miranda and the Law, The Fifth Amendment, A Legal Update, 6th Edition, July 2020. Phillips, Robert; DDA (Retired) San Diego District Attorney's Office, through Legal Update Online

Welfare and Institution Code section 625.6 (effective January 1, 2021)

Before this amendment, the statute had required that, prior to a custodial interrogation, and before the waiver of any Miranda rights, a youth 15 years of age or younger must consult with legal counsel in person, by telephone, or by video conference. This consultation could not be waived. Now the statute has been amended to raise the age of the minor from 15 to 17. The result is that this statute now applies to all minors, and no minor may undergo custodial interrogation or waive Miranda rights without first consulting with legal counsel. The statute continues to state that this consultation cannot be waived.

The court, in determining whether the juvenile's statements made to law enforcement will be admissible, is required to consider this lack of consultation with legal counsel. The lack of consultation with legal counsel can also be considered by the court in determining the credibility of any officer, under Evidence Code section 780, who willfully failed to comply with the consultation requirement. The legislative history states: "The research suggests that because adolescents are more impulsive, are easily influenced by others (especially by figures of authority), and are less able to weigh in on the long-term consequences of their actions, they become more receptive to coercion. The context of custodial interrogation is believed to exacerbate these risks."

The statute continues to provide certain exceptions for this legal consultation requirement. The first exception is in situations where the officer who questions a youth reasonably believes the information sought is necessary to protect life or property from an imminent threat, and the questions are limited to those reasonably necessary to obtain that information. The second exception applies to probation officers who are exempt from the legal consultation requirement in the normal performance of their duties. Provisions of the Welfare and Institutions Code require a probation officer taking a minor into custody to advise the minor of his or her Miranda rights, including the right to have counsel present during the interrogation and that counsel will be appointed if the minor is unable to afford counsel.

Appendix 6

Developmental Characteristics of Children

The following information is taken from the *Child Abuse Prosecution Toolkit*, published by the Kentucky State Attorney General's Office and available free online.

Language and Development of Children and Adolescents

▶ **Preschool Children (Ages 3-5) might be able to state:**

- First name, age, and family members
- Who hurt or touched them
- Where they were hurt or touched
- Where they were when they were hurt or touched
- Whether event occurred “one time” or “more than one time”
- May give graphic, age-appropriate descriptions of body parts

▶ **Preschool Children (Ages 3-5) usually cannot state:**

- Colors, or names for all body parts
- How many times event(s) occurred
- Reliably sequence events or tell you when an event occurred

▶ **Challenges specific to this age group:**

- Language skills are widely variable and achieved at rapid rates
- Attention span is short, so interviews should be completed within 20 minutes and should focus on the “here and now”; yesterday is “a long time ago”
- Demonstrative gestures are frequent and sometimes more detailed than verbal accounts Are reluctant to say “I don’t know” or “I don’t understand your question”
- Able to recognize type of question (yes/no, “who” questions, etc.) and will sometimes try to “guess” the answer accordingly; for this reason, “yes/no” questions should be avoided
- Speech is often unintelligible

▶ **School-Age Children (Ages 6-11) Will be able to state everything that preschool children can plus:**

- Full name, ages, and members of family
- Colors, names for all body parts
- More details regarding type of abusive contact (bruising, bleeding, pain, etc.)
- Idiosyncratic details: what abuse felt like (conversations, smells, taste, etc.)

-
- Relative frequency of abusive events (daily, weekly, monthly, etc.)
 - Age abuse began and ended
 - Physical and behavioral symptoms
- ▶ **Might not be able to state/understand:**
- Exact dates or abusive events in the correct sequence, if chronic
 - Precise time frames for physical and behavioral symptoms
 - Abstract concepts such as (such as “what is truth?”), relations of time, speed, size, duration
- ▶ **Challenges specific to this age group:**
- Family responses and degree of belief are most important and can modify willingness to talk
 - May not understand why they are not to blame for the abuse or family reactions
- ▶ **Adolescents (Ages 12-17) Will be able to state everything that school-age children can plus:**
- More idiosyncratic/experiential details
 - Usually understand relations of time, speed, size, duration
 - Might not understand abstract concepts consistently
- ▶ **Challenges specific to this age group:**
- Will sometimes provide excessive/extraneous details
 - Are generally unaware of adverse consequences of abuse (such as STIs) and might sensationalize information (“I may never get pregnant”)
 - Embarrassment more common and can compromise willingness to talk
 - Still very concrete, so terms such as “spank” and “rape” still need to be clarified
 - Very focused on peer approval and whether or not they are “normal” (physically and otherwise)
 - Concern about parental repercussions can compromise history about sexual activity

Developmental Characteristics of Children

Age	Social and Emotional Abilities	Physical Abilities
0 to 12 months	<ol style="list-style-type: none"> 1. Cries to protest or make needs known 2. Conscious and fearful of strange persons and/or settings 3. Knows familiar persons 4. Reacts to voice tones, understands some words 5. Imitates actions with hands and/or face 6. Cannot play with others 	<ol style="list-style-type: none"> 1. Progresses from lifting head to kicking and reaching to sitting 2. Explores toys and surrounding objects 3. Stands and then crawls 4. May begin walking 5. Begins single word speech 6. Birth weight <ul style="list-style-type: none"> - Doubles in first 6 months - Triples in first 12 months
12 to 24 months	<ol style="list-style-type: none"> 1. Responds to simple questions by pointing and jabbering 2. Seeks approval, affection, attention 3. Gives some affection 4. Plays independently 5. May resist parents' wishes 6. Cannot follow household rules 7. Loves rough-house play and chasing games 8. Trusts parents-invests in them magical abilities 	<ol style="list-style-type: none"> 1. Listens to others speaking; understands more than can verbalize 2. Sings 3. Rapid growth 4. Progresses through walking, running, jumping 5. Develops bowel control (toilet training) 6. Identifies body parts and functions 7. Finger dexterity improves-zippers 8. Throws objects
2 to 3 years	<ol style="list-style-type: none"> 1. Follows simple commands 2. Increasing interest in TV and radio-uses everyday words 3. Enjoys rhymes and counting 4. Starting to share and play with others 5. Separates from parents easily 6. Uses imagination and dramatic role play 7. Begins to adhere to safety and health rules 	<ol style="list-style-type: none"> 1. Drops baby talk 2. Can string beads, do buttons 3. Can pedal a tricycle 4. Tumbles, dances, balances 5. Feeds self 6. Draws some shapes and objects

Age	Social and Emotional Abilities	Physical Abilities
3 to 4 years	<ol style="list-style-type: none"> 1. Begins using complete sentences to indicate needs (verbal skills may imply better comprehension than actually exists) 2. Plays with others, more able to share 3. Can control emotions 4. Shows affection and concern for adults, younger children, and animals 	<ol style="list-style-type: none"> 1. Draws simple persons-more identifiable 2. Climbs, tumbles, balances 3. Takes apart and reassembles toys 4. Dresses self
4 to 5 years	<ol style="list-style-type: none"> 1. Participates in group play 2. Accepts some chores and supervision 3. Knows right and wrong 4. Takes some responsibility for self 5. Enjoys being silly and pleasing 6. Understands concept of sizes 7. Begins to be curious of the outside world 8. Relates to seasonal changes, weather, and time in a personal manner 9. Accepts connections between events, but does not understand causality 	<ol style="list-style-type: none"> 1. Plays sports, accurate with a bat 2. Improved eye-hand coordination 3. Identifies words, pictures, letters 4. Copies letters and numbers, writes down name 5. Develops interests in stories, and TV drama 6. Dresses and bathes self 7. Knows left and right 8. Draws accurately 9. Counts to 20 or more
5 to 6 years	<ol style="list-style-type: none"> 1. Identifies with parent's ideas, goals, and behavior 2. Begins to compete 3. Relates stories and events well 4. States feelings about self and others 	<ol style="list-style-type: none"> 1. Clear speech, can carry on conversations 2. Very active physically 3. Begins reading

Age	Social and Emotional Abilities	Physical Abilities
6 to 8 years	<ol style="list-style-type: none"> 1. Dawdles, easily distracted 2. Uses phone well 3. Boys and girls play together 	<ol style="list-style-type: none"> 1. Gets permanent teeth 2. Usually running, jumping, chasing 3. Adds 3 to 5 pounds a year 4. Curious about differences in sex and where babies come from 5. Teachers' opinions are very important 6. A lot of name calling and vulgar language 7. Likes dramatic play-role playing 8. Able to tell time, day of the week, month
8 to 9 years	<ol style="list-style-type: none"> 1. Develops modesty due to social pressure 2. Enjoys being in a group, but doesn't engage in real teamwork 3. Recognizes property rights 4. Sense of humor obvious 	<ol style="list-style-type: none"> 1. Ability to write progresses 2. Has approximately 10 permanent teeth 3. Likes games of coordination (hitting, catching balls) 4. Can swim, bicycle, and roller skate 5. Reads funnies, comics 6. Likes different people, places (American Indians, jungles, etc.)
9 to 10 years	<ol style="list-style-type: none"> 1. Few fears 2. Sex differences in play obvious 3. Has interests in clubs, gang activities 4. Spends time away from home-at camp, school, friends 	<ol style="list-style-type: none"> 1. Slower, sporadic growth 2. Requires more sleep and rest 3. Reading comprehension increases 4. Interest in how things are made, science, nature, mechanics

Age	Social and Emotional Abilities	Physical Abilities
10 to 12 years	<ol style="list-style-type: none"> 1. Teamwork begins in organized games, teams, clubs, groups 2. Privacy is more important 3. Shyness may develop 4. More complicated thinking-interested in facts primarily 5. Plans ahead 6. Criticizes own efforts 7. Understands human reproduction 8. Willing to work to earn money 	<ol style="list-style-type: none"> 1. Girls increase in weight 2. Boys increase in physical strength 3. Diligently perfects physical skills 4. Likes hazardous activities

Appendix 7


First Responder Minimal Facts Interview

SAN DIEGO COUNTY CHILD PROTECTION TEAM

MINIMAL FACTS FIELD INTERVIEW

An interview conducted in homes, schools and other locations to determine if a crime may have occurred, immediate protective actions, and if a Forensic Interview (FI) and/or medical examination is needed.*

GOAL: to minimize the number of interviews and interviewers that child victims/witnesses are exposed to in the course of the investigation in order to reduce trauma to child victims/witnesses and avoid contamination of investigation

WHEN SHOULD A MINIMAL FACTS INTERVIEW BE DONE?	
<p><i>FI criteria</i></p> <ul style="list-style-type: none">• SEXUAL ABUSE• Physical Abuse• Witness to violence• Anyone with DEVELOPMENTAL DELAYS	<p>If first responders can obtain the information needed from any credible adults, do not interview the child.</p> <p>Document the disclosure and notify supervisor and the Child Abuse Unit.</p> <p>A forensic interview should be scheduled*</p> <p>If it is necessary to gather information in the field for protective purposes or to make an arrest, conduct a minimal facts interview.</p> <p>Avoid extensively interviewing the child victim.</p>
<p> What language is child most comfortable speaking?</p>	
WHAT DO YOU NEED TO KNOW?	
<p><i>Minimal Facts Field Interview</i></p> <p>If credible adult can provide this information, you do not need to talk to the child</p>	<p>What happened?</p> <p>Who is the suspect?</p> <p>Where did the suspected abuse occur? (jurisdiction)</p> <p>When was the last incident/contact? (Sexual Assault Exam Guidelines)</p> <p>Is child physically and emotionally safe?</p>
AGENCY CONTACTS	
<p>For assistance with a case immediately contact supervisor or your agency's investigations unit</p>	<p>Name:</p> <p>Phone #:</p> <p>Name:</p> <p>Phone#:</p>

WHERE SHOULD MINIMAL FACTS INTERVIEW TAKE PLACE?

Considerations for a child-victim-centered approach:

Select location where child feels safe

- When possible, conduct interview in a neutral, child-friendly environment, away from where the abuse occurred
- Conduct interview away from alleged suspect, witnesses, and parents/guardians
- If interview is conducted at school, ask the child if they would like a support person/advocate present
- Minimize distractions

HOW TO QUESTION A CHILD VICTIM

DO build rapport with child- express interest in them as a person, not just as victim/witness

DO NOT introduce new information (words, sexual acts, concepts, etc) through words or actions

DO use the child's words

DO NOT ask questions related to time such as "How many times?", "What time?" or "How long?"

DO document child's statements as accurately as possible (audio recording or BWC best)

DO NOT summarize or paraphrase

DO remain neutral, objective, and supportive

DO NOT react to child's statements in ways that may minimize, blame, frighten, shame the child victim/witness or make assumptions about child's perception of the alleged abuse, incident, or suspect

Use Narrative Prompts and Open-ended Questions as much as possible.

Do not introduce new information to the child.

Examples

Tell me how come I came to talk with you today.

What happened?

Tell me about the last time that _____.

Who did you _____ to you?

Where were you when _____?

Listen and use child's own words

WHAT NEXT

Before leaving the scene

Adults should be reminded not to discuss the case in the child's presence or question the child further about the allegations. Caretakers should be encouraged to support and believe child, listen if child wants to talk, and later document what child shares. Provide information about next steps as appropriate.

**Forensic interviews and medical exams are scheduled and conducted at the Chadwick Center at Rady Children's Hospital in San Diego or Palomar Forensic Health Services in Escondido*

Appendix 8

Child Abuse Center/Advocacy Protocol Examples

San Diego County Child Victim Witness Protocol (pdf)

Monterey County Child Abuse Response Team Protocol (CART) 2019 (pdf)

Appendix 9

Child Forensic Interviewing

Child Forensic Interviewing: Best Practices (pdf)

Forensic Interviewing: A Primer for Child Welfare Professionals (pdf)

Sample Sexual Abuse Inquiry Questions from the Child Abuse Prosecution Toolkit, Kentucky State Attorney General's Office:

General Inquiry Questions

- “Tell me what happened when...”
- “Have you had any touches you didn't like or made you feel uncomfortable?”
- “How did the touching start? What happened next?”
- “What did (*suspect's name*) touch you with?”
- “You said (*suspect's name*) touched you with his (*child's name for suspect's body part*). Did (*suspect's name*) touch you with anything else?”
- “What did (*suspect's name*)'s hand/finger/(*child's word for penis*) do?”
- “What part of your body did (*suspect's name*) touch?”
- “How did the touching feel?”
- “How did it feel when (*suspect's name*) put his (*child's word for penis*) in your private spot?”
- “Did (*suspect's name*) touch you somewhere else on your body?”
- “Did you ever see (*suspect's name*) touch anyone else's private spot?”
- “Did anyone see (*suspect's name*) touch your private spot?”
- “Where were you when (*suspect's name*) touched your private spot?”
- “Did (*suspect's name*) touch your private spot?”
- “Did (*suspect's name*) touch your private spot when you were at any other places?”
- “Did (*suspect's name*) touch your private part once or more than once?”
- “Did (*suspect's name*) have you touch any parts of his body?”
- “How did your clothes come off?”
- “What did you see when you were in that room?”
- “What did you hear when (*suspect's name*) was touching your private spot?”

Penetration Questions

- “Where was (*suspect's name*)'s (*child's term for penis*)?”
- “Did (*suspect's name*)'s (*child's word for penis*) touch you anywhere?”
- “What part of your body did (*suspect's name*)'s (*child's word for penis*) touch?”
- “Did your (*child's word for own genitals*) hurt? What made it hurt?”
- “Did” (*suspect's name*)'s (*child's name for penis*) touch inside or outside your (*child's*

word for own genitals)? How did you know? How did that feel?”

- “Did (*suspect’s name*) ever put anything else inside that part of your body? Did (*suspect’s name*) ever put anything on that part of your body?”
- “Did (*suspect’s name*)’s (*child’s word for penis*) touch you on your clothing or on your skin?”
- “Did (*suspect’s name*) put anything on his (*child’s word for penis*)? What did it look like?”

Erection/ Masturbation Questions

- “What did (*suspect’s name*)’s (*child’s word for penis*) look like?”
- “Were there any marks on (*suspect’s name*)’s (*child’s word for penis*)?”
- “Tell me more about what (*suspect’s name*)’s (*child’s word for penis*) looked like.”
- “Did (*suspect’s name*) want you to touch him anywhere? How did he want you to touch him?”
- “Did (*suspect’s name*) want you to touch his (*child’s word for penis*) in a certain way?”
- “What did (*suspect’s name*) do while he made you do that?”
- “What did (*suspect’s name*) say when he made you do that?”
- “How did (*suspect’s name*)’s (*child’s word for penis*) feel when you touched it?”
- “What did you hear when you were touching (*child’s word for penis*)?”

Ejaculation Questions

- “What happened to (*suspect’s name*)’s (*child’s word for penis*) after he made you touch it?”
- “What did he call the (*child’s word for semen*)?”
- “What do you call that stuff?”
- “Where did (*child’s word for semen*) come from?”
- “After (*child’s word for semen*) came out of (*child’s word for penis*) where was the (*child’s word for semen*)?”
- “What did (*child’s word for semen*) look like?”
- “What did (*child’s word for semen*) feel like?”
- “What did (*child’s word for semen*) taste like?”
- “Did (*suspect’s name*) say anything when (*child’s word for semen*) came out? Did (*suspect’s name*) make any noises/sounds?”
- “Did (*suspect’s name*) ask you to do anything after (*child’s word for semen*) came out?”
- “What did (*suspect’s name*) do after (*child’s word for semen*) came out?”

Nudity Questions

- “What were you wearing when...?”
- “What was (*suspect’s name*) wearing when...?”

-
- “Was there anything special about (*suspect’s name*)’s clothes?”
 - “How did your clothes come off?”
 - “How did (*suspect’s name*)’s clothes come off?”
 - “Were all of your clothes off?”
 - To clarify confusion about conflicting reports that her/his clothes were on, but penetration occurred ask: “You said your clothes were on. You said he put his (*penis name*) in your private spot. I don’t understand that part. Tell me more about that?”

Oral Contact/ French Kissing Questions

- “Did (*suspect’s name*)’s mouth touch you anywhere?”
- “What did (*suspect’s name*) do with his mouth?”
- “Did (*suspect’s name*)’s mouth touch any other parts of your body?”
- “Did (*suspect’s name*) want you to kiss him anywhere? Did (*suspect’s name*) want you to suck him anywhere else? Did (*suspect’s name*) want you to lick him anywhere else?”
- “What did (*suspect’s name*)’s mouth do? What did (*suspect’s name*)’s lips do? What did (*suspect’s name*)’s tongue do?”
- “How did (*suspect’s name*)’s mouth feel? How did (*suspect’s name*)’s lips feel? How did (*suspect’s name*)’s tongue feel?”
- How did (*suspect’s name*)’s kisses feel?”

Pornography Questions

- “Did (*suspect’s name*) show you any pictures/books/magazines/ movies/videos/ shows?”
- “What were the pictures/books/magazine/movies/videos/shows about?”
- “What did you see in the pictures/books/magazines/movies/videos/shows?”
- “Did (*suspect’s name*) show you anything when he (*child’s word for abuse*) you?”
- “Did (*suspect’s name*) take any pictures/videos/tik toks/snapchats? What did he take pictures/videos/tik toks/snapchats of?”
- “Where does (*suspect’s name*) keep the pictures/videos/tik toks/snapchats?”
- “Did (*suspect’s name*) show the pictures/books/magazines/movies/videos to anyone else?”
- “What were the movies/videos about?”
- “Where was the camera/phone when (*suspect’s name*) took pictures/videos?”

Possible Questions About the Child’s Fears for Reasons for Secrecy

- “Did someone tell you not to tell? Who? What did he/she say would happen if you told?”
- “Did you ever tell anyone besides (*name of person child most recently disclosed to*)? What happened after you told him/her?”
- “What made you decide to tell what happened?”

-
- “Do you know what a secret is? Tell me what it is.”
 - “Has someone asked you to keep a secret?” What was the secret?”
 - “Did (*suspect’s name*) tell you he would do something for you if you didn’t tell? What did he say?”
 - If child appears scared or you believe they have been threatened, you may say: “Sometimes kids are really scared to tell what happened to them. You seem scared to talk to me. Tell me about that.”

Possible Questions About Physical Abuse

- “What happens if you do something you’re not supposed to?”
- “What else happens when you do something you’re not supposed to?”
- “Who punishes you?”
- “What does (*the person named*) do?”
- “When was the last time (*suspect’s name*) (*child’s word for abuse*) you?”
- “What does (*suspect’s name*) use to (*child’s word for abuse*) you with?”
- “Where on your body does (*suspect’s name*) (*child’s word for abuse*) you? Any other places?”
- “How does that feel?”
- “What did you think about?”
- “What does (*suspect’s name*) do when your brother/sister does something he/she is not supposed to?”
- “What was the worst punishment you ever got? What had you done to get that punishment? What did (*suspect’s name*) say you did to get that punishment?”
- “Does (*suspect’s name*) ever say anything when he does that?” What does he say?”
- “Did anyone see (*suspect’s name*) do that to you? How do you know?”
- “What happened after (*suspect’s name*) did that to you? Did you go to the doctor/ hospital?”
- “Has anyone else done (*child’s word for abuse*) to you?”
- “Who spansks you? What does he/she spank you with?” Where on your body does he/she spank you? How does it feel?”
- (*If the child used the word hurt*) “Have you been hurt in any other way?”
- (*If the child has injuries such as bruises or scars, you may ask directly*) “How did that happen? or Tell me everything you remember about how you got that bruise.”

Possible Questions about Witnessed Abuse

- “Tell me what you saw when...?”
- “Tell me what you heard when...?”
- “Tell me about the other the times you saw...?”
- “Where were you when...?”

-
- “When (*suspect’s name*) did that, how did he/she look? What did he/she say?”
 - “Right after (*suspect’s name*) did that, what happened?”
 - “Did anyone else see (*suspect’s name*) do that?”
 - “Has (*suspect’s name*) ever done that to anyone else? Tell me all about that.”
 - “Have the police ever come to your house? Why did they come?”

Possible Questions About the Child’s Fears for Reasons for Secrecy

- “Did someone tell you not to tell? Who? What did he/she say would happen if you told?”
- “Did you ever tell anyone besides (*name of person child most recently disclosed to*)? What happened after you told him/her?”
- “What made you decide to tell what happened?”
- “Do you know what a secret is? Tell me what it is.”
- “Has someone asked you to keep a secret?” What was the secret?”
- “Did (*suspect’s name*) tell you he would do something for you if you didn’t tell? What did he say?”
- If child appears scared or you believe they have been threatened, you may say: “Sometimes kids are really scared to tell what happened to them. You seem scared to talk to me. Tell me about that.”

Discovering the Offender and Determining Who Was Involved

- “Did (*suspect’s name*) ever do anything else you didn’t like?”
- “Does anyone else know about (*child’s word for abuse*)? Who? How does he/she know?”
- “Who was the first person you told? Who was the first person you tried to tell? What happened after you told him/her?”
- “What did that person say/do?”
- “Was anyone else there when (*child’s word for abuse*) happened? What was/were he/she/they doing while (*suspect’s name*) (*child’s word for abuse*) you?”
- “Do you know if (*suspect’s name*) has done this to anyone else? Who? How do you know?”
- “Has anyone else ever (*child’s word for abuse*) to you?”
- “Has anything like (*child’s word for abuse*) ever happened to you before?”

Appendix 10

Trauma Informed Interview

Understanding the Neurobiology of Trauma and Implications for Interviewing Victims (EVAWI)
(pdf)

Appendix 11

Medical and Anatomical Terminology for Non-Medical Professionals

Abrasion - Superficial skin injury, would be expected to heal without scarring.

Acetic acid - Vinegar solution.

Adnexa - Accessory structures of the uterus tubes, ligaments and ovaries.

Adhesion - (labial agglutination) Fusion of labial lips (vulva), usually caused by irritation from any source. If extensive, prevents visualization of hymen and fossa navicularis. Present in up to 25% girls <5 years of age.

Anal Laxity/Spasm - Refers to tone of anal sphincter. May be in spasm if area traumatized recently. Similarly, may be lax area is repeatedly traumatized. Lack of tone, dilation generally up to 20 and if stool is present in rectum at time of exam all dilation may be normal.

Anal tag - Redundance of tissue in the anal verge this may be normal in females in the 6 o'clock and 12 o'clock position. This also may be abnormal in boys and girls out of these positions and is due to absence or destruction of elastic tissue beneath the tag.

Anal verge - The opening of the anus on the surface of the body.

Anemia - A reduction below normal number of erythrocytes, quantity of hemoglobin of volume of packed red cells (hematocrit) in children >10 gm/dl.

Annular - Completely circumscribes the vaginal opening.

Anus - Opening to rectum.

Bestiality - Sex with an animal.

Burns - The depth of a burn is a retrospective diagnosis. If it heals it was partial thickness; if it doesn't then it was full thickness. Burn depth is classified as:

Superficial - (old 1st degree) e.g. sunburn; temporary redness and discomfort.

Partial Thickness - Superficial (2nd degree) - most scald burns often forms blister in few minutes. Heals in 7-14 days with minimal scar.

Partial Thickness - Deep (2nd degree) - these heal after 14-21 days, often with considerable scarring if not excised and skin grafted.

Full Thickness - (3rd degree) whole skin loss. May look dark red or white opaque without blisters. Skin sensation is absent. Usually requires skin grafts or will heal very slowly (>21 days) with much scar formation.

Cervix - Portion below uterus (womb) that protrudes into upper vagina.

Chlamydia trachomatis - Generally sexually transmitted bacteria not part of normal flora

of vagina of children. May be transmitted to infants during passage through birth canal and theoretically carried in infants for about 1 year. Presence of chlamydia in children should be considered as possible sexual abuse.

Clitoris - Erectile tissue structurally analogous to male penis located above the urethra.

Colposcope - Magnifying binoculars with a fix focal length used to visualize genitals and cervix; most have camera attached.

Condyloma Accuminata (Human papilloma virus) - Sexually transmitted disease caused by papilloma virus. As with chlamydia, may be transmitted to infants during vaginal delivery if mother is infected. Also, should be reported regarding possible sexual assault. Incubation period about 6 weeks to 6 months. May be present up to 2 years from birth.

Contusion - Injury to a part without a break in the skin; a bruise.

Crescentic - Crescent shaped hymen usually not covering the most anterior portion of the vaginal opening.

Cribriform (fenestrated) - Multiple small openings.

CSF (Cerebral Spinal Fluid) - Fluid surrounds brain and spinal cord and protects brain by acting as a fluid cushion.

CT (Computed Tomography) - An imaging technique that uses ionizing radiation. An X-ray beam is passed through the patient from multiple points and is detected by a series of sensors arranged in a circle around the patient. A computer analyzes the information and constructs an image of great clarity. Water density can be distinguished from fresh blood and these can be distinguished from organs. Especially useful in cases of trauma, head, or abdomen, to demonstrate areas of hemorrhage, e.g., subdural blood, subarachnoid bleeds.

Cunnilingus - Oral stimulation of the female genitals. Oral sex; mouth to vulva. Dysuria Painful urination.

Ecchymosis - Small hemorrhagic spot, larger than a petechia.

Encopresis - Incontinence of feces not due to organic defect or illness.

Enuresis - Uncontrolled urination. If occurs during sleep, (nocturnal); may also occur during the day (diurnal).

Failure to Thrive - Failure to grow above the 5th percentile in height and weight or weight - >20% less than ideal weight on the growth curve, may be due to neglect, organic disease or both.

Follatic - Oral sex: mouth to penis.

Fimbriated - Fringed with many folds.

Fossa Navicularis - Concave area immediately below hymen and extends out to posterior fourchette.

Fracture - Break in bone. May be spiral caused by twisting motion: transverse-generally caused by a blow; metaphyseal - (corner fracture) lifting of small portions of end or large bones, caused by twisting of limb and almost pathognomonic for abuse.

Gardnerella vaginalis - Bacteria commonly found in sexually active females and found in some non-sexually active post pubertal females and occasionally found in young children. Colonization, not a specific marker for sexual abuse, but vaginitis may be.

Gonorrhea (*Neisseria gonorrhoea*) - Sexually transmitted disease- reportable disease. In young children, is due to sexual molestation.

Hematoma - A collection of blood in or around an organ, outside blood vessel, due to rupture of local blood vessels: usually caused by trauma. In child abuse, there may be subdural hematomas, duodenal hematomas, or subgaleal hematomas (under scalp due to hair pulling).

Hepatitis B - Viral disease. In adults may cause jaundice: may be transmitted sexually.

Herpes - Painful viral condition. Herpes 1 usually causes fever blisters. Herpes 2 is a sexually transmitted disease, reportable as suspicion for sexual activity.

Hymen - Fine membrane that separates external genitalia from vagina. All females are born with a hymen. Has many anatomic variations in size and shape. Major types are annular, oval, velamentous, crescentic, redundant, and fimbriated.

Imperforate Impetigo - Congenital absence of an opening; no hymenal opening.

Impetigo - Common superficial skin infection caused by bacteria, often circular in shape, and may be confused with inflicted cigarette burns.

Illegiaturia - Blood in urine (may indicate injuries to kidney or bladder).

Inguinal Adenopathy - Refers to lymph nodes found in the groin. May be enlarged if child has genital infection.

Labia Majora - Outer lips of the vulva.

Labia Minora - Inner lips of vulva. On young children, very short and found at either side just below clitoris. Grows down to join the posterior fourchette by puberty.

Laceration - Tear of skin, hymen, or other organ.

Malnutrition - Any disorder of nutrition.

Marasmus - Form of protein - caloric, malnutrition occurring chiefly in the 1st year of life with growth retardation and wasting of subcutaneous fat and muscle.

Midline Raphe - Normal palpable line, indicator of developmental fusion, extends from Posterior fourchette to anus in the female. In the male, this extends along base of penis from glans, divides the scrotum, to the anus.

Moniliasis - Yeast infection. *Candida albicans*.

MRI (Magnetic Resonance Imaging) - imaging technique which produces images of even greater clarity than CT scanning. A strong magnetic field is used to align hydrogen atoms. In cases of child abuse, can be helpful in dating onset of intracranial hemorrhages.

Osteogenesis Imperfecta - A congenital disease of varying severity characterized by easy fracturing of bones. Easy bruisability is frequent also. Generally, can be easily distinguished from child abuse by presence of blue sclera (white part of eye), characteristic X-ray changes, and often family history.

Pelvic Inflammatory Disease (PID) - Infection of fallopian tubes or ovaries and may cause pelvic abscess, caused by gonorrhea, chlamydia, or other mixed infecting organism.

Petechiae - Small blood spots under the skin, pinhead sized. May be caused by trauma, some infections, idiopathic thrombocytopenia.

Perineum - Area that extends from pubic bone anteriorly to the coccyx. Posteriorly bounded by the thighs on either side. Includes the vulva and anus.

Posterior Fornix - Vaginal cavity located beneath cervix in the female and the penis scrotum and anus of the male.

Posterior Fourchette - Area below fossa navicularis at point of fusion of labial minora in the adult female and the analogous area in the female child.

Retinal Hemorrhages - The retina is the delicate innermost layer of the eye. Retinal hemorrhages (or bleeding into the retina) are the most frequent eye manifestations of physical child abuse. In infants, retinal hemorrhages are most often caused by trauma and are seen in about 80% of the cases of the shaken infant syndrome.

Scrotum - Sac which contains the testes.

Septate - Divided by a band of hymen.

Shaken Infant Syndrome - A term to describe infants who present with the following:

1. Altered neurological status (varies in severity from deep coma to seizures to irritability)
2. Intracranial bleeding - subdural and/or subarachnoid hemorrhage
3. Usually retinal hemorrhages
4. No history or inadequate history to explain infant's condition
5. Sometimes other physical evidence of abuse such as rib fractures or metaphyseal fractures.

Sodomy - Anal sex; penis to anus.

Subarachnoid Hemorrhage - The arachnoid is a fine membrane that covers and is attached to the brain. Hemorrhages under this membrane are also frequently found in the Shaken Infant Syndrome.

Subdural Hemorrhages - The dura is a thick tough membrane that lines the skull. A subdural hemorrhage is a collection of blood between the dura and the surface the brain. It is the typical finding of the Shaken Infant Syndrome.

Synechiae - Small binding bands of scar tissue caused by irritation or trauma, e.g., resulting in membranous connection between two areas, hymen to the perihymenal wall.

Tanner Stages - A grading system for communicating level of sexual development. Tanner Stage I is the sexually immature child. Tanner Stage V, is fully sexually mature adult. Breast development in female is also given a Tanner Stage from I in the completely undeveloped child to V in the mature female.

Transection - Cut or tear through a tissue - a transected hymen has been penetrated.

Trichomonas Vaginalis - A sexually transmitted disease caused by a single-celled organism (a protozoan).

Toluidine Blue - A blue vital dye that stains the nuclei of cells. If skin or area remains blue after it is washed away, there has been abrasion or tearing enough to damage cell to expose the nuclei of deeper cells to staining. Indicative of micro-abrasion and fissuring after sexual intercourse.

Urethra - Tube leading from the bladder to exterior.

Urethral Meatus - Opening of urethra to the exterior in female, found inside labia, above vagina opening. In male, opens at tip of penis.

Vagina - Passage extending from hymen to the cervix.

Velamentous - Thin translucent, veil-like hymenal membrane. Vaginal opening not covered.

Vulva – The female genitalia.

Appendix 12

Glossary of Child Abuse Terms and Definitions

Abduction - See *Parental/Family Abduction*

Abusive Head Trauma (AHT) - Abusive Head Trauma, also known as Shaken Baby Syndrome, is an umbrella term used to describe injuries inflicted upon the skull, brain, eyes, and spinal cord as a result of shaking and/or trauma to the head. AHT is caused by vigorous/violent shaking which often includes blunt force impact.

Breath Play - The intentional restriction of oxygen to the brain for the purposes of sexual arousal.

Burnout - This term is for a more extreme circumstance. It describes anyone whose health is suffering or whose outlook on life has turned negative because of the impact of the overload of their work.

CANRA - Child Abuse and Neglect Reporting Act (11164 – 11174.3 PC)

CART - Child Abuse Response Team. See Multi-Disciplinary/Multi-Agency Investigation Teams.

Chicken - A young boy who is the object of a chickenhawk's sexual desires.

Chickenhawk - Refers to a child molester who targets young boys for homosexual relationships. This person usually has a specific age preference spanning two or three years.

Child - A person under the age of 18 years. (11165 PC)

Child Abduction - See *Parental/Family Abduction*

Child Abuse - Physical injury or death inflicted by other than accidental means upon a child by another person, sexual abuse, neglect, the willful harming or injuring of a child or the endangering of the person or health of a child, and unlawful corporal punishment or injury. (11165.2 PC)

Child Advocacy Center - A child-focused, community-based program that provides coordination between the various agencies and professionals responsible for responding to child maltreatment with the primary goal to prevent re-traumatization by the system response.

Child Endangerment - A situation in which any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation in which his or her person or health is endangered. (11165.3 PC)

Child Erotica - (Federal Bureau of Investigation definition) Refers to any material relating to children which serves a sexual purpose of a given individual.

Child Neglect - Refers to the negligent treatment of maltreatment of a child by a parent or caretaker under circumstances indicating harm or threatened harm to the child's health and

welfare. This includes both acts and omissions on the part of the responsible person. There are two categories of neglect: general child neglect and severe child neglect. Neglect is the most common form of child abuse. (11165.2 PC)

Child Pornography - Refers to any visual or print medium that depicts children under 18 years of age involved in sexually explicit activities. In most instances, child pornography includes photographs, films, video tapes or any digital media of children being sexually abused. The children represented in child pornography have not reached the age of consent (18 years of age). It may be commercial or non-commercial.

Child Sex Trafficking - Child sex trafficking refers to the recruitment, harboring, transportation, provision, obtaining, patronizing, or soliciting of a minor for the purpose of a commercial sex act. (USDOJ)

Child Sexual Abuse (CSA) - Rape, statutory rape, rape in concert, incest, sodomy, oral copulation, lewd or lascivious acts upon a child, sexual penetration, or child molestation. (11165.1 PC)

Child Sexual Abuse Material (CSAM) - Images depicting the sexual abuse and exploitation of children. (NCMEC)

Child Sexual Assault (CSA) - See *Child Sexual Abuse*

Child Sexual Exploitation - See *Sexual Exploitation of a Child*

Child Welfare (Protective) Services (CWS or CPS) - Refers to the agency that is charged with the responsibility for investigating child abuse for purposes of services and/or court dependency actions. Normally this includes all Section 300 (a-j) Welfare and Institutions Code dependencies and occasionally Section 601 and 602 Welfare and Institutions Code wards of the court. The four mandated program components of CWS are: Emergency Response, Family Maintenance, Family Reunification, and Permanent Placement. CWS agencies may provide other services such as prevention and education activities.

Choking - An obstruction in the upper airway that impedes oxygen intake during inhalation, which can occur accidentally or intentionally.

Choking Game - An activity that involves intentionally altering one's state of mind or consciousness to cause euphoria through temporary asphyxiation.

Commercially Sexually Exploited Children (CSEC) - Children who are sexually trafficked, or who receive food or shelter in exchange for, or who are paid to perform sexual acts. (236.1 PC; 11165.1 PC)

Commercial Exploitation of a Child - Sexual trafficking of a child, and/or providing food, shelter, or payment to a child in exchange for the performance of any sexual act. (11165.1 PC)

Compassion Fatigue - Suffering as a result of serving in a helping capacity.

