

CHILD ABUSE REPORTING RESPONSIBILITIES OF DEPUTIZED PROBATION STAFF

- AUTHORITY:** Penal Code (PC) Sections 11165 through 11174.3
Welfare and Institutions Code (WIC) Sections 307.4 and 628-736
Regulations of the California Attorney General
The Child Abuse and Neglect Reporting Act (CANRA)
Prison Rape Elimination Act, 2003
- RESCINDS:** Procedure Manual Item 2-1-004, dated 01/13/16
- FORMS** Suspected Child Abuse Report (SS 8572)
Prison Rape Elimination Act (PREA) Acknowledgement (PSD form)
- PURPOSE:**
1. To establish uniform reporting for all known or suspected instances of child abuse.
 2. To establish guidelines for investigating cases of known or suspected child abuse in which an active juvenile case is the victim.

I. GENERAL INFORMATION

- A. Pursuant to PC 11165.6, child abuse is defined as a physical injury which is inflicted by other than accidental means on a child by another person. This includes sexual abuse of a child, or any act or omission proscribed by PC 273a (Willful Cruelty or Unjustifiable Punishment of a Child), or PC 273d, (Unlawful Corporal Punishment or Injury).
- B. Pursuant to PC 11165.6, child abuse does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of their employment as a peace officer.
- C. Reporting incidents of child abuse is required by law for designated individuals pursuant to PC 11166(a). Child care custodians are required to report pursuant to this section. "Child care custodian" is defined in CPC Section 11165.7(a) in part as, "an employee of a child care institution including but not limited to foster parents, group home personnel, and personnel of residential care facilities; a social worker, probation officer, or parole officer."
- D. Under the provisions of PC Section 11166, reporting incidents of child abuse is the responsibility of the individual who has reasonable suspicion or knowledge of suspected child abuse. Internal procedures to facilitate reporting and apprise supervisors and administrators have been established. Such procedures may never impede or inhibit reporting duties and/or require the disclosure of identity of the reporting employee.
- E. County Counsel has clarified the reporting responsibility of child abuse in the case of unnecessary or excessive force used by law enforcement (Opinion 87-81).

Using California/State Attorney General's Opinion 85-1201, February 3, 1987, as a foundation, County Counsel concluded ..."A county probation officer has no duty to make child abuse reports when he or she knows or reasonably suspects that a juvenile has a non-accidental injury inflicted by any peace officer in the course of the juvenile's arrest, detention or confinement, unless he or she knows, or reasonably suspects, that the force used to inflict the injury was not reasonably necessary to effect the arrest, prevent escape, or overcome the resistance of the minor."

- F. There may be personal civil and/or criminal liability for staff who knowingly fails to report a child abuse incident.

II. PROCEDURE

- A. Reporting staff responsibilities:

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

1. Act to ensure the child's immediate safety. Examples of this include but are not limited to, having law enforcement take the youth into protective custody, removing the youth from a placement facility or a county facility, or transferring **the youth to another location** within a facility.
2. Notify the Chief Probation Officer via the chain of command immediately of all incidents involving probation staff or a probation facility. The Chief Probation Officer or **designee** will then request the **Orange County Sheriff's Department** to conduct an independent criminal investigation as indicated.
3. Notify the immediate supervisor/Duty Officer or available administrator, of acts by law enforcement (police and peace officers) that create a "reasonable suspicion" that any unnecessary or excessive force was used in the course of arresting, detaining, or confining a youth. ("Reasonable suspicion" has been defined by the legislature to mean that it is objectively reasonable for a person to entertain such a suspicion based upon fact that could cause a reasonable person in a like position, drawing on his or her training and experience, to suspect child abuse.")
4. Telephone the Child Abuse Registry of the Social Services Agency (SSA) at 714-940-1000 or 1-800-207-4464 (24-hour hotline).
5. Complete the "Suspected Child Abuse" form in writing. You can locate this form on **Probnet**, under Forms, and click External Agency forms-**SSA Suspected Child Abuse Report**. Fill out the form and fax to Child Abuse Registry at Fax# 714-935-8404.

SSA also has a web-based form. After you call in the report, you will be assigned an account and temporary password. The social worker will email you the link and you can complete the form online and submit directly to SSA.

