

INITIAL RESPONSE

A collaborative approach by law enforcement and DCFS to all child abuse or neglect reports is essential. The initial response to a child abuse report is the most important time to protect the child and to gather evidence. Collaboration is crucial to this effort. All professionals should work together and share information while adhering to the separate mandates and policies of their respective agencies.

All efforts must be directed towards protecting the child and the community through placements and prosecution when appropriate. The best interests of the child can only be served if the child is not further traumatized during the investigation.

Mandatory Response by DCFS

A CSW receives referrals from the Child Protection Hotline reporting that a child is endangered by abuse, neglect, or exploitation. In response, the CSW conducts an initial assessment and determines whether the referral warrants an immediate response. DCFS policy may require an immediate response in the following situations where the caller alleges:

- the child is a victim of severe abuse, neglect, or exploitation, or is at substantial risk of harm
- the child is in imminent danger due to physical pain, injury, disability, severe emotional harm or death
- the child/victim is 0-24 months of age or under age 5 and the alleged perpetrator has access to the child
- the child is in need of an immediate medical evaluation, and the child's caregiver is not willing to seek medical care for the child
- the child or the family may flee, making the child unavailable for an in-person assessment of the allegations
- the child is ten years of age or younger and is alone or without adequate supervision at the time of the report
- the child, who is the alleged victim of abuse or neglect, is ready for discharge from a hospital, and there is no appropriate caretaker
- the child has significant injuries due to severe physical abuse or neglect
- the child's living conditions are immediately hazardous to his or her health or safety [e.g., a drug lab within or near the home, unlocked or unsecured weapons within the child's reach, accessible drugs/paraphernalia, insect or rodent infestation, human or animal

waste within the living area]

- the caller is a law enforcement official with a child in custody and/or requests an immediate response
- the child is an alleged victim of sexual abuse and is likely to have contact with the perpetrator within the next five days
- the child is living in a household where domestic violence is actually taking place at the home at the time of the report
- the child is reported to be suicidal, and the caregiver is not taking appropriate action to protect the child
- the child has died as a result of abuse or neglect, and there are other children who remain in the home
- the child, although a dependent of another county, resides in Los Angeles County and meets one of the above criteria, and, after contacting the other county's child abuse hotline to cross-report the allegations, the other county declines to respond to the referral
- reports of abuse of a disabled child whose disability prevents self-protection, and the alleged perpetrator has access to the child

The CSW who initially responds should ensure that the cross report to law enforcement and the prosecuting agency was made in accordance with the law. Additionally, the CSW should request that a law enforcement unit respond if the situation warrants an emergent law enforcement response and/or the CSW believes that a crime has occurred.

If a CSW is denied entry into a location where child abuse or neglect is suspected, the CSW should determine whether exigent circumstances exist for entry. If not, a search warrant is necessary to enter the home.

Referrals received for children who are not supervised by DCFS and have been abused or neglected in out-of-home care are evaluated out to the appropriate law enforcement agency and cross-reported to the appropriate licensing agency.

Emergency Response Children's Social Workers

The Emergency Response Children's Social Worker has multiple duties including

- making the initial contact with the family
- providing an explanation for the home call
- gathering information and speaking to the appropriate parties
- assessing child risk factors
- assessing the parent or guardian

- observing for behavioral and physical indicators of abuse and neglect to assess the impact on the child(ren)

The CSW is to be concerned with the needs and protection of the child(ren).

When the child's safety cannot be assured in the home of the parent or guardian, the CSW shall initiate a plan for alternate care. CSWs shall evaluate the possibility of a relative placement, including placement with a non-offending parent, in their evaluation, including a review of criminal and child welfare services history. {WIC §§309, 319}

In situations which allege abuse, when a parent cannot or will not cooperate in a voluntary plan, and the child is at risk, it is necessary to involve law enforcement and/or juvenile court. When law enforcement takes a child into protective custody, the CSW completes the placement and detention process. Both child(ren) and parents are counseled about the reasons for placement and the intervention of the court.

If an allegation involves abuse or neglect, siblings and other children in the home should be interviewed. If the allegation involves physical abuse, the children should be visually examined. When disrobing a child for a visual examination, CSWs shall follow the current procedural guide regarding the disrobing of children.

If a child's injury, illness, or abuse is such that the child may be in need of medical assessment or treatment, the CSW must arrange for the child to be seen by a licensed medical practitioner.

DCFS policy requires that medical assessments be completed on victims of physical abuse, children age four and under, and on all non-verbal and/or developmentally delayed children referred for physical abuse when the situation is unclear as to the cause of the injury [which includes cuts, bruises, lesions and other injuries of any type], or when a medical exam is necessary to document the evidence.

Immediate Response by Law Enforcement

Law enforcement officers receive child abuse reports either directly from a citizen complaint or through a mandatory report or cross report. In response, a law enforcement officer should conduct an initial assessment to determine the immediacy of the response required. Law enforcement officers should be vigilant to situations, conditions, or incidents that suggest that a child's safety or well-being may be in danger, that the basic necessities of life are not being provided by a parent or caretaker, or that a crime may have occurred. By providing high priority to calls for service involving child abuse, law enforcement will help ensure that its efforts are maximized in gathering evidence and preserving the critical testimony required for a successful prosecution.

Priority status should be assigned to incidents of child abuse when

- a child is dead
- the child is hospitalized or receiving to emergency medical treatment
- physical evidence or bodily fluids and material can be preserved
- a crime scene requires processing
- shaken baby syndrome⁶, head injuries, burns, fractures, or severe neglect is alleged or uncovered
- DCFS, a school authority, or other mandated reporter requests police intervention
- the suspect is a flight risk, may influence the victim's testimony, may confess to the crime, or poses a significant risk of harm to the victim

Law enforcement officers who respond to take the first report should

- determine whether a crime may have occurred. If so, conduct an investigation regardless of the action taken by DCFS.
- request that a CSW respond if investigating an incident with potential placement issues
- collect all physical evidence relevant to the case including, but not limited to
 - clothing
 - bedding
 - photographs
 - computer hardware and software
 - videotapes
 - sex toys
 - condoms
 - blood or bodily fluids
 - weapons
 - other items which corroborate the child's allegations
- document the crime scene and injuries of the victim and the suspect by photographs or videotape when appropriate

⁶ "Shaken baby syndrome" is a traditional and commonly used term. However, there is a national trend to use "abusive head trauma" to refer to the constellation of non-accidental head injuries resulting from child abuse. This term is preferred because reference to a "syndrome" is becoming disfavored by many courts.

If the initial responding officer is not experienced in child abuse investigation, the officer should obtain only basic information, gather evidence, make independent observations, and make notifications. Pursuant to agency protocol and the circumstances of the incident, more detailed information should be obtained by an experienced child abuse investigator at a later time. Traumatized, uncooperative, or non-conversant victims are examples of child victims who should be interviewed by an experienced child abuse investigator.

When child victims are in police facilities in connection with a criminal or dependency matter, law enforcement shall strive to provide a physical environment that is conducive to effective interviewing. It should be comfortable, adequately furnished, well lit, and not within sight or hearing distance of the accused offender, prisoners, or jail inmates.

Investigators should evaluate each case to determine which are appropriate for early involvement by a prosecutor. When appropriate, investigators should contact prosecuting attorneys so they may be involved early in the child abuse investigation process.

If allegations involving physical abuse and/or neglect are reported, law enforcement is encouraged to visually examine the child. Thoroughness requires that disrobing the child may be necessary, particularly with pre-verbal children.

All agencies are encouraged to develop a policy with suggested practices for the disrobing of children that provides for the least intrusive means to conduct the examination while maintaining privacy and preserving the dignity of the child. Protocols should address issues such as

- the appropriate age at which the examination should be conducted only by a same-sex officer
- how to address visual examinations of pre-verbal and non-verbal children where reasonable cause exists to believe that there may be injuries not readily visible
- how to address examinations and/or interviews for other children residing in the home of a child believed to be a victim of abuse or neglect

It is inappropriate for officers to examine genitalia as part of a sexual assault investigation; however, in certain physical abuse cases it may be appropriate.

When a child who is the victim of child abuse is removed from school by a law enforcement officer, the officer should direct the school official not to disclose

the child's removal to the parent or guardian. This is an exception to the school official's general obligation to inform a child's parent or guardian when a child is removed from school by a peace officer under circumstances other than child abuse or neglect.

Pursuant to Educ C §48906, the officer removing the child from the school environment shall obtain the parent or guardian's address and telephone number and shall take immediate steps to notify the parent, guardian, or responsible relative of the child that the child is in custody in a facility authorized by law. The code further states that the officer must disclose the location of the child unless the officer has a reasonable belief that the child would be endangered by such a disclosure or the custody of the child is likely to be disturbed. The officer may refuse to disclose the place where the child is being held for a period not to exceed 24 hours. However, in all cases where a child is taken into custody, WIC §308(a) mandates that the law enforcement officer or social worker take immediate steps to notify the child's parent, guardian, or a responsible relative that the child is in custody and that the child has been placed in a facility authorized by law to care for the child and shall provide a telephone number at which the child may be contacted. The confidentiality of the address of any licensed foster family home in which the child has been placed shall be maintained until the dispositional hearing.

Recommendations for Cooperative Field Response

Initial Contact

All professionals should respond as promptly as possible; however, to the extent possible, an interview should not begin before the other agency has arrived.

Law enforcement and DCFS shall cross report all cases of child death suspected to be related to child abuse or neglect whether or not the deceased child has any known surviving siblings. {PC §11166.9(k)} A report also must be made to the Child Abuse Central Index [CACI]. {PC §11169(b)}

Crime Scene Preservation

All professionals must avoid disturbing potential forensic evidence and are directed to communicate the existence and any location of potential forensic evidence to law enforcement.

Potential forensic evidence may include but is not limited to

- clothing
- bedding
- photographs
- computer hardware and software
- videotapes
- sex toys
- condoms
- blood or bodily fluids
- weapons
- other items which corroborate the child's allegations

Medical Needs

When appropriate, victims of sexual abuse, physical abuse, or neglect should be examined by a medical expert with specialized training as soon as possible. If sexual abuse is believed to have occurred within the last 72 hours, the examination should be immediate. If the child is in protective custody, the medical examination guidelines set forth in WIC §324.5 should be followed.

Law enforcement and DCFS shall strive to identify and use hospitals and medical facilities with staff qualified to conduct physical examinations of children to detect sexual abuse or physical trauma. Law enforcement shall continually strive to use service providers with medical and nursing staff willing to offer expert testimony in a judicial setting concerning their findings about a child abuse examination. [See Index of Appendices for a list of Resources for Forensic Evaluation.]

Interviews of Victims and Witnesses

General provisions

Except in unusual circumstances, multiple interviews with child victims and witnesses should be limited. Professionals are encouraged to conduct interviews jointly. Where possible and appropriate, the prosecutor should be included in the investigative interviews to minimize the trauma to the child victim caused by multiple interviews. Interviews should be conducted as follows

- parties contacting a child should introduce themselves, explain their roles, identify other strangers by name, and indicate briefly what the

child can expect

- use simple, understandable language
- use open-ended questions, not leading questions during the interviews
- conduct interviews outside the presence of other victims, witnesses and suspects
- conduct interviews with the utmost sensitivity to the child
- build rapport with the child

Law enforcement and DCFS should be aware that certain court proceedings may permit the admissibility of statements and disclosures made by young victims in child abuse cases that are not normally admitted in other types of criminal proceedings. Therefore, all statements should be carefully documented.

Teachers, counselors, school nurses, and others at the child's school can be important sources of information when investigating allegations of possible child abuse. Interviewing the mandated reporter can reveal first-hand information about the child's behavior, appearance, attendance, health [physical and emotional], and interaction between school personnel and the child's parents. This information can provide the investigator with insight into the school employee's concerns and perceptions, allowing a more accurate and objective assessment of the child's actual situation.

Interviews of the child conducted at the child's school

An interview may be conducted on the child's school premises during school hours.

Children interviewed at school have a right to be interviewed in private or to select any adult who is a school staff member to be present at the interview for support. The CSW or law enforcement officer must inform the child of the right to a support person before the interview. The child should be asked outside the presence of any school staff member whether or not the child would like a staff member to be present. It is up to the child whether or not a support person will be present.

The staff member's presence is only to lend support to the child and to allow the child to be comfortable during the interview. The staff member may not participate in the interview and shall not discuss the facts of the case with the child. The staff member is subject to the confidentiality requirements mandated under PC §11167.5.

The selected staff member may decline to be present at the interview. If the staff member does attend the interview at the request of the child, the interview shall be performed at a time during school hours when it does not involve an expense to the school. {PC §11174.3}

Victim's right to presence of an advocate

A victim of sexual assault within the meaning of PC §§243(e), 261, 261.5, 262, 286, 288a, or 289 has a right to have victim advocates and one support person of the victim's choosing present at any interview by law enforcement, district attorneys, or defense attorneys. Before the beginning of an initial interview by law enforcement or district attorneys, a victim shall be notified of this right. The support person may be excluded from an interview if the interviewer determines that his or her presence would be detrimental to the purpose of the interview. The victim advocate may not be excluded. {PC §679.04(b)}

Interviewers should be sensitive to the fact that children can be particularly vulnerable to the possibility of undue influence, coercion, or intimidation by a support person who has a prior relationship with the child or the abuser.

An initial investigation by law enforcement to determine whether a crime has been committed and the identity of the suspects shall not constitute a law enforcement interview for purposes of this section. {PC §679.04(c)}

First Responders' Interview with the Suspect

If necessary, interview the suspect to get his or her account of the incident. Avoid providing the suspect with unnecessary details or the nature of the allegations. Whenever possible, medical or other corroborating evidence should not be disclosed. During the follow-up investigation, a more thorough interview may be conducted by a specially trained investigator.

Documentation

Agencies are required to document their activities in response to child abuse allegations. Each agency must memorialize its actions at each stage of the case to provide an accurate historical record. All relevant information obtained shall be included in the documentation.

Temporary Custody and Placement of Children

Both DCFS and law enforcement have authority to investigate cases of suspected child abuse or neglect and to take children into temporary custody when required. DCFS staff and law enforcement shall work cooperatively in the investigation of suspected child abuse and neglect cases. A CSW should call law enforcement for assistance in taking a child into temporary custody if the situation warrants. If law enforcement assistance is required, both the CSW and the peace officer should be particularly sensitive to any concerns or needs of the child.

While law enforcement and DCFS are encouraged to take a collaborative approach to minimize further trauma to the child, each agency must adhere to its separate mandates. Law enforcement has authority to determine whether a criminal violation has occurred. DCFS has authority to determine whether the child requires protective services.

Law enforcement may, without a warrant, take a child into temporary custody under any of the following circumstances

- when the officer reasonably believes that the child has been abused as defined in WIC §300, and the child has 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 and safety. If the child is unattended, the law enforcement officer shall first attempt to contact the child's parent or guardian to determine if the parent or guardian is able to assume custody of the child. If the parent or guardian cannot be located, the law enforcement officer shall notify the CSW to assume custody of the child. {WIC §305(a)}
- when the child is in the hospital and the release of the child to a parent poses an immediate danger to the child's health or safety {WIC §305(b)}
- when the child is a dependent of the juvenile court or the subject of an order made under WIC §319, if the officer reasonably believes the child has left court-ordered placement or has violated other court orders {WIC §305(c)}
- 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 {WIC §305(d)}

A peace officer who takes a child into temporary custody may release the child to the custody of the child's parents or deliver the child to DCFS. In determining the appropriate disposition of the child, the officer shall give preference to the alternative which least interferes with the parents' or guardians' custody of the

child, if this alternative is compatible with the safety of the child. The officer shall also consider the needs of the child for the least restrictive environment and the protective needs of the community. {WIC §307} If the child is delivered by law enforcement and placed in the custody of DCFS, DCFS maintains custody of the child while the investigation is pending.

DCFS is authorized to take a child into temporary custody if there is a reasonable belief that the child is described in WIC §300(b) [serious physical harm or illness as a result of lack of adequate supervision, protection, or provision], or WIC §300(g) [lack of care and support, or when physical custody of a child has been voluntarily surrendered under H&S §1255.7 and the child has not been reclaimed within 14 days], and the CSW 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. {WIC §306(a)(2)} In all other situations, the child is taken into custody by law enforcement. The decision to take a child into custody is based on the level of endangerment, not on the category of the allegation as defined in WIC §300.

Before removing the child from the home, the CSW must consider whether there are any reasonable services available to the child's family which would eliminate the need to remove the child from the custody of the parent or guardian. {WIC §§306, 309}.

When a child is placed in the temporary custody of DCFS pursuant to WIC §309(a), the CSW must immediately investigate the circumstances of the child and the facts surrounding the need for change in custody status. According to WIC §309, DCFS must release the child to the custody of the child's parents unless

- the child has no parent, guardian, or responsible relative; or, the child's parent, guardian, or responsible relative is not willing to provide for the child {WIC §309(a)(1)}
- continued detention of the child is a matter of immediate and urgent necessity for the child and there are no reasonable means by which the child may be protected in his or her home {WIC §309(a)(2)}
- there is substantial evidence that a parent, guardian, or custodian of the child is likely to flee the jurisdiction of the court with the child {WIC §309(a)(3)}
- the child has left a placement in which the child was placed by the court {WIC §309(a)(4)}

If an able and willing relative or non-relative, extended family member, as defined in WIC §§319 & 362.7, is available and requests temporary placement of

the child, the CSW shall initiate an emergency assessment of the relative's suitability. Placement may not be made with a relative or non-relative extended family member who has a criminal record. {WIC §309(d)}

The CSW is required to interview a child who is four years of age or older. {WIC §328} However, all verbal children should be interviewed. The CSW shall be particularly sensitive to the needs of the child for privacy, for a support person if requested, and for emotional support.

Every effort should be made to minimize the confusing and sometimes traumatic effect of detention. According to WIC §308, any peace officer or CSW who takes a minor into custody shall

- notify the child's parent, guardian, or responsible relative that the minor is in custody and provide a phone number where the child may be contacted {WIC §308(a)}
- keep the location of the child confidential; it must not be disclosed until authorized by a dependency court judge after a hearing {WIC §308(a)}
- notify a child 10 years of age or older that the child has the right to make at least two telephone calls from the place where the child is being held⁷
- use diligent and reasonable effort to ensure regular telephonic contact between the parent and child of any age, prior to the detention hearing, unless the contact would be detrimental to the child {WIC §308(a)}

In addition, whenever possible, the CSW or law enforcement officer should

- ensure that the child's medication or medical equipment is collected for the child
- make every effort to allow the child to bring along a toy or other transitional object, preferably labeled with the child's name
- explain to the child, using simple, understandable language, what placement decision is being made and the reasons for the decision, in order to minimize the trauma to the child

⁷ One call completed to his or her parent, guardian or a responsible relative; and the other completed call to an attorney. These calls must be made in the presence of a public officer or employee. The calls are at public expense as long as they are local calls. Willful failure to provide these telephone calls is a misdemeanor. {W&I §308(b)}

Those charged with placement decisions of minor victims should be mindful that placement has a profound impact on the child and on potential prosecution. Placement with unsupportive parents or family members can result in the child recanting or can subject the child to further physical, sexual, or emotional abuse. These family members are not appropriate placement choices for an abused child and every effort should be made not to place a child in the home of a family member who does not support the child's welfare in all respects.

In situations where a child is being placed after the death of a parent, caretaker, or other family member, special consideration should be made regarding the opportunity of a child to attend the funeral. The initial responder should communicate the need to attend a funeral to whomever is charged with temporary custody of the child.

Medical Examination of Child in Protective Custody

Whenever allegations of physical or sexual abuse of a child come to the attention of a local law enforcement agency or DCFS and the child is taken into protective custody, the local law enforcement agency or DCFS may consult, as soon as practically possible, with a medical practitioner who has special training in detecting and treating child abuse injuries and neglect to determine whether a physical examination of a child is appropriate. If deemed appropriate, the local law enforcement agency or DCFS shall cause the child to undergo a physical examination performed by a medical practitioner who has specialized training in detecting child abuse injuries and neglect, and, whenever possible, shall insure that this examination takes place within 72 hours of the time the child was taken into protective custody. In the event the allegations are made while the child is in custody, the physical examination shall be performed within 72 hours of the time the allegations were made. {WIC §324.5(a)}

If a petition is filed in dependency court, DCFS shall provide the results of the physical examination to the court, to any counsel for the minor, and counsel for the parent or guardian of the minor. Failure to obtain this physical examination shall not be grounds to deny the petition. {WIC §324.5(a)}

DCFS shall, whenever possible, request that any additional examinations to detect child injuries or neglect be performed by the same medical practitioner who performed the examinations described in WIC §324.5(a). If it is not possible to obtain additional medical examinations, DCFS shall insure that future medical practitioners to whom the child is referred for ongoing diagnosis and treatment have specialized training in detecting and treating child abuse injuries and neglect and have access to the child's medical records covering the current and previous incidents of child abuse. {WIC §324.5(b)} When appropriate, consideration should be given to reviewing complete medical records for the

victim. In addition, the practitioner should review available medical records for siblings, when appropriate.

Procedures for Transporting a Child

In most instances, a responding DCFS representative assumes physical control of a child and provides for any subsequent placements. Often, in furtherance of the investigation or to assist DCFS, a law enforcement officer transports a child to a police station, hospital, foster care facility, DCFS facility, family relative, court, domestic violence shelter, or other location specified by a DCFS representative. Whenever a child is transported, the transporting agency should provide the legally required seating equipment and seat belt restraints for each passenger. Victims and witnesses should not be transported with the suspected offender, jail inmates, or persons who would have a negative effect on the outcome of any legal proceeding. While law enforcement assists in the transportation of victims or witnesses, emergency calls must take priority. Efforts should be made to avoid inconvenience to the victim, confinement, or unnecessary exposure to police activities.