SANTA CLARA COUNTY

CHILD ABUSE PROTOCOL

For

LAW ENFORCEMENT

2019

Police Chiefs' Association

of

Santa Clara County

Adopted June 2019

POLICE CHIEFS' ASSOCIATION OF SANTA CLARA COUNTY MEMBERSHIP

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  Chief Phan Ngo

MISSION STATEMENT

The abuse and neglect of children is one of our community's most alarming social issues. Every day children are mistreated by the adults who have the responsibility to protect, provide and support them.

Santa Clara County's Law Enforcement Agencies, District Attorney's Office, and Social Services Agency are committed to the thorough and effective investigation of incidents of child death, sexual abuse, physical abuse, neglect and abduction. This commitment recognizes the importance of respecting victimized children and their families, providing appropriate intervention and preventative services to children in crisis, and holding offenders fully accountable for their conduct.

The Santa Clara County Child Abuse and Neglect Protocol is the result of the work of law enforcement, victim advocates, prosecutors, social workers, medical providers and children's attorneys. The investigative techniques and procedures outlined in this Protocol acknowledge the importance of collaborative efforts and the need for partners in investigating child abuse cases to understand each other's roles. It is through joint collaborative efforts that children and families will receive the protection and services that they need and deserve while gathering evidence to help bring perpetrators to justice.

The Protocol commits the signatory agencies to the following:

1. Conduct thorough investigations of child death, physical abuse, sexual abuse, neglect and abduction as outlined in the Santa Clara County Child Abuse Law Enforcement Protocol.

2. Reduce trauma to victimized children.

3. Cooperate with the Santa Clara County Child Death Review Team.

4. Follow the protocol and procedures of the Children's Interview Center.

5. Cooperate with other agencies in Santa Clara County responsible for investigating incidents of child death, physical abuse, sexual abuse, neglect and abduction.

6. Train its employees on a regular basis on the Santa Clara County Child Abuse Law Enforcement Protocol.

Chief Max Bosel
Chair, Police Chiefs' Assoc. of Santa Clara County

6-14-19
Date

This protocol is dedicated to the memory of
CHRISSY MARQUEZ

ACKNOWLEDGEMENT

In April 1999, the following persons and their agencies created the first Santa Clara County Child Abuse Law Enforcement Protocol:

Det. Bryan Albarillo	Mountain View Police Department
Det. Curtis Berlin	Morgan Hill Police Department
Ken Borelli, Program Manager	Social Services Agency
Det. Jean Bready	Palo Alto Police Department
Dolores Carr	Santa Clara County District Attorney's Office
Dave Davies	Santa Clara County District Attorney's Office
Investigator Jan Edwards	Santa Clara County District Attorney's Office
Edward Fernandez	Santa Clara County District Attorney's Office
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Sgt. Mike Hahn	San Jose Police Department
Det. Ray Hansell	Gilroy Police Department
Jan Heim	Santa Clara County District Attorney's Office
Randy Hey	Santa Clara County District Attorney's Office
Sgt. Phil Howard	Santa Clara Police Department
Sgt. John Laws	San Jose State University Police
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Sgt. Mark Macaulay	Los Altos Police Department
Leroy Martin, Director	Social Services Agency
Sgt. Mike McElvy	San Jose Police Department
Det. Sergeant David Notari	Santa Clara County Sheriff's Office
Joanne Salinger, Court Services	Santa Clara County District Attorney's Office
Cynthia Sevely	Santa Clara County District Attorney's Office
Karyn Sinunu	Santa Clara County District Attorney's Office
Det. Mark Sole	Sunnyvale Department of Public Safety
Det. Ana Spear	Campbell Police Department
Captain Carey Sullivan	Morgan Hill Police Department
Det. Sgt. David Tomlinson	Santa Clara County Sheriff's Office
Lt. Mike Vidmar	San Jose Police Department

ACKNOWLEDGEMENT OF UPDATE

The following individuals and their agencies participated in updating the Santa Clara County Child Abuse Law Enforcement Protocol:

ADA James Gibbons-Shapiro, Chair	Santa Clara County District Attorney's Office
Det. Liza Aguirre	Santa Clara County Sheriff's Office
Andrew Anguiano	YWCA Silicon Valley
Josefina Covarrubias	Office of the Medical Examiner / Coroner
Det. Hugo Del Moral	Gilroy Police Department
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Sgt. Jim Yumen	San Jose Police Department
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Det. Rick Jenkins	Gilroy Police Department
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Lt. Brendan Omori	Santa Clara County Sheriff's Office
Elizabeth Simoni	Santa Clara County District Attorney's Office

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SECTION 1

MANDATORY REPORTING

I. REPORTING REQUIREMENTS

A. Any Person May Report Suspected Child Abuse or Neglect of Children. Child Abuse or Neglect Includes:

1. Non-accidental physical injuries, including unlawful corporal punishment and willful cruelty. (PC 11165.3, 11165.4)
2. Severe or general physical neglect, including inadequate supervision or medical neglect. (PC 11165.2)
3. Sexual abuse, including sexual assault, sexual exploitation, or commercial sexual exploitation. (PC 11165.1)
    a. Sexual Exploitation. (PC 11165.1(c)(1)-(3))
    b. Commercial Sexual Exploitation (PC 11165.1(d)) is the trafficking of a child, as described in PC 236.1(c) or the provision of food, shelter, or payment to a child in exchange for the performance of any sexual act described in PC 11165.1 or PC 236.1(c).
4. Unjustifiable mental suffering or emotional abuse. (PC § 11165.3)

B. Mandated Reporters Include (PC §§ 11165.7, 11166):

1. Childcare custodians (schools, daycare, etc.).
2. Health practitioners (medical and non-medical).
3. Employees of child welfare and law enforcement agencies.
4. Commercial film and photographic print processors.
5. Child visitation monitors.
6. Peace officers.
7. Probation and parole officers.
8. Custodial officers as defined by PC § 831.5.
9. Firefighters, animal control officers, humane society officers.
10. Clergy (excluding confession or its equivalent).
11. Athletic coaches.

C. Criterion for Mandatory Reporting.

1. Knowledge or reasonable suspicion of child abuse or neglect obtained in the reporter's professional capacity or within the scope of his or her employment. (PC § 11166(a))

2. "Reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that would cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. Neither certainty of child abuse nor a specific medical indication of child abuse is required. (PC § 11166(a)(1))

3. Exposure to domestic violence may be reportable abuse, neglect, or endangerment if there is some indication that the child was or may have been impacted.

   Examples:

   - Perpetrator and victim physically struggle over the child;
   - Perpetrator physically or verbally assaults the victim while the victim is holding or near the child;
   - Perpetrator physically or verbally assaults victim while the child is in the same home or location, even if the child was reported to be in another room and/or sleeping;
   - Perpetrator has or threatens to use a weapon, especially a firearm;
   - Perpetrator grabs the child or forces the child to come with them right after a violent incident;
   - Perpetrator uses high lethality violence, e.g., strangulation;
   - Child hears or sees the violence and tries to stop it by physically intervening, yelling, or calling 911;
   - There is a recent history of multiple domestic violence related calls to the home;
   - Child was hiding;
   - Child has created a safety plan for themselves and any younger siblings, e.g., gathering siblings and locking them in a room, taking siblings out of the house, running to a neighbor, distracting themselves with TV or video games;
   - Child is having difficulty sleeping or difficulty concentrating in school because of violence in the home.

4. Past abuse of a child who is an adult at the time of disclosure or discovery of the abuse need not be reported except by a member of the clergy or if there is a risk to another minor.

   However, identification of child abuse is a priority for law enforcement. Questions regarding liability for reporting past abuse of a child who is an adult at the time of disclosure or discovery of the abuse should be directed to the reporter's appropriate legal adviser.

D. Duties of Mandated Reporters.

1. A report shall be made as soon as practically possible and may be made 24 hours-a-day, 7 days-a-week, to:

   a. The Child Abuse and Neglect Center (CAN Center) created by the Department of Family and Children's Services.

      (833) SCC-KIDS
      (833) 722-5437

      Law Enforcement number: (408) 975-5250

   b. Local law enforcement agencies.

2. The reporter shall submit a written report within 36 hours. The Suspected Child Abuse Report form (SS 8572) available from the Department of Family and Children's Services at (833) 722-5437 or www.sccgov.org/ssa.

II. CONFIDENTIALITY OF REPORT AND REPORTER

A. The identity of all persons who report shall be confidential and disclosed only between employees of child protective agencies, or to the following individuals pursuant to Penal Code § 11167(d):

1. Counsel representing child protective agencies.
2. The district attorney in a criminal prosecution or an action instituted under Section 602 of the Welfare and Institutions Code.
3. Counsel appointed to represent the minor in an action instituted under Section 300 of the Welfare and Institutions Code.
4. Licensing agencies.
5. Anyone identified by court order.

B. Written reports of suspected child abuse or neglect are confidential and may be disclosed only to the individuals identified in Penal Code § 11167.5. Those individuals include:

1. Anyone allowed to receive the identity of the reporter under Penal Code §11167(d).

2. Members of the multidisciplinary teams as defined by Welfare and Institutions Code § 18951.

3. Coroner or medical examiners when conducting the examination of a deceased child.

4. The chair, and his or her designee, of a Child Death Review Team.

5. Persons identified by the Department of Justice as listed in the Child Abuse Central Index. The name, address and telephone number of a witness, reporting party and victim may be redacted to maintain confidentiality as required by law.

6. Out-of-state law enforcement employees when an agency makes a request for reports of suspected child abuse or neglect. The report should be in writing and on official letterhead, identifying the suspected abuser or victim by name and date of birth or appropriate age.

III. GOOD FAITH EXCEPTIONS FROM REPORTING

A. Mandated reporters are immune from civil and criminal liability when making a required or authorized report of known or suspected child abuse. (PC § 11172)

B. This immunity shall apply even if the mandated reporter acquired the knowledge or reasonable suspicion of child abuse or neglect outside of his or her capacity or outside the scope of his or her employment. (PC § 11172)

IV. CRIMINAL INVESTIGATION FOR FAILING TO REPORT

A. Failure of a mandated reporter to report suspected abuse is a misdemeanor punishable by six months in county jail or a fine of $1000, or both. Concealing one's failure to report abuse or severe neglect is a "continuing offense" until the failure to report is discovered by law enforcement or the child welfare agency. (PC § 11166(c))

B. How to Investigate Failing to Report Child Abuse.

1. Determine which individuals knew about the abuse and how they found out about the abuse. Create a timeline regarding disclosures.

2. Inquire if there was an investigation conducted by an agency, or by individuals, who knew about the abuse. Determine the extent of the investigation including when and where people were interviewed.

3. Obtain through legal means any documents regarding the investigation.

4. Interview possible suspects and witnesses regarding why law enforcement was not contacted.

5. Interview the victim about which individuals the victim disclosed the abuse to.

SECTION 2

JOINT RESPONSE AND CROSS REPORTING

All incidents of suspected child abuse, endangerment or neglect, shall be cross-reported to the Department of Family and Children's Services (DFCS formerly known as Child Protective Services) as a "Joint Response" especially when an arrest is made and the suspect is the child's parent and/or guardian. Joint Response should also be activated when a victim of child abuse, endangerment or neglect has siblings or other children living in the affected home. A DFCS Social Worker is available 24-hours a day to respond to any scene and assist officers; however, DFCS will conduct their own independent investigation. DFCS can be an invaluable resource as they have expertise in handling children and suspected abuse. State law authorizes the investigating officer and DFCS worker to share relevant information relating to the investigation of child abuse or neglect (W&I 827). When responding to a call with DFCS, the responding officer shall obtain as much information as possible from the DFCS social worker before questioning the child. In these instances, a joint investigation shall be conducted while keeping in mind the officer's investigative focus may differ from that of the social worker.

I. LAW ENFORCEMENT CONTACTING THE DEPARTMENT OF FAMILY AND CHILDREN'S SERVICES (DFCS)

A. Law enforcement officers investigating suspected acts of child death[1], physical abuse, severe neglect, sexual abuse, kidnapping, and parental child abduction should immediately, or as soon as practically possible, contact the DFCS Joint Response call line which is available 24 hours a day, 7 days a week. Joint Response is activated through the Law Enforcement Agency's communication center. **Both DFCS and Law Enforcement should be clear when communicating for a Joint Response that a Joint Response is being requested or initiated. If either the law enforcement caller or the DFCS staff member are unclear, either or both should contact a supervisor. As soon as practicable a contact person who will be responding to the scene (or already**

[1] **The term "child death", wherever it appears in the Protocol unless qualified by the word "all", refers to child deaths due to suspected abuse, neglect, endangerment or apparent suicide. It does not include murders by vehicle/pedestrian accidents where a caregiver is not at fault, or medical-related deaths.**

at the scene) and phone number from both law enforcement and DFCS should be identified and communicated to all.

B. Each law enforcement agency's communication center will coordinate with DFCS in establishing and maintaining Joint Response telephone numbers.

C. A DFCS social worker **should** arrive at the investigation scene **within 60 minutes or as soon as practicable** of the activation of Joint Response.

D. Whenever possible, the investigating officer shall coordinate the investigation with the DFCS worker while being mindful that the officer's investigative focus may differ from that of the DFCS worker. The investigating officer should include the DFCS worker in interviews with the child victim and family whenever possible.

II. DFCS CONTACTING LAW ENFORCEMENT

A. DFCS social worker must immediately, or as soon as practically possible, contact the local law enforcement agency to request a joint response for investigations of allegations of child death, physical abuse, severe neglect, sexual abuse, kidnapping, and child abduction.