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

6. Notify local law enforcement immediately when the incident is discovered in the community if there is an immediate threat to the child's safety, evidence

to collect, or criminal investigation to conduct for potential prosecution.

7. In compliance with WIC 307.4, **deputy** probation officers (**DPOs**) and peace officers taking a child into temporary custody believed to come within WIC 300, shall:
 - a. Immediately inform the parent, guardian, or responsible relative that the youth is in custody, by the most efficient means possible.
 - b. Advise the parent, guardian, or responsible relative that a written statement is available which explains the procedural rights and the preliminary stages of the dependency investigation and hearing.

B. Completing a "Suspected Child Abuse Report" form

1. What to Report:

- a. The victim's age.
- b. The action, **including** whether the perpetrator is an adult or juvenile:

(1) Sexual assault pursuant to:

- (a) PC 261 (Rape)
- (b) PC 264.1 (Rape in Concert)
- (c) PC 285 (Incest)
- (d) PC 286 (Sodomy)
- (e) PC 288(a) and (b) (Lewd and Lascivious Acts Upon Child Under 14)
- (f) PC 288a (Oral Copulation)
- (g) PC 289 (Penetration of a Genital or Anal Opening by a Foreign Object)
- (h) PC 647a (Child Molest)

(2) Physical punishment or cruelty pursuant to:

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

(3) Neglect:

Child abuse includes those conditions under which a youth may come under the jurisdiction of the juvenile court, such as:

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

(4) Cruelty:

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

(5) Punishment:

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

- c. If other circumstances appear to be borderline as to whether or not they should be reported as child abuse, the judgment should be made to report rather than not to report.
- d. Incidents of abuse that have happened in the past that do not appear to pose a present danger to the child and could not result in present prosecution shall be reported.

2. How to complete the "Suspected Child Abuse Report" form

- a. The form is available on the **Probnet** home page under, "Forms" then "External Agency Forms".

It is also available at www.ssa.ocgov.com/gov/ssa by clicking on "Abuse Reporting," "Mandated Reporters," "Forms", "Mandated Reporter Follow Up Form," **and then** Printable Follow-up Form."

- b. Fill out this online form **by typing** the names of victims, siblings, parents, and alleged abusers with first, middle, and last names and dates of birth. "S" or "Same" causes confusion.
- c. Complete "Agency Name" and "Address" in full:

Orange County Probation Department
P.O. Box 10260
Santa Ana, CA 92711

- d. Submit this report, or fax the report, even if it proves to be unfounded during preliminary investigation, in order that the Department of Justice can reconcile all concurrent reports submitted by all other mandatory reporters.
- e. Routing is as follows:
 - (1) Submit the SS 8572 to the Child Abuse Registry via fax at 714-935-8404 or web-based form as mentioned on page 2, item #5.
 - (2) Route a photocopy to the juvenile case file.
 - (3) Retain a photocopy for your own records.

C. Documenting Probation Case Files

- 1. At the conclusion of all actions concerning a suspected child abuse of a youth who has an open case file, the assigned staff shall enter a chrono/summary in the case file summarizing the matter and any future action or case plan. **In cases involving staff, do not reference staff's name. Instead, follow Prison Rape Elimination Act (PREA) protocol, complete a Special Incident Report, and route to the Professional Standards Division (PSD) via chain of command.**
- 2. The Child Abuse Registry may not necessarily notify the reporting party of the disposition. If further dispositional information is desired, staff may call the Child Abuse Registry.

REFERENCES:

Procedure:	2-1-005	Elder Abuse and Dependent Adult Abuse Reporting Responsibilities of the Probation Officer
	2-1-011	Victims Residing With Perpetrators of Abuse
	3-1-112	Child Abuse Reporting and Investigation Responsibilities of Deputized Probation Staff
	3-1-309	Sexual Assault Report
Policies:	A-1	Policy, Procedure and the Law
	A-2	Upholding Departmental Philosophy and Principles
	B-1	Case Confidentiality - Client's Right to Privacy
	B-2	Inter- and Intra-Agency Confidentiality

C. Ronald

APPROVED BY: