

## **SPECIAL AREAS OF CONCERN**

### **Voluntary Surrender of an Infant**

No parent or other person having lawful custody of a child 72 hours old or younger may be prosecuted for a violation of PC §§270, 270.5, 271, or 271a, if he or she voluntarily surrenders physical custody of the child to any designated employee on duty at a public or private hospital or any additional location designated by the county board of supervisors. {PC §271.5(a)}. Each hospital or other designated entity shall identify the class of employees required to take custody of these children. {PC §271.5(b)}

Currently, Los Angeles County has approved County Fire Stations as Safe Surrender locations. A number of municipal fire departments have been sanctioned as Safe Surrender locations, including the City of Los Angeles Fire Department. A Safe Haven logo has been adopted for use in all approved Safe Surrender sites.

When an infant is surrendered pursuant to PC §271.5, the procedures outlined in H&S §1255.7 shall be followed.

The toll-free Safe-Surrender Hotline is (877)BABYSAFE [(877)222-7233]. [See Index of Appendices for a summary of the statutes on Safe Surrender.]

### **Child Abduction Cases**

Child abduction cases involve cross-jurisdictional issues covering dependency, criminal, probate, and family law courts. The lawful custodian of the child, not the child, is the victim in a child abduction case. Lawful custody of the child can be held by a number of parties: the parent (unless custody is removed in a court of law); a guardian awarded custody of the child in the probate court; or DCFS, when granted custody of the child in dependency court {WIC §300 et seq.}; or probation, when granted custody of a minor by the juvenile court. {WIC §600 et seq.}

Law enforcement, in particular, should respond quickly in child abduction situations. Allegations made by one parent that the other parent has abducted, concealed, or withheld their child is sufficient for reporting a crime under PC §278.5. There is no requirement under the law that a custody order regarding the child be obtained before this crime can be reported or investigated. All California parents have a specific legal and inherent right of access to children. When this right is violated -- even by the other parent -- a crime has been

committed. Similarly, a DCFS CSW is mandated to seek immediate law enforcement response upon discovering that a dependent child has been removed or withheld from the custody of the dependency court. Although the District Attorney's Office can be of direct assistance in certain child abduction situations, that assistance is only in addition to --and not in place of -- the role of law enforcement to investigate these reports for potential criminal charges.

In cases involving abducted dependent children, the Child Abduction Unit of County Counsel and the Child Abduction Unit of DCFS monitor all cases and provide advice and support to CSWs who have abducted children on their careloads. The Child Abduction Unit of County Counsel prepares information packets regarding all abducted dependent children for submission to the District Attorney's Office for assistance with recovery, prosecution, and Hague applications {FC §3130}. The Child Abduction Unit of DCFS maintains a website that includes photographs and information about abducted dependent children.

In cases where a person has violated a custody order, California law has granted district attorneys the authority to take all actions necessary, using criminal and civil procedures, to locate and return the child and the person who violated the custody order to the court of proper jurisdiction {Family Code [FC] §§3130, 3131}. Child abduction is made a crime under two related statutes which prohibit taking, enticing away, keeping, withholding or concealing a child from the lawful custodian {PC §§ 278, 278.5}. There is no waiting period required prior to making a report and commencing an investigation. Time is of the essence in child abduction cases. The child and the abductor should be entered into the National Crime Information Center database [NCIC] with the child labeled as an "endangered missing."

The Child Abduction Section of the District Attorney's Office, as well as the non-profit organization, Find the Children, maintain websites that include photos and information regarding abducted children. When investigating these cases, every effort should be made to secure photographs of the child and abductor to enhance the search. The photos should be submitted as soon as possible to the District Attorney's Office. The District Attorney's Office should forward copies of the photos to Find the Children for further distribution. The District Attorney website is located at: [www.missingkidsla.com](http://www.missingkidsla.com). The Find the Children website is located at: [www.findthechildren.com](http://www.findthechildren.com).

### **Drug-Endangered Children [DEC] Cases**

Los Angeles County has a multi-disciplinary team established to address the problem of drug-endangered children. The multi-disciplinary team consists of a prosecutor, law enforcement officer, and DCFS CSW. The team operates out of the LA IMPACT office in Commerce.

The mission of the team is to investigate and prosecute individuals who manufacture illicit drugs in the presence of children. The CSW, law enforcement officer, and prosecutor are available on-call, 24 hours a day to visit known or suspected methamphetamine laboratories.

Medical services are provided through Huntington Memorial Hospital in Pasadena. Long-term follow-up care is provided through Martin Luther King Hospital Children's Hub.

### **Incidents in Out-of Home Care**

If a child is living in, or being cared for in, an out-of-home care environment and child abuse or neglect is suspected, contact the Community Care Licensing Division [CCLD] as soon as possible. [See Index of Appendices for a list of District Offices in the Los Angeles Region.] CCLD is the state regulatory enforcement program responsible for the health and safety of all people in out-of-home care. The three distinct functions of the program are prevention, compliance, and enforcement.

A primary objective is to reduce predictable harm by screening out unqualified applicants through the application phase of the program. The compliance function allows the State to visually inspect the operation of the home or program to ensure that all of the rules are enforced to maximize client safety. A critical element in the compliance phase is providing information and assistance to the licensee, enhancing their ability to remain in compliance. When a facility fails to protect the health and safety of people in their care, corrective action must be taken. The severity of the violation directly impacts the level of enforcement action.

Any time a person is sexually or physically abused, the enforcement action may require closure of the facility. In order to make sure that all residents or consumers being served by a program continue to receive the necessary degree of care mandated for their on-going health and safety, a CCLD representative should be called to the scene to evaluate the situation and take the necessary steps to continue this care.

Facilities licensed by CCLD include but are not limited to

- family child care homes
- day care centers
- foster family homes
- transitional housing placement programs

- group homes
- small family homes
- day care centers of mildly ill children
- infant care centers

### **Native American Children**

The Indian Child Welfare Act [ICWA] is a federal law which regulates placement proceedings involving Native American children. If a child is a member of a tribe, or eligible for membership in a tribe, under the age of 18, and unmarried, that child's family has rights under the ICWA. These rights apply to child protective cases, adoptions, guardianships, termination of parental rights, foster care proceedings, runaways, truants, and voluntary placement of children. The goal of the act is to strengthen and preserve Native American families and culture. Before the ICWA was passed in 1978, a high percentage of Native American families were broken up because non-tribal agencies removed children from their homes. The high removal rate was caused, in part, by the lack of understanding or acceptance of Native American culture. The ICWA sets minimum standards for the removal of Native American children from their homes.

#### The ICWA

- specifies that placement cases involving reservation-based Native American children be heard in tribal courts
- allows for transfer of other placement cases involving Native American children from state court to tribal court if the parents agree
- permits a child's tribe to be involved in proceedings that remain in state court
- requires testimony from expert witnesses who are familiar with Native American culture before a child can be removed from his or her home
- establishes a high burden of proof for findings that result in termination of parental rights
- establishes a preference that Native American children be placed with extended family members, other tribal members, or other Native American families if a child is removed from the home for foster care or adoption

A law enforcement officer may take a child into custody for any reason listed under WIC §305 as addressed in the section discussing Temporary Custody and Placement of the Child. There is no exception under this code section for Native American children.

Welfare and Institutions Code §§305.5 and 306 allow DCFS to receive custody from law enforcement, and to take into and maintain temporary custody of a Native American child with 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 and safety. However, before taking a Native American child into custody, as with all children under DCFS investigation, a CSW shall consider whether the child can remain safely in his or her residence. {WIC §306(b)} The CSW must consider the following factors as well as any other relevant factors

- whether there are reasonable services available to the worker which, if provided to the child's parent, guardian, caretaker, or to the minor, would eliminate the need to remove the minor from the custody of his or her parent, guardian, or caretaker {WIC §306(b)(1)}
- whether a referral to public assistance would eliminate the need to take temporary custody of the child. If those services are available, they shall be used {WIC §306(b)(2)}
- whether a non-offending caretaker can provide for and protect the child from abuse and neglect and whether the alleged perpetrator voluntarily agrees to withdraw from the residence, withdraws from the residence, and is likely to remain withdrawn from the residence {WIC §306(b)(3)}

In addition, the ICWA requires a professional to comply with certain notice requirements and allows the tribe to assert its right to custody of the child. If a state agency takes a child into custody for any reason, it must give notice to the child's tribe no later than the next working day. The tribe may then choose to intervene in the state court proceeding or seek a transfer of the case from state court to tribal court. Custody of the child shall be transferred to the tribe within 24 hours of written notice from the tribe. {WIC 305.5(a)} If the case remains in state court, the ICWA's procedural requirements and preferences will apply.

It is important for CSWs initially responding to a child abuse investigation to ensure that they make all attempts to discover if a child or family may be of Native American descent. When DCFS responds to a child abuse report, and the family has declared Indian status, the case is transferred to the department's American Indian Unit. Representatives of the American Indian community in Los Angeles County have made recommendations in order to increase awareness concerning the issues that affect Native American children. [See Index of Appendices]

## **Special-Needs Children**

Children with special needs can be helped through the trauma of child abuse or neglect with a response which recognizes their particular need. Physical, developmental, and psychiatric conditions are addressed in subsections below.

See the Index of Appendices for a list of special-needs children assistance and advocacy agencies.

Responding personnel who initially encounter a special-needs child should attempt to obtain information regarding how to contact any other professionals who may already be involved in the child's life and initiate contact with those professionals as soon as circumstances permit. Depending on the nature of the handicapping condition, such contact may need to be a high priority. If a handicapping condition is suspected, but not yet confirmed, sensitivity should be used in having the child evaluated by the appropriate professional.

Children with special needs are children who have physical, emotional, developmental, environmental, learning, speech, psychomotor, psychosocial, and/or mental disabilities.

## **Developmental Disability**

A child with a developmental disability is at greater risk for experiencing all types of abuse. Risk factors for children with disabilities have at their root the different way in which society tends to see and treat those with disabilities. Disabling factors affecting the risk to the child can include limited abilities to communicate, limited mobility, compliance behaviors, dependency on care givers and service providers, and cognitive delays which impact the child's ability to pick up on danger signals. Abuse and neglect among children with disabilities are thought to be up to 10 times more likely than for children without disabilities. In a majority of cases involving all types of abuse, the offender is known to the victim.

Project Heal is a University of Southern California-affiliated program at Childrens Hospital Los Angeles that provides comprehensive mental health treatment services to child and adolescent trauma victims and their families. They have published a booklet for caregivers and providers of children with developmental disabilities in an effort to reduce the risk of abuse.

There are 21 regional centers in California serving more than 150,000 individuals with, or at risk for, developmental disabilities and their families. Area boards have been established to ensure that the legal, civil, and service rights of

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persons with developmental disabilities are adequately guaranteed. Area boards work within their specific geographic region. Area Board 10 has the monitoring responsibility for Los Angeles County which is divided by general areas and is served by 7 different Regional Centers. [See Index of Appendices]

## **Physical Disability**

### Motor Impairment

Motor impairment is a limitation of a muscle, nerve, or center that affects movement.

### Visual Impairment

Visual impairment can range from slightly impaired to functional blindness. Partially sighted children may have contact lenses, glasses, or other visual aids which assist them with managing their specific visual problem. When contacting a visually impaired child take care to ensure that their visual aids are available. In addition to visual aids, children may have assistance dogs or canes. When it is necessary to remove the child from the home, all efforts should be made to accommodate the needs of the child. When an organization is involved with the child and the child's family, make an effort to contact a familiar support person.

### Hearing Impairment

Hearing loss in children is often mistaken for other disorders such as mental retardation, mental illness, brain damage, or learning disorders. Even a slight hearing loss can cause a deficit in development of communication skills. The greater the loss, the more significant the communication deficit. Some signs of hearing loss in children are

- not turning to sound
- not awakening when there is a loud noise
- not looking at the speaker
- having delayed speech and language development
- having difficulty following directions

Children with usable hearing may benefit from being fitted with a hearing aid. Deaf children primarily rely upon vision for communication, such as sign language or lip reading. In the United States, the primary language for deaf

individuals is American Sign Language [ASL] but there are other forms of sign language which may be used as well.

In situations of abuse and neglect involving hearing-impaired children, intervention should include ensuring that hearing aids are transported with the children. As soon as possible, a sign language interpreter should be provided to enable the child to communicate with the professional. Determine whether or not the child is involved with a support agency for additional insight into the child and family situation.

## **Psychiatric Disability**

Early bonding disturbances are associated with psychosocial and developmental problems in children. Additionally, the rate of child abuse and neglect is higher among children with a disability.

The Los Angeles County Department of Mental Health [DMH] provides mental health services to children with special needs. Referrals may come from any one of the resources involved with the child including the dependency court, Foster Family Network, DCFS, CALWorks, Regional Centers, school systems, care providing agencies, or ACCESS.<sup>8</sup>

Mental health services or interventions may be provided by a clinic directly operated by DMH or by one of its contractors. Intervention includes assessment and evaluation for the purpose of diagnostic clarification, treatment, and/or appropriate referral. If the child is believed to have a diagnosed psychiatric disability, contact the child's mental health professional for assistance.

An accurate diagnostic process requires a comprehensive assessment. The assessment includes a full history of the child, parents, and family; appropriate evaluation; and psychological testing. The mental health professional should make a speedy referral for thorough assessment and proper treatment. There are many benefits of an early assessment

- identification of needs such as medication and equipment
- differential diagnosis and proper referrals

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<sup>8</sup> The ACCESS Telecommunication Center is the entry point for mental health services in Los Angeles County and provides referral and linkage resources to the Los County Mental Health Plan, gatekeeping and continuing care/placement services. The toll-free ACCESS telephone number is (800)854-7771; in the City of Los Angeles, call (323)666-0950.

- preventive intervention to deal with persistent or worsening symptoms, revictimization, suicidal behavior, hospitalization, peer relations, and school problems, as well as delinquency
- identification and communication with the significant people in the child's life
- history of previous services and interventions and the need for continued care

In order to enhance services to the child with mental health concerns, agencies and professionals who work with the same child and family should collaborate and share information. Record keeping and information sharing practices should follow existing professional, ethical, and state standards.

In cases involving a suicide of an adolescent or teen, the ICAN Child and Adolescent Suicide Review Team [CASRT] will conduct a thorough systems review of the events leading up to the suicide.