Consanguinity - Persons having a blood relationship, such as parents and children, grandparents and grandchildren, great-grandparents and their great-grandchildren, siblings, half-siblings, and uncles/aunts and nieces/nephews.

CSA - See *Child Sexual Assault*

CSAM - See *Child Sexual Abuse Material*

Domestic Partner Violence (DPV) - Refers to any circumstance in which a person willfully inflicts corporal injury resulting in a traumatic condition upon the offender's spouse/former spouse, the offender's cohabitant/former cohabitant, the offender's fiancé/fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, or the mother/father of the offender's child. (273 PC)

Duress - A direct or implied threat of force, violence, danger, hardship, or retribution sufficient to coerce a reasonable person to do [or submit to] something that he or she would not otherwise do [or submit to]. When deciding whether the act was accomplished by duress, consider all the circumstances, including the age of the child and (his/her) relationship to the defendant.

Emotional Abuse/Mental Suffering - Refers to harm caused by a parent or caretaker to a child's mental health or well-being. Emotional abuse/mental suffering may take many forms: belittling, threatening, screaming, blaming, ignoring, inconsistent parenting, constant family discord, and others. The scars caused by this type of abuse may serve to cripple and/or handicap a child emotionally.

Emotional Deprivation - Describes the suffering by children when the parent or caretaker does not provide the normal experiences producing feelings of being loved, wanted, secure, and worthy. A graphic example of emotional deprivation may be a situation where the parents keep a child locked in a room or closet thus not allowing the child to be exposed to normal outside stimulation.

Endangerment - A situation in which any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation in which his or her person or health is endangered. (11165.3 PC)

Failure to Thrive (FTT) - Refers to a child who is much smaller than would be expected at a particular age. Non-organic FTT occurs when a child has been deprived of adequate nutrition and/or emotional nurturing. It is difficult for non-organic FTT to be diagnosed by physicians and very often requires hospitalization to obtain a diagnosis. Although FTT is a serious problem, an officer must be aware that there are many other conditions that may cause a child to appear smaller than is age appropriate. A doctor must diagnose FTT.

Family Abduction - See *Parental/Family Abduction*

Force - Physical force that is substantially different from or greater than that necessary to accomplish the act itself. When deciding whether the act was accomplished by force, consider all the circumstances, including the age of the child and (his/her) relationship to the defendant.

Forensic Interview - A forensic interview is a process of asking, when feasible, non-leading and age appropriate questions to determine whether a crime against a child has been committed or if a child is in need of protection. A forensic interview should be performed by someone who is specially trained in Child Forensic Interview Techniques (CFIT).

General Child Neglect - 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. (*11165.2 PC*)

Group Home - Is a facility licensed by the state that normally houses six or more children. The home has staff members who have received specialized training. Most often children placed in group homes have special needs or require special therapeutic treatment. They are unable to be placed in foster care or remain in their own homes.

Harmful Matter - When taken as a whole, which to the average person, applying contemporary standards, appeals to the prurient interest, depicts or describes in a patently offensive conduct and lacks serious literary, artistic, political or scientific value.

Incest - Defined as being within the degrees of consanguinity within which marriages are declared by law to be incestuous and void, who intermarry with each other, or who being 14 years of age or older, commit fornication or adultery with each other. (285 PC) The types of relatives who may not legally marry or have sex with each other are parents and children, grandparents and grandchildren, great-grandparents and their great-grandchildren, siblings, half-siblings, and uncles/aunts and nieces/nephews.

Inconclusive Report - A report that is determined by the investigator who conducted the investigation not to be unfounded, but the findings are inconclusive and there is insufficient evidence to determine whether child abuse or neglect has occurred. (*11165.12 PC*)

Interrogation - In criminal law, interrogation is the process of questions put forth by law enforcement to a person arrested or suspected of a criminal offense that are reasonably likely to elicit incriminating responses.

Interview - Refers to the method of obtaining information by conversation. An informal method of obtaining answers to questions. The interviewer must use special skills in the process to assure that he/she and the child victim are “speaking the same language.”

Intra-Familial Sexual Abuse - Sexual abuse between the child victim and another that takes place within the family.

Munchausen Syndrome - A mental disorder in which a person repeatedly feigns severe illness so as to obtain hospital treatment.

Munchausen Syndrome by Proxy (MSP) - A mental disorder in which the caretaker of a child either makes up fake symptoms or causes real symptoms to make it appear as though the child is injured or ill. The term “by proxy” means “through a substitute.” Though MSP is primarily a mental illness, it’s also considered a form of child abuse.

Mandated Reporter - Any person listed under *11165.7 PC*.

MDIT - See Multi-Disciplinary Team/Multi-Agency Investigation Teams.

Multi-Disciplinary Team (MDT)/Multi-Agency Investigation Teams (MAIT) - A group of professionals possessing special knowledge and skills in the various areas of child abuse

who are teamed up to coordinate investigations. The team personnel represent the various disciplines involved in child abuse investigations (e.g., law enforcement, child welfare services, probation department, district attorney, etc.). The primary goal of the team is to efficiently and effectively conduct all phases of the investigation.

Neglect - The negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare. The term includes both acts and omissions on the part of the responsible person. (11165.2 PC)

Obscene Matter - When taken as a whole, which to the average person, applying contemporary standards, appeals to the prurient interest, depicts or describes in a patently offensive conduct and lacks serious literary, artistic, political or scientific value.

Oral Copulation - Contact between the genitals and the mouth. (287 PC)

Parental/Family Abduction - Refers to any person who, not having a right to custody, maliciously takes, entices away, keeps, withholds, or conceals any child with the intent to detain or conceal that child from a lawful custodian. (278 PC)

Pedophile - An individual who prefers sexual contact with children and/or whose sexual fantasies and erotic imagery focuses on children.

Physical Abuse - Any act which results in a non-accidental physical injury regardless of who inflicts the harm. Physical abuse includes burning, beating, clubbing, kicking, biting, etc.

Protective Custody - When the officer has reasonable cause for believing that the minor is a person described in Section 300, and, in addition, that the minor has an immediate need for medical care, or the minor is in immediate danger of physical or sexual abuse, or the physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety. In cases in which the child is left unattended, the peace officer shall first attempt to contact the child's parent/guardian to determine if the parent/guardian is able to assume custody of the child. If the parent/guardian cannot be contacted, the peace officer shall notify a social worker in the county welfare department to assume custody of the child. (305 W&I)

Pummel - The continuous and vigorous beating with the fists.

P.U.R.P.L.E. - An acronym for Peak of crying, Unexpected, Resists soothing, Pain-like face, Long-lasting, Evening (*National Center on Shaken Baby Syndrome*).

Rape - Penile-vaginal penetration, however slight. (261 PC)

Retinal Hemorrhage - The bleeding of the inside lining of the eye (retina). An injury to the head can cause bleeding or detachment of the retina.

Severe Neglect - 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. "Severe neglect" also means 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. (11165.2 PC)

Severe Physical Abuse - Any single act of abuse which causes physical trauma of sufficient severity that, if left untreated, would cause permanent physical disfigurement, permanent physical disability, or death; any single act of sexual abuse which causes significant bleeding, deep bruising, or significant external or internal swelling; or more than one act of physical abuse, each of which causes bleeding, deep bruising, significant external or internal swelling, bone fracture, or unconsciousness; or the willful, prolonged failure to provide adequate food.

Sexual Aid - Any device that is used to enhance or stimulate a sexual act.

Sexual Assault – Rape, statutory rape, rape in concert, incest, sodomy, oral copulation, lewd or lascivious acts upon a child, sexual penetration, or child molestation. (11165.1 PC)

Sexual Exploitation - Conduct involving matter depicting a minor engaged in obscene acts. (11165.1 PC)

Sexually Transmitted Disease (STD) - See *Sexually Transmitted Infection*

Sexually Transmitted Infection (STI) - An infection that can be transferred from one person to another through sexual contact.

Shaken Baby Syndrome (SBS) - See *Abusive Head Trauma*

SIDS - See *Sudden Infant Death Syndrome*

Sodomy - Contact between an anus and a penis. (286 PC)

Sparing - In burn investigations, it is the term used for the area of skin that did not get burned, the area that did not get effected by the source of the burn. Sparing in a burn injury can often **tell more about how the burn occurred than the burn itself**. Sparing may help the investigator determine the position of the child's body and may indicate if clothing was worn or not worn during a re-enactment. Sparing in **bruised** areas of skin can also tell the investigator more about how the bruise occurred.

Strangulation - The intentional impeding of the normal breathing or circulation of blood of a person by applying external pressure on the throat or neck.

Substantiated Report - A report that is determined by the investigator who conducted the investigation to constitute child abuse or neglect, based upon evidence that makes it more likely than not that child abuse or neglect occurred. (11165.12 PC)

Sudden Infant Death Syndrome (SIDS) - The sudden death of an infant less than one year of age that cannot be explained after a thorough investigation is conducted, including a complete autopsy, examination of the death scene and review of the clinical history. (Centers for Disease Control)

Sudden Unexpected (or Unexplained) Infant Death (SUID) - A term used to describe the sudden and unexpected death of a baby less than 1 year old in which the cause is not obvious

before investigation. These deaths often happen during sleep or in the baby's sleep area. It includes accidental suffocation or strangulation, poisoning or overdose, and infections. (Centers for Disease Control)

Sudden Unexpected (or Unexplained) Infant Death Investigation (SUIDI) - The formal law enforcement investigation into the sudden unexpected death of an infant.

Suffocation - Obstruction of the airway at the nose and/or mouth, which can occur accidentally or intentionally.

Trauma - An internal or external injury or wound brought about by an outside force. Usually trauma means injury by violence, but it may also apply to the wound caused by any surgical procedure. Trauma may be caused accidentally or, as in a case of physical abuse, non-accidentally. Trauma is also a term applied to psychological discomfort or symptoms resulting from an emotional shock or painful experience. (300 W&I)

Unfounded Report - A report that is determined by the investigator who conducted the investigation to be false, to be inherently improbable, to involve an accidental injury, or not to constitute child abuse or neglect. (11165.12 PC)

Unlawful Corporal Injury or Punishment - Where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition. (11165.4 PC)

Vicarious Trauma - An occupational challenge for people working and volunteering in the fields of victim services, law enforcement, emergency medical services, fire services, and other allied professions, due to their continuous exposure to victims of trauma and violence. This work-related trauma exposure can occur from such experiences as listening to individual clients recount their victimization; looking at videos of exploited children; reviewing case files; hearing about or responding to the aftermath of violence and other traumatic events day after day; and responding to mass violence incidents that have resulted in numerous injuries and deaths.

Whiplash - See *Sudden Unexpected Infant Death (SUID)*

Willful harming or injuring of a child or the endangering of the person or health of a child - A situation in which any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of the child to be placed in a situation in which his or her person or health is endangered. (11165.3 PC)

Appendix 13

SIDS and SUID Statutes

13519.3 PC - Requires the Commission on Peace Officer Standards and Training to establish a course on the nature of SIDS and the handling of cases involving the sudden deaths of infants.

27491 GOV, 27491.4 GOV, 27491.41 GOV, 102865 H&S - Relate to the medical examiner and autopsies when the cause of death is suspected to be SIDS. With certain exceptions, an autopsy must be performed within 24 hours. Within 24 hours of the autopsy, the coroner shall notify the local health officer.

1596.847 H&S - Prohibits a child day care facility from using or having on the premises a crib that is unsafe for any infant. This law does not apply to any antique or collectible crib provided it is not used by, or accessible to, any child in the child day care facility. The law directs the department of social services to provide information and instructional materials regarding SIDS, explaining the medical effects upon infants and young children and emphasizing measures which may reduce the risk, free of charge to any child care facility licensed to provide care to children under the age of two years. The law provides additional guidance related to the development and provision of information on SIDS.

1797.170 H&S, 1797.171 H&S, 1797.193 H&S, 1797.213 H&S - Require individuals certified as emergency medical technicians, firefighters, and authorized registered nurses to complete a course of training on the nature of SIDS.

123725 H&S - Defines SIDS and creates the SIDS Advisory Council. The law directs the department to keep each county health officer advised of the most current knowledge relating to the nature and causes of SIDS. The law requires the department to contract with a person to provide regular and ongoing SIDS education and training programs for those who interact with parents and caregivers following a death from SIDS. The law also requires the department to contract with a person to produce, update and distribute literature on SIDS for specific target populations of persons who interact with parents and caregivers following a SIDS death. When SIDS is the presumed cause of death, the law requires the local health officer to immediately contact the individual(s) who had custody and control of the infant in order to provide information, support, referral, and follow-up services relating to SIDS. If the infant was in childcare, the local health officer must immediately contact the child care provider.

Appendix 14:

Glossary of Terms Used by Doctors in Shaken Baby Syndrome (SBS) Cases

Anoxia - A deficiency of oxygen within the blood.

Anterior - Posterior front to back.

Apnea - Temporary cessation of breathing.

Arachnoid Membrane - A delicate membrane attached to the innermost layer around the brain and spinal cord by web-like fibers that allow for movement of cerebrospinal fluid.

Axon - The long threadlike part of a nerve cell along which impulses are conducted from the cell body to other cells.

Bolt - A small hollow device placed through the skull into the space just between the skull and the brain.

Burr Hole - A surgical procedure where small holes are drilled into the skull to relieve blood and pressure.

Calcification - New bone formulating during the healing process of a fracture.

Callus - A woven network of new bone that develops over time following a fracture.

Cerebral Edema - Swelling of the brain.

Cerebral Ischemia - Localized deficiency of blood supply to an area of the brain.

Cerebrospinal Fluid (CSF) - A clear liquid produced in the ventricles of the brain, also known as spinal fluid.

Choroid - A thin vascular coat of the eye that supplies blood to the retina, extending from the ora serrata to the optic nerve.

Coagulation - An abnormality of blood clotting.

Contrecoup - A contusion resulting from the brain contacting the skull on the side opposite from where impact occurs.

Contusion - A bruise.

Corpus callosum - A large collection of nerve fibers connecting the two halves of the brain.

Coup/contra coup - A specific area of brain injury underneath a site of impact to the head; a specific area of the brain injury located directly opposite to the site of impact to the head.

Craniotomy - A surgical procedure, whereby a section of the skull is removed temporarily for the purpose of neurosurgery.

Cranium - The skull.

CT/Cat Scan - Computerized tomography, a diagnostic procedure combining an x-ray with a computer to produce a detailed cross-sectional picture of the body.

Diaphysis - The shafts of a long bone.

Differential Diagnosis - The determination of a condition or disease that a person might have by comparing and contrasting the clinical findings.

Diffuse Axonal Injury - A form of traumatic brain injury. It happens when the brain rapidly shifts inside of the skull. The connecting fibers, the axons, in the brain are stretched and/or torn due to rapid acceleration and rapid deceleration inside the skull.

Dura - Tough fibrous membrane which surrounds the brain and is attached to the inner surface of the skull.

Dura Mater - The outer membrane covering the brain and spinal cord.

Ecchymosis - Large hemorrhagic areas beneath the skin due to injury.

Encephalopathy - A disease of the brain.

Enucleation - Removal of an eye.

Epidural Hematoma - A collection of blood between the skull and the dura membrane.

Fontanelle - Soft area of a baby's cranium that allows the skull to mold during the birth process.

Frenulum (plural) - Small folds of skin connecting the tongue to the floor of the mouth and the lips to the gums.

Fundus - The retinal area at the back of the eye.

Fundoscopy - Looking at the back or fundus of the eye.

Glasgow Coma Scale - A scale which grades levels of consciousness based on alertness, response to command, and response to painful stimulus.

Glutaric Aciduria Type 1 - A metabolic disease inherited deficiency of an enzyme that metabolizes amino acid glutamate causing brain matter damage.

Hematoma - A mass or collection of blood caused by a break in a vein.

Hemorrhage Continuous - Flow of blood from a break in a vein.

Hydrocephalus - Constant accumulation of cerebrospinal fluid within the ventricles of the brain leading to disproportionately sized heads in infants.

Hyphemia - Bleeding within the front area of the eye, between the cornea and the iris.

Hypoxia - Lack of oxygenation of tissue.

Infarction - An area of dead tissue because of dropped or blocked blood flow.

Intracranial Pressure - Pressure inside the cranial cavity (head).

Intraocular - Within the eye.

Ischemia - Localized tissue injury due to obstruction of the inflow of arterial blood (loss of oxygen supply) caused by spasm, disease, or trauma.

Lumbar Puncture - Spinal tap.

Meninges - All three membranes that cover the brain.

Metaphyseal Lesion a.k.a. “Bucket-handle” or “Corner” fracture - An injury to the metaphysis, which is the growth plate at each end of a long bone; suspicious for child abuse.

MRI - Magnetic Resonance Imaging. A diagnostic procedure combining electromagnetic, radio frequency wave and a computer to produce highly detailed pictures of the body.

Nuchal Rigidity - The nape at the back of the neck being tense, a sign of neurological impairment.

Nystagmus - Involuntary eye movement. In SBS cases, this is the result of brain trauma.

Occipital - Relating to the back part of the head.

Optic Nerve - A nerve that originates in the brain and carries sensory impulses for sight to the retina.

Optic Sheath - The covering of the optic nerve.

Optic Sheath Injury - Damage to the connection between the retina and the brain.

Ora Serrata - The irregular ridge on the anterior part of the retina.

Orbit - The outside of the eye.

Papilledema Swelling - Of the optic disc of the retina, may be due to raised intracranial pressure.

Parietal - Related to the bones on the back side of the skull.

Pathognomonic - Having characteristic signs or symptoms which are indicative of a certain disease or condition.

Petechiae - Tiny spots of hemorrhagic blood found on the skin or within the organs of the body; related to trauma in infants.

Pia Mater - The innermost membrane covering the brain and spinal cord.

Posterior - Related to the back section of an area.

Posturing - Stiffening and tension in the body, as seen during seizures.

Preretinal - In front of the retina

Retinal - Relating to the retina, the main area for vision in the eye.

Retinoschisis - Splitting the retina, caused by trauma.

Sclera - The white outside part of the eye.

Sepsis - Blood infection.

Shunt - A device to divert the buildup of fluids within the brain to another part of the body.

Skeletal Survey - A series of X-rays studying all the bones within the body.

Subarachnoid - An area below the arachnoid membrane within which cerebrospinal fluids flow.

Subdural - An area below the dura mater within which bridging veins of the brain may stretch, tear, and bleed during and after an incident of shaking.

Subgaleal - Related to the area just under the scalp.

Subgaleal Hematoma - Occurs when blood accumulates outside of the baby's skull and the scalp.

Subhyaloid - Bleeding in front of the retina, also called retinal bleeding.

Superior Sagittal - A major vein within the brain that drains blood away from the sinus vein and the brain.

Appendix 15

Strangulations

San Diego County Strangulation Protocols (2017) (pdf)

Investigation and Prosecution of Strangulation Cases (Training Institute on Strangulation Prevention and the California District Attorneys Association) (pdf)

Vital Neck Structures - Arteries, Veins and Cartilage (pdf)

Physiological Consequences of Strangulation (pdf)

Pediatric Non-Fatal Strangulation PhotoDocumentation Protocol 2018 (pdf)

Pediatric-Adolescent Follow-up Evaluation (pdf)

Appendix 16

Computer Technology Glossary

Advertising Identifiers: A type of device identifier which is a user resettable ID assigned by the device or operating environment to help advertising services. It can be sent to advertisers and other third parties which could be used to track the user's movement and usage of applications.

Allocated space: That area of a hard drive where digital files and programs exist and operate. These files are those viewable to the end user.

Apps: A mobile application, most commonly referred to as an app, is a type of application software designed to run on a mobile device, such as a smartphone or tablet computer.

Chat: Chat refers to the process of communicating, interacting and/or exchanging messages over the Internet. It involves two or more individuals that communicate through a chat-enabled service or software. Chat is also known as chatting, online chat, or Internet chat.

Child Sexual Abuse Material (CSAM): Historically, known as child pornography, CSAM is any visual depiction of sexually explicit conduct involving a minor (a person less than 18 years old).

Cloud storage: A cloud computing model in which data is stored on remote servers accessed from the Internet, or "cloud." It is maintained, operated, and managed by a cloud storage service provider on storage servers. Cloud storage accounts are accessed by those with the correct credentials (username/password) and can be accessed from multiple devices by multiple users on multiple devices as long as they own those credentials.

Dark Web: Websites that are visible to the public, but their IP address details are intentionally hidden. These websites can be visited by anyone on the Internet, but it is not easy to find the server details on which the corresponding site is running, and it is difficult to track the one hosting the site.

The Dark Web concept is achievable with the help of anonymity tools. The most popular method to visit the dark web is the TOR browser. The Dark Web is popular for both black market and user protection, so it has both positive and negative aspects.

Deep Web: The deep web refers to any Internet information or data that is inaccessible by a search engine and includes all web pages, websites, intranets, networks and online communities that are intentionally and/or unintentionally hidden, invisible or unreachable to search engine crawlers. Think of the deep web as that area of the Internet, which is credentialed, meaning it requires a username and password to access.

Device Identifier: A unique string of numbers and letters assigned to a mobile device, smartphone, tablet, or personal computer which identifies it to various online platforms and websites. As a general rule, device identifiers are not typically able to reveal the name of the device owner but can be used to identify that logins or visits to online platforms came from the same device. There are various types of device identifiers including unique device identifier

(UDID), a unique serial number assigned to each Apple manufactured device, Google Play Services ID for Android (GPS ADID), and advertising identifiers on various devices.

Digital device: A physical unit of equipment that contains a computer or microcontroller.

Digital forensics: Digital forensics is the process of retrieving and interpreting electronic data from digital files located on mobile devices, personal computers, and Internet sites. The goal of the process is to preserve any evidence in its most original form while performing a structured investigation by collecting, identifying, and validating the digital information for the purpose of reconstructing past events.

Encryption: The process of encoding information. This process converts the original representation of the information, known as plaintext, into an alternative form known as ciphertext. Today, encryption is used in the transfer of communication over the Internet for security and commerce. As computing power continues to increase, computer encryption is constantly evolving to prevent attacks.

EXIF Data: Exchangeable image file format (EXIF) is a specification that defines metadata pertaining to images and tags used in digital still cameras.

External drive: An external hard drive is a storage device located outside of a computer that is connected through a USB cable or wireless connection. An external hard drive is usually used to store media that a user needs to be portable, for backups, and when the internal drive of the computer is already at its full memory capacity. These devices have a high storage capacity compared to flash drives and are mostly used for backing up numerous computer files or serving as a network drive to store shared content.

Faraday Bag: A bag made of flexible metallic fabric which is used to disconnect a device from a network. These are commonly used to prevent the remote wipe or remote lock of mobile devices.

Hash value: A mathematical value of a digital file created by a hashing algorithm. Hash values are unique to a digital file and more accurate than DNA. Two different digital files will not have the same hash value. Hash values are based on the file's content, and the name of the digital file does not affect the hash value.

Internet Protocol (IP) Address: A numerical label assigned to each device connected to a computer network that uses the Internet Protocol for communication. IP addresses are divided into IPV4 and IPV6.

IPV4 is represented as a series of numbers separated by decimals i.e., 172.16.254.21

IPV6 is represented as a series of eight sets of alpha-numeric characters separated by colons. For example, 2601:204:d302:bc90:4096:5f7d:f950:6adc. IPV6 contains data which may tend to identify the IP address subscriber (user), even if that subscriber is using a cellular network connection only. IPV4 protocol does not lend itself to doing so. Serving legal process on an Internet Service Provider (ISP) will allow an investigator to obtain subscriber information, including name, location of service, billing address, and methods of payment. ISPs do not typically maintain content.

Internet Service Provider (ISP): A company that provides customers with Internet access. It is often referred to as just “the provider.” Data may be transmitted using several technologies, including dial-up, DSL, cable modem, wireless, or dedicated high-speed interconnects. Typically, ISPs also provide their customers with the ability to communicate with one another by providing Internet email accounts, usually with numerous email addresses at the customer’s discretion. Other services, such as telephone and television services, or personal websites or home pages may be provided as well. The services and service combinations may be unique to each ISP. Today, ISPs are usually cable companies or mobile phone companies that offer Internet subscriptions in addition to TV or mobile communications services.

IOT Device: A computing concept that describes the idea of everyday physical objects being connected to the Internet and being able to identify themselves to other devices and send and receive data. Common IOT devices are voice activated devices such as Amazon Alexa, Google Home, home security systems, thermostat controllers, and refrigerators. It is important to note that IOT devices are connected to Cloud Accounts and typically do not have onboard storage, which lends itself to forensic extractions. Most IOT devices do have an accompanying application which is found on smartphones and tablets.

Login session: The period of activity between a user logging in and logging out of a (multi-user) system.

MAC Address: A unique identifier assigned to a device which allows it to identify itself and communicate with other devices on a network, either via wireless connection or Bluetooth. MAC addresses are primarily assigned by device manufacturers and present as six sets of alpha-numeric characters separated by colons (e.g., 40:9C:28:15:26:D9). The first three sets of characters identify the vendor information and the last three are unique to the device. Open-source sites exist which allow an investigator to determine the vendor/manufacturer name. Typically, most manufacturers do not keep records of device owners by MAC address. MAC addresses are useful in tying a specific device to website/online platform visits by the user.

Metadata: Data that provides information about other data. Metadata in digital files is information that is not viewable to the naked eye and can be viewed with another program. An example of metadata could be the name of the file’s creator, date/time it was created, or program used to create it.

Mobile device: A handheld tablet or other device that is made for portability and is therefore both compact and lightweight. New data storage, processing and display technologies have allowed these small devices to do nearly anything that had previously been traditionally done with larger personal computers. Typical mobile devices include smartphones.

NCMEC: The National Center for Missing & Exploited Children is a private, non-profit 501(c)(3) corporation whose mission is to help find missing children, reduce child sexual exploitation, and prevent child victimization. NCMEC works with families, victims, private industry, law enforcement, and the public to assist with preventing child abductions, recovering missing children, and providing services to deter and combat child sexual exploitation.

NCMEC Cybertip/CyberTipline: The nation’s centralized reporting system for the online exploitation of children. The public and electronic service providers can make reports of suspected online enticement of children for sexual acts, extra-familial child sexual molestation,

child pornography, child sex tourism, child sex trafficking, unsolicited obscene materials sent to a child, misleading domain names, and misleading words or digital images on the Internet.

Open Source: A philosophy that promotes the free access and distribution of an end product, usually software or a program. Android based mobile devices are an example of open-source technology. Open-source tools are those freely available tools used by investigators to assist with online investigations.

Passcode: A numeric sequence used to authenticate a user on a computer or electronic device.

Peer to Peer (P2P) network: A group of computers, each of which acts as a node for sharing files within the group. Instead of having a central server to act as a shared drive, each computer acts as the server for the files stored upon it. When a P2P network is established over the Internet, a central server can be used to index files, or a distributed network can be established where the sharing of files is split between all the users in the network that are storing a given file. P2P networks are commonly used by those engaged in the distribution of online child sexual abuse materials.

Personal computer: A personal computer is a general-purpose, cost-effective computer that is designed to be used by a single end-user. These computers are typically either desktop or laptop versions.

RAM: Random access memory (RAM) is a type of data storage used in computers that is generally located on the motherboard. This type of memory is volatile and all information that was stored in RAM is lost when the computer is turned off. Volatile memory is temporary memory while ROM (read-only memory) is non-volatile and holds data permanently when the power is turned off. Consider ROM as that data which is saved to the device's hard disk drive or an external drive. RAM data can contain current activity and passwords used to log into those programs which are active when the device is located.

RAM Dump/Extraction: A method to forensically extract RAM data prior to the machine being shut down.

Remote lock: A remote lock is a security mechanism that allows an individual to lock a cell phone or tablet PC from a remote location. It is used to prevent theft or unauthorized data access to stolen or lost smartphones and other portable devices.

Remote wipe: A remote wipe refers to a system where a user has the ability to remotely delete data on a hardware device or system.

Surface web: The portion of the Internet that is readily available to the general public and searchable with standard web search engines.

TOR: The Onion Router (TOR) is an open-source software program and Internet network layer that allows users to protect their privacy and security. The TOR network was developed by the United States Navy and anonymizes a user's path on the Internet by sending the encrypted traffic through three separate and random IP addresses. The pathway is deleted once a user exits the browser or selects another link and no computer that allows their IP address to be

used can read the encrypted data. The TOR browser is the most common method of visiting the dark web, although the TOR browser can also be used to access the surface web.

Unallocated space: That area of a hard drive where new files and programs can be stored. Within unallocated space on personal computers, previously deleted data may be forensically recovered. On mobile devices, this type of recovery is increasingly more difficult, if not impossible.

VPN: A virtual private network (VPN) allows you to create a secure connection to another network over the Internet. VPNs can be used to access region-restricted websites, shield your browsing activity from prying eyes on public Wi-Fi. VPN connections may allow the user to obfuscate their internal IP address and push all their Internet traffic through another IP address, which creates anonymity. Some VPNs will also encrypt all Internet traffic, which causes difficulty in investigations.

Wearables: A wearable device is a technology that is worn on the human body. This type of device has become a more common part of the tech world as companies have started to evolve more types of devices that are small enough to wear and that include powerful sensor technologies that can collect and deliver information about their surroundings. Common wearable devices include smart watches such as Apple Watch, Android watches, GPS tracking watches and fitness watches.

Wireless router: A wireless router is a device that enables wireless network packet forwarding and routing and serves as an access point in a local area network. It works much like a wired router but replaces wires with wireless radio signals to communicate within and to external network environments. It can function as a switch and as an Internet router and access point.

Write-block: A utility that prevents all storage media on a computer to be written to or changed. It is used in computer forensics to prevent further tampering.

Appendix 17

Child Trafficking

[West Coast Children's Clinic Commercial Sexual Exploitation Identification Tool \(CSE-IT\)](#) (pdf)

[CPS Reporting Requirements in Child Trafficking](#) (pdf)

Web Resource: [Child Sex Ring: Behavioral Analysis \(NCMEC and NCJRS\)](#)

W&I 300(b)(2): Protective Custody - The following section (W&I 300(b)(2)) was added in 2015 and helped child welfare agencies close a gap. Basically, CPS was getting pushback from Family Court judges when CPS was trying to take custody of juveniles involved in prostitution when the parents were “trying their best.” This section essentially said that if the guardian’s best wasn’t good enough, the children could still be placed under CPS care.

W&I 300(b)(2) The Legislature finds and declares that a child who is sexually trafficked, as described in Section 236.1 of the Penal Code, or who receives food or shelter in exchange for, or who is paid to perform, sexual acts described in Section 236.1 or 11165.1 of the Penal Code, and whose parent/guardian failed to, **or was unable to**, protect the child, is within the description of this subdivision, and that this finding is declaratory of existing law. These children shall be known as commercially sexually exploited children.

These sections below, while not new, have come into play frequently in family court proceedings involving juveniles in prostitution. One common factor in children who are victims of trafficking is that they almost always come from very dysfunctional homes and nationally ±85% have a history of sexual abuse prior to their involvement in trafficking. These sections have allowed CPS (with support from County Counsel) to be a bit more aggressive in seeking at least temporary custody of kids from these very dysfunctional homes. Of course, that depends on the county. These sections below describe almost the entire juvenile trafficking population. The (d) section comes into play when the parent knows the child is involved in prostitution and doesn’t act.

W&I 300(c) The child is suffering serious emotional damage, or is at substantial risk of suffering serious emotional damage, evidenced by severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others, as a result of the conduct of the parent/guardian **or who has no parent/guardian capable of providing appropriate care**. A child shall not be found to be a person described by this subdivision if the willful failure of the parent/guardian to provide adequate mental health treatment is based on a sincerely held religious belief and if a less intrusive judicial intervention is available.

W&I 300(d) The child has been sexually abused, or there is a substantial risk that the child will be sexually abused, as defined in Section 11165.1 of the Penal Code, by his or her parent/guardian or a member of his or her household, or the parent/guardian has **failed to adequately protect the child from sexual abuse** when the parent/guardian **knew or reasonably should have known** that the child was in danger of sexual abuse.

Appendix 18

Child Molester Offender Dynamics

Typologies of Child Molesters

(Gary Lowe – October 2019 Revision)

ELEMENT	SITUATIONAL			SITUATIONAL/ PREFERENTIAL*			PREFERENTIAL		
	REGRESSED	MORALLY INDISCRIMINATE	INADEQUATE	DIVERSE (new) SEXUALLY INDISCRIMINATE (old)	SEDUCTIVE	INTROVERTED	SADISTIC		
Personality Characteristics	Appears on the surface to be psychologically healthy. Low self-esteem. Poor coping skills. Easily dominated by age mates.	Anti-social personality disorder. Narcissistic. No conscience.	Social incompetence. Withdrawn. Lack of communication skills. May have been a victim. May be physically impaired. Misfit.	Non-specific.	Outgoing. Self-centered. Socially skilled. Smooth communicator. Manipulative.	Seriously lacking in social skills. Child-like. Inadequate. Persistent. Interest and high level of sexual arousal to children. Sexually naive.	See "Morally Indiscriminate" and "Seductive"		
Social Behavior	Appears to be successful in marriage or sexual relationships.	Relationships are self-serving.	Single (lives with family or other who he is dependent on). Loner. Volunteers for activities that deal with children.	Promiscuity. Numerous short-term relationships.	Lives alone. Token marriage.	Single or in a marriage of convenience. May live at home with parents. Had no close friends. Wife is inferior or possibly physically or mentally disabled.	Loner. Does not socialize with children.		
Intellectual Level	Not a factor to offending.	Average or above average IQ.	Below average. Mental retardation. Brain damage.	Moderate to high IQ.	Above average to high IQ.	Low to average IQ.	Average to high IQ.		
Drugs/alcohol use	Yes. Especially alcohol.	Poly drug user. Extensive alcohol.	Minimal.	Social use.	Social drinker.	Little - none.	Social use. Not to lose control.		

Typologies of Child Molesters

(Gary Lowe – October 2019 Revision)

ELEMENT	SITUATIONAL			SITUATIONAL/ PREFERENTIAL*			PREFERENTIAL		
	REGRESSED	MORALLY INDISCRIMINATE	INADEQUATE	DIVERSE (new) SEXUALLY INDISCRIMINATE (old)	SEDUCTIVE	INTROVERTED	SADISTIC		
Criminality	Little or no history.	Extensive. Varied.	History of being in the wrong place at the wrong time. He is the victim of crime.	Limited to sexual offenses.	Little to no history.	Little to no history except for sex crimes involving children.	Either extensive or none.		
Stressors	Demise of significant relationship. Feeling dominated in a relationship. Alcohol.	Not associated with offense behaviors.	Social situations real or perceived that he does not have the coping skills to deal with.	Boredom.	Not a part of his offending behavior.	Any increase of responsibility. Real or anticipated social interaction with age mates. Criticism or disapproval.	Boredom.		
Cognitive Disorders	Molest is my expression of love and care. It isn't me; it is the alcohol/drugs. If my wife won't have sex with me, it's okay to have sex with my children. Has sex with children "to teach them" about sex in a positive caring manner.	Includes objectifying the victim. If it feels good, do it. Rules apply to everyone but me. If I want it it's mine.	We are just playing. Child-like denial. He or she did it to me first. That is what happened to me.	If I tell a child to do something sexual and they do it with me, it means they want to and enjoy it. Sexual assault is a victimless crime.	This is a backward culture; someday they will get with it and see this is okay. They must have wanted it because they still like me and kept it a secret.	Kids like me and I understand them better than others. They are really curious about sex and want me. A young child can make his or her own decision to have sex with me.	Kids are dispensable and are merely objects.		
Paraphilias	May have	Extensive and varied	Possible, but not likely	Extensive	Varied	Varied	Sadism. Voyeurism.		

Typologies of Child Molesters

(Gary Lowe – October 2019 Revision)

ELEMENT	SITUATIONAL			SITUATIONAL/ PREFERENTIAL*			PREFERENTIAL		
	REGRESSED	MORALLY INDISCRIMINATE	INADEQUATE	DIVERSE (new) SEXUALLY INDISCRIMINATE (old)	SEDUCTIVE	INTROVERTED	SADISTIC		
Sex Crime Motivation	Surrogate (sexual). Substitute (emotional).	Why not? Fantasy driven.	Experimentation. Curiosity. Impulsively.	Extensive. Experimentation involves child in existing preference (fantasy).	Sexual attraction and preference for children. Fantasy driven.	High levels of sexual arousal to children. Inability to develop close intimate relationships with age mates.	Only aroused by the suffering of the child.		
Victim Criteria	Female children available within family (natural and step). Usually victimizing one child at a time.	Opportunistic. Vulnerable. In the wrong place at the wrong time.	Non-threatening.	Willing or semi- willing victim participant. Older child or very young child who cannot verbalize.	Usually same age, sex, physical characteristics. Victims of emotional or physical neglect. Simultaneously involved with multiple victims.	Strangers or very young children. Has a preferred victim type but will molest whoever is available.	Age and gender preference, but victim may be just in the right place at the wrong time.		
MO	Grooming. Coercion (our secret). Blackmail (“if not you, will do your sister”). Unobtrusive touch leading to overt sexual assault. Manipulation. Gifts, special attention.	Lure, force or manipulate. Surprise or short term approach.	Grooming approach. Playful. Lures with toys, games. Exploits size difference.	Entice child (show pornography). Bribe. Drugs/alcohol. “You may enjoy it.”	Master seducer. Identifies with children. Knows how to listen. Courting (attention). Affection, gifts. Gradually lowers inhibitions. Victims trade sex for attention, affection and gifts.	Interacts with child at the child’s level of emotional development. Children initiate non- sexual contact with him. Masturbation done to victim. Oral copulation, anal or vaginal penetration is rare.	Lure, force or manipulate. Surprise or short term. Con approach. Brutal, tortuous sexual victimization.		

Typologies of Child Molesters

(Gary Lowe – October 2019 Revision)

ELEMENT	SITUATIONAL			SITUATIONAL/ PREFERENTIAL*			PREFERENTIAL		
	REGRESSED	MORALLY INDISCRIMINATE	INADEQUATE	DIVERSE (new) SEXUALLY INDISCRIMINATE (old)	SEDUCTIVE	INTROVERTED	SADISTIC		
Reaction to Victim's Resistance	Rejection. Cutback of privileges. Increased correction.	Escalate force and control.	Panic. Flight. Fear of detection (may kill child to avoid).	Manipulation. Mild coercion. Abandonment.	Increase seduction. Blackmail. When child becomes too old, molester attempts to terminate the relationship. Victim discloses, molester threatens, uses physical force, homicide may occur.	Will cease molesting. Apologizes. Try another victim.	None. He is going to do what he is going to do.		
Collateral Materials	N/A	N/A	N/A	Whatever is needed for the fulfillment of the fantasized sexual acts.	NAMBLA. Toys, games, video. Adult pornography. Little league rosters. Child development text books. Child pornography.	Erotic scrap books. Child pornography. Toys, games.	Torture devices. Video and/or audio recording of victimization.		

* Sexually Indiscriminate: Original type considered to be a Situational molester.

Diverse: New type now considered to be a Preferential molester.

This change remains a debate within the Criminal Justice field.

The Compliant Child

See *Child Molesters: A Behavioral Analysis*, 5th Edition (2010) by Kenneth V. Lanning, pages 24-26:

Case Example - Molestation of Child in School Classroom with Other Children Present

Picture drawn by 8-year-old molested by the teacher's aide during class with other students present and while the teacher was presenting at the front of the class (bottom of picture). During a forensic interview, the child described sexual abuse, including digital penetration during class, in the break room attached to the class (upper right corner), and behind a partition in the classroom (upper left). The child initially disclosed to a classmate. All class students accused child of lying. The child had no support from her mother or the school. The child disclosed during forensic interview and drew this picture. The child recanted. During an intentionally delayed interview by the investigator, the suspect admitted to committing multiple acts, including in the classroom during class.



Appendix 19

Sexual Paraphilias (Sexual Deviations)

Paraphilias and Sexual Ritual

Kenneth V. Lanning: *Child Molesters: A Behavioral Analysis* 5th Edition (2010)

National Center for Missing and Exploited Children (NCMEC)

Paraphilias are psychosexual disorders defined for clinical and research purposes in the DSM-IV-TR. They are defined as recurrent, intense, and sexually arousing fantasies, urges, or behaviors generally involving nonhuman objects, the suffering or humiliation of oneself or one's partner, or children or other nonconsenting persons, and that occur over a period of at least six months. Better known and more common paraphilias include exhibitionism (exposure), fetishism (objects), frotteurism (rubbing), pedophilia (child), sexual masochism (self-pain), sexual sadism (partner pain), and voyeurism (looking). Less known and less common paraphilias include scatologia (talk), necrophilia (corpses), partialism (body parts), zoophilia (animals), coprophilia (feces), klismaphilia (enemas), urophilia (urine), infantilism (baby), hebephilia (female youth), ephebophilia (male youth) and theoretically many others "not otherwise specified" (NOS).

In the real world each of the paraphilias typically has slang names (e.g., "big baby," "golden showers," "S&M"); an industry that sells related paraphernalia and props (e.g., restraining devices, dolls, adult-sized baby clothing); a support network (e.g., North American Man/Boy Love Association [NAMBLA], Diaper Pail Fraternity, Internet newsgroups and chatrooms); and a body of literature (e.g., pornography, newsletters). In fact, the paraphilias are the organizational framework or the "Dewey Decimal System" of pornography, obscenity, adult bookstores, and Internet sex chatrooms.

Individuals can and frequently do have more than one of these paraphilias. Paraphilias are psychosexual disorders and not types of sex crimes. They may or may not involve criminal activity. Individuals suffering from one or more of these paraphilias can just engage in fantasy and masturbate, or they can act out their fantasies legally (e.g., consenting adult partners, objects), or they can act out their fantasies illegally (e.g., nonconsenting partners, underage partners). It is their choice.

In addition, not everyone committing a sex offense has a paraphilia. Their behavior patterns may be criminal, but not fit the specific diagnostic criteria for a paraphilia. Sex offenders with paraphilias seem to have higher rates of misconduct and recidivism. Many rapists and incest offenders are not suffering from paraphilias.

Although any of the paraphilias could become elements of a child-sexual-exploitation case, pedophilia is the most obvious and best known to investigators working on these cases. It is important for investigators to understand the DSM-IV-TR diagnostic criteria for pedophilia.

On an investigative level the presence of paraphilias often means highly repetitive and predictable behavior focused on specific sexual interests that go well beyond a method of

operation (MO). The concept of MO — a repeated pattern of behavior engaged in by an offender because it works and will help him get away with the crime — is well-known to most investigators. An MO is fueled by thought and deliberation. Most offenders change and improve their MO over time and with experience.

The repetitive patterns of behavior of sex offenders can and do involve some MO, but are more likely to also involve the less-known concept of sexual ritual. Sexual ritual is a repeated pattern of behavior engaged in by an offender because of a sexual need; that is, in order to become aroused and/or gratified a person must engage in the act in a certain way. If repeated often enough during sexual activity, some aspects of the MO of sex offenders can, through behavioral conditioning, become part of the sexual ritual.

Other types of ritual behavior can be motivated by psychological, cultural, spiritual needs or some combination. Unlike an MO, ritual is necessary to the offender but not to the successful commission of the crime. In fact, instead of facilitating the crime, ritual often increases the odds of identification, apprehension, and conviction because it contributes to the offender making need-driven mistakes.

Sexual ritual and its resultant behavior are determined by erotic imagery, are fueled by fantasy, and can often be bizarre in nature. Most important to investigators, offenders find it difficult to change and modify ritual, even when their experience tells them they should, or they suspect law enforcement scrutiny. The ritual patterns of many sex offenders have far more significance as prior and subsequent like acts than the MO of other types of offenders. Understanding sexual ritual is one key to investigating certain sex offenders. The courts in this country have, however, been slow to recognize and understand the difference between MO and ritual.

From an investigative point of view, it is not always easy to distinguish between MO and ritual. Every morning putting on your shoes and socks is a noncriminal/nonsexual example of MO. It serves a practical, functional purpose. Every morning putting on your right sock, then your right shoe, hopping once, and then putting on your left sock, then your left shoe is a noncriminal/nonsexual example of ritual. It serves only a psychological need. Depending on the offender's intention, blindfolding, or tying up a victim could be either MO or ritual. Tying up someone so he or she cannot resist, or escape is MO. Tying up someone for sexual gratification is called bondage and is ritual.

The ability to interpret this distinction is in the detailed analysis of the behavior. Investigators must, therefore, keep an open mind and continually accumulate and evaluate even the small details of offender physical, sexual, and verbal behavior.

Appendix 20

Interview and Interrogation Strategies

Child Molesters: A Behavioral Analysis, 5th Edition (2010) (pdf)

National Center for Missing and Exploited Children (NCMEC)

Appendix 21

Use and Examples of Apology Letters

Pear Caylak,

I know Im the last person you ever want to hear about right now but ive got to man up about the horrible thing i did to you. Im an idiot and a bad person and deserve whatever punishment I get for this. I just wanted to tell you with all my heart, and for all its worth, Im Sorry! Im sorry for ruining your life. Im Sorry treating you badly and Im sorry for being a horrible cousin. I understand if you hate me forever, ~~but~~ I just headed to tell you this, so im sorry and I promise you'll never hear from me again.

-Shane A.

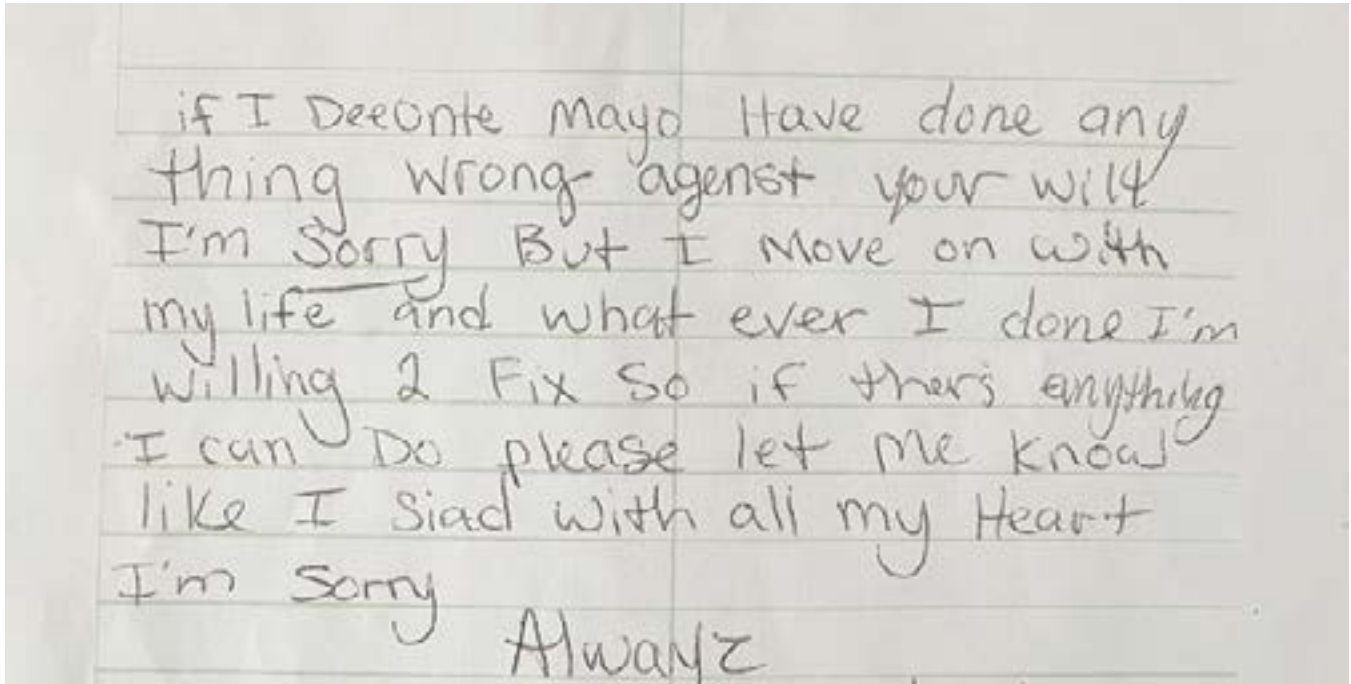
Child Sexual Molest with penetration. 19-year-old male offender and 13-year-old female victim.

DEAR TIARA WAWI

I HOPE YOU ~~ARE~~ ARE WELL. I JUST WANTED YOU TO KNOW THAT NO MATTER WHAT HAPPENS OR WHAT YOU HEAR PEOPLE SAY. NONE OF THIS WAS ANYWAY YOUR FAULT. UNCLE JESSE WILL ALWAYS LOVE YOU. BUT UNCLE JESSE NEEDS TO I'M SORRY TO YOU. I NEVER MEANT TO HURT EMBARRASS OR MAKE YOU AFRAID OF ME. WE WON'T SEE EACH ~~OTHER~~ OTHER FOR AWHILE BUT I HOPE YOU'LL STILL REMEMBER US JUNIOR, LAWI AUNTY MARIA AND ME.

LOVE UNCLE JESSE

Continuous sexual contact, foreign object, lewd and lascivious acts, sexual penetration with a small child by her uncle.

A photograph of a handwritten note on lined paper. The text is written in cursive and reads: "if I Deeonte Mayo Have done any thing wrong agenst your will I'm Sorry But I Move on with my life and what ever I done I'm willing 2 Fix So if thers anything I can Do please let me know like I siad with all my Heart I'm Sorry Always".

if I Deeonte Mayo Have done any
thing wrong agenst your will
I'm Sorry But I Move on with
my life and what ever I done I'm
willing 2 Fix So if thers anything
I can Do please let me know
like I siad with all my Heart
I'm Sorry
Always

Stranger forceable sexual assault and false imprisonment of a 13-year-old walking home from school and pulled into the bushes by an adult male. Suspect found on a CODIS hit 6 years after the assault and in a different state.

Dear Marika
I'm probably the last
person you want to speak
to. But I really want to
apologize with all my heart
and meant no damage to
your son Justin. I would not
be able to sleep at night
knowing the damage I caused.
If I could give my life for
this I would. I have you
& him in my prayers and am
willing to pay for ^{my} wrong doing.
I hope you can find it in your
heart to forgive me. For I
am very very sorry. If I could
turn the clock I would of
done things differently.
Sincerely
Janette

Shaken Baby Syndrome: 4½ month old infant with bilateral subdural bleeding and subarachnoid bleeding on his brain as well as bilateral retinal hemorrhages in his eyes and broken ribs. Injuries were inflicted over a 2-hour period by the baby's daycare provider.

Appendix 22

Evidence in Child Abuse Cases

Biological Evidence Preservation Handbook (pdf)

Appendix 23

Burn Injuries in Child Abuse

Burn Injuries in Child Abuse Investigations (pdf)

Appendix 24

Out-of-Home Care Facilities Investigation Checklist

Out-of-Home Care Facilities Investigation Checklist (pdf)

Appendix 25

Marsy's Law and Sexual Assault Bill of Rights

Marsy's Card (pdf)

Appendix 26

California Electronic Communications Privacy Act (Cal ECPA)

In 2015, the California Legislature voted to approve the California Electronic Communications Privacy Act, which changed the rules of evidence and established how law enforcement obtains records, data, and information from electronic devices and electronic communications from service providers. It is paramount that law enforcement follows the now established procedures, as remedies for not doing so include the potential suppression of evidence and civil liability. The following covers the elements of CAL ECPA and responsibilities of law enforcement when searching electronic devices and serving legal process on electronic service providers. (CA Penal CODE 1546, PC 1546.1, PC 1546.2, PC 1546.4)

Accessing Electronic Communications

GOVERNMENT ENTITIES SHALL NOT:

- A. Compel the production of or access to electronic communication information from a service provider.

UNLESS said information is compelled pursuant to:

- A. A search warrant
- B. A wiretap order
- C. A subpoena, ***as long as the information is not sought for investigating or prosecuting a criminal offense***
- D. An order for a pen register or trap and trace device

This section does not prohibit the intended recipient of an electronic communication from voluntarily disclosing electronic communication information to a government entity. As such, electronic service providers are able to voluntarily submit cybertips related to child exploitation to the NCMEC.

- A. If a government entity receives electronic communication information voluntarily, it shall ***destroy that information within 90 days unless they:***
 1. Obtain the specific consent of the sender or recipient
 2. Obtain a court order authorizing the retention of the information
 3. The entity reasonably believes that the information relates to child pornography and the information is retained as part of a multiagency database used in the investigation of child pornography and related crimes.

Accessing Electronic Device Information

GOVERNMENT ENTITIES SHALL NOT:

- A. Access electronic device information by means of physical interaction or electronic communication with the electronic device.

-
- B. Compel the production of or access to electronic device information from any person or entity other than the authorized possessor of the device.

UNLESS said information is compelled pursuant to:

- A. A search warrant
- B. A wiretap
- C. If the authorized possessor has:
 - 1. Court ordered search conditions specifically related to PC 1546
 - 2. Is on active parole or PRCS
- D. With the specific consent of the authorized possessor of the device
- E. With the specific consent of the owner of the device, only when the device has been reported as lost or stolen
- F. If the government entity, in good faith, believes the device to be lost, stolen, or abandoned
 - 1. Investigators may only search until the owner is identified

It is important to note that per the law, an “authorized possessor” is the possessor of an electronic device when that person is the owner of the device or has been authorized to possess the device by the owner of the device. This definition applies regardless of age, meaning that a parent cannot give consent to search a child’s device, unless the investigator determines that the parent is also an authorized possessor of the device, i.e., parent shares the device, checks the device regularly to monitor the child’s activities, has passcodes and access to the device and accounts therein.

EXIGENCY

CAL ECPA law does allow information from an electronic service provider or electronic device to be compelled if there is an emergency involving danger of death or serious physical injury to any person. If information is obtained in this manner, the investigator must:

- A. Obtain a search warrant for obtained information within 3 days
- B. If the court does not approve the search warrant or finds the facts did not rise to the level of an emergency, it shall order the information destroyed

SEARCH WARRANT REQUIREMENTS

- A. Any warrant for electronic information shall comply with the following:
 - 1. The warrant shall describe with particularity the information to be seized by specifying:
 - a. the time periods covered and, as appropriate and reasonable
 - b. the target individuals or accounts
 - c. the applications or services covered
 - d. the types of information sought

-
- e. Any information obtained through the execution of the warrant that is ***unrelated to the objective of the warrant*** shall be sealed and ***not*** subject to further review, use, or disclosure without a court order.

SEARCH WARRANT NOTIFICATION REQUIREMENTS

Upon serving a search warrant for information from an electronic communications provider or information from an electronic device, the investigator has responsibilities to notify the intended target of the search warrant. The notice will:

- A. Inform the target that information about the target has been compelled or requested
- B. State, with reasonable specificity, the nature of the government investigation under which the information is sought
- C. Include a copy of the warrant, or a written statement setting forth facts giving rise to the emergency

The notice must be served by:

- A. registered or first-class mail
- B. electronic mail
- C. or other means reasonably calculated to be effective

This notice must be contemporaneous with the execution of the search warrant, or in cases of exigency, within 3 days after obtaining the information.

Investigators may submit a request in their search warrant to delay notification for up to 90 days if the notification would have an adverse result on the investigation. The law defines an adverse result as:

- A. Danger to the life or physical safety of an individual
- B. Flight from prosecution
- C. Destruction of or tampering with evidence
- D. Intimidation of potential witnesses
- E. Serious jeopardy to an investigation or undue delay of a trial

The investigator may request an unlimited number of delayed notifications, but each must be approved by the court. At the end of the delay, the investigator must provide the intended target:

- A. a document that includes all required information
 - 1. (copy of warrant, etc.)
- B. a copy of all electronic information obtained or a summary of that information, including, at a minimum:
 - 1. the number and types of records disclosed
 - 2. the date and time when the earliest and latest records were created, and
 - 3. a statement of the grounds for the court's determination to grant a delay in notifying the individual

Many times, there may be no identified target of a warrant or emergency request at the time of its issuance. For example, the investigator may not have been able to confirm the identity of the individual who owns a social media account. In these cases, the investigator shall:

- A. Submit to the Department of Justice within three days of the execution of the warrant, or issuance of the emergency request, all required information.
 - 1. This is the same information you would provide the target of the warrant.
- B. The investigator can accomplish this by creating an account at: clew.doj.ca.gov
- C. The Department of Justice shall publish all those reports on its [Internet Web site](#) within 90 days of receipt. The Department may redact names or other personal identifying information from the reports.

Except as otherwise provided (Delay Notification), nothing prohibits or limits a service provider or any other party from disclosing information about any request or demand for electronic information. As such, it is recommended that the investigator also include a non-disclosure order in their search warrant.

As previously mentioned, failure to adhere to the standards set forth in PC 1546 et can result in possible remedies. One major change is that CAL ECPA allows **any person** in a trial, hearing, or proceeding to move to suppress any electronic information obtained or retained in violation of the law. THERE NO LONGER IS A STANDING REQUIREMENT. A co-defendant, witness, etc. may move to suppress evidence, petition the court to void, modify or destroy evidence obtained.

Additionally, the target of the warrant, or a service provider or any other recipient of the warrant, may petition the issuing court to void or modify the warrant, order, or process, or to order the destruction of any information obtained in violation of the law.

Lastly, the California Attorney General may bring civil action against the government entity who violates the law.

As is obvious, CAL ECPA significantly changed the manner in which law enforcement may obtain digital information. Since this type of information is more important than ever in all investigations, investigators must become intimately familiar with the law, and keep updated on any related case law to avoid the potential of losing crucial evidence. The investigator should also consult their local District Attorney's Office with any questions.

Appendix 27

Officer Wellness

Vicarious Trauma Toolkit

Appendix 28

Web Resources

AMBER Alert Plan

Centers for Disease Control and Prevention

Child Forensic Interviewing Best Practices (pdf)

Chadwick Center List of Resources

Drug Endangered Children Training and Advocacy Center

End Violence Against Women International (EVAWI)

Forensic Interviewing: A Primer for Child Welfare Professionals (pdf)

Legal Updates Online

National Center for Missing and Exploited Children

National Center on Shaken Baby Syndrome

Recognizing When a Child's Injury or Illness Is Caused by Abuse (OJJDP) (pdf)

Vicarious Trauma Toolkit

Appendix 29

Resources Used in the Preparation of these Guidelines

AMBER Alert Plan

Block & Williams, *The Prosecution of Child Sexual Abuse*, 2019

Blum, Lawrence N. Ph.D. L. Blum, Inc. 1991

California Clinical Medial Forensic Training Center

California Community Care Licensing

California Criminal Jury Instructions

California District Attorneys Association Search Warrant Manual, 5th Edition (2019), Mike Galli, DDA, Santa Clara County DA's Office

California Peace Officers Legal Sourcebook (CDAA/California DOJ) – available through CopWare

California Victim Compensation Board

Child Abuse Prosecution Toolkit, Kentucky State Attorney General's Office

Child Forensic Interviewing Best Practices (2017)

Child Molesters: A Behavioral Analysis, 5th Edition, 2010, Lanning, Kenneth V.

Child Sex Ring: Behavioral Analysis (NCMEC and NCJRS)

Crime of Human Trafficking (The), A Law Enforcement Guide to Identification and Investigation, International Association of Chiefs of Police (IACP)

CopLine

CopsAlive

Drug Endangered Children Training and Advocacy Center

Forensic Interviewing: A Primer for Child Welfare Professionals

Goldstein, Seth L. *The Sexual Exploitation of Children: A practical Guide to Assessment, Investigation, and Intervention*, 2nd Edition (1998), CRC Press

Investigation and Prosecution of Strangulation Cases (Training Institute on Strangulation Prevention and the California District Attorneys Association)

Lanning, Kenneth V. *Child Molesters: A Behavioral Analysis*, 5th Edition, 2010. Available for free as a PDF download through the *National Center for Missing and Exploited Children*

Law Enforcement Response to Child Abuse – Portable Guide to Investigating Child Abuse (2014), US Department of Justice, Office of Juvenile Justice and Delinquency Prevention

Legal Updates Online - Robert Phillips, DDA (Retired) San Diego District Attorney's Office

London, Bruke, Ceci, Shuman, *Psychology, Public Policy, and Law*, 2005, Vol. 11, No. 1, 194–226

Lyon, Thomas D. PhD. *Abstract of “Filial Dependency and Recantation of Child Sexual Abuse Allegations.”* *Journal of the American Academy of Child and Adolescent Psychiatry*, 46(2):162-70, Mar. 2007

Miranda and the Law, The Fifth Amendment, A Legal Update, 6th Edition, July 2020. Phillips, Robert; DDA (Retired) San Diego District Attorney's Office, through Legal Update Online

Missing and Abducted Children: A Law Enforcement Guide to Case Investigation and Program Management

Munchausen Syndrome by Proxy, *Healthline*

National Center on Shaken Baby Syndrome

National Suicide Prevention Lifeline

Newlin, Cordisco-Steele, Chamberlin, Anderson, Kenniston, Russell, Stewart, Vaughan-Eden; *Child Forensic Interviewing: Best Practices*; OJJDP Juvenile Justice Bulletin, Sept. 2015

(The) Pain Behind the Badge

Preventing Child Abuse and Neglect, DHHS, National Center for Injury Prevention and Control (2019)

Pritchard, Colin & King, Elizabeth (2005)

San Diego County Strangulation Protocols (2017)

Rutledge, Devalis. DDA, Los Angeles County District Attorney's Office. One Minute Brief; March 9, 2020

Understanding the Neurobiology of Trauma and Implications for Interviewing Victims (EVAWI)

U.S. Administration for Children & Families, Child Maltreatment 2018

U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau (2019)