B. A police officer shall arrive at the investigation scene as soon as possible.

C. Whenever possible, the DFCS social worker shall coordinate the investigation with the law enforcement officer while being mindful that the officer's investigative focus may differ from that of the DFCS worker. The social worker should include the investigating officer in interviews with the child victim and family whenever possible.

III. MEDICAL CONCERNS TRIGGERING JOINT RESPONSE

A. Joint Response should be activated if there are any medical needs or concerns that are discovered during, and related to, a child abuse investigation.

B. Joint response must also be activated if a parent is refusing to provide medical treatment to a critically ill child which places the child at risk.

C. Child sexual abuse concerns, both acute (within 72 hours for children younger than 12 years and within 5-10 days for teens 12 years and older) and non-acute (greater than 72 hours for younger than 12 years, and greater than 10 days for teens 12 years and older) should be directed to the SART team at Santa Clara Valley Medical Center 408-885-6460 or 408-885-5000 for SART examinations. The child can be examined immediately if the sexual abuse occurred in the last 72 hours (under 12 years) or in the last 10 days (teens 12

years and older) or scheduled for appointment if greater than 72 hours or 10 days.

D. If the child under 12 years of age is in protective custody, the Pediatric SART Examiner can provide a CalOES 2-930 consent form to the DFCS social worker or law enforcement officer or county counsel in order to get written parental signature for consent prior to a Pediatric SART examination. If written parental consent cannot be obtained, contact County Counsel Kim Warsaw at (408) 758-4272 or her mobile at (408) 479-0810 for assistance in obtaining a court order.

E. If law enforcement and DFCS are not in need of a sexual assault examination for a child of any age, a medical exam can be done at the patient's or family's request by the SART team by appointment and will be billed to the patient's medical insurance. SART contact information [(408) 885-6460 or (408) 885-5000] may be shared with patients and families interested in medical SART examination.

IV. SHARING INFORMATION

A. State law authorizes the investigating officer and DFCS worker to share relevant information relating to the investigation of child abuse and neglect. (W&I § 827)

B. DFCS and Law Enforcement Agencies will share current and previous reports.

V. ARREST AT SITE OF MONITORED VISITATION

A. Arrests at the site of a monitored visit should be avoided if possible. When not possible, DFCS and Law Enforcement should coordinate efforts to minimize any impact on the child for an arrest being made of a parent at the site of a monitored visitation. In that coordination, DFCS shall not inform either parent of an impending arrest.

SECTION 3

PROTECTIVE CUSTODY

I. WHEN A CHILD SHOULD BE PLACED IN PROTECTIVE CUSTODY

A. Welfare & Institutions Code § 300.

W&I § 300 permits a child to be placed in protective custody due to:

1. Physical abuse.
2. Failure to provide or protect.
3. Emotional abuse.
4. Sexual abuse, sexual exploitation, or commercial sexual exploitation or trafficking.
5. Severe physical abuse to a child under age 5 years.
6. When a parent or guardian causes death of another child through abuse or neglect.
7. Caretaker absence or abandonment.
8. Cruelty.

B. Reasonable Efforts should be Made to Prevent Protective Custody.

1. The Department of Family and Children's Services (DFCS) shall make reasonable efforts to prevent the need for removal prior to placing a child into protective custody. (Federal Statute, 42 U.S.C.A. § 671(a)(15))

2. Before placing a child into protective custody, the investigating officer and/or social worker shall consider whether there is a non-offending caretaker who can provide for and protect the child from abuse and neglect, and whether the alleged perpetrator voluntarily agrees to withdraw from the residence and is likely to remain withdrawn. (W&I § 306(b)(3))

3. The investigating officer should consult with the social worker to determine whether an Emergency Protective Restraining Order (EPRO) is appropriate for any and all children at risk from an offender from the home so that a child can safely remain with a non-offending parent. (Family Code § 6250)

a. *Abuse.* An EPRO can be obtained if the child is in immediate and present danger of abuse by a family or household member, based on an allegation of a recent incident or abuse or threat of abuse by the family or household member (6250(b))

b. *Abduction.* An EPRO can be obtained if the child is in immediate and present danger of being abducted by a parent or relative, based on a reasonable belief that a person has an intent to abduct the child or flee with the child from the jurisdiction or based on an allegation or a recent threat to abduct the child or flee with the child from the jurisdiction. (6250(c))

c. If an EPRO is appropriate, an application should be completed and submitted to a judicial officer. During normal court hours the police officer should call the Family Court at (408) 534-5601 and ask to speak to a judge available to process an EPRO. After 5 PM on weekdays, on weekends, and holidays, the police officer should call County Communications at (408) 299-2501 and ask for the Duty Judge to call back. The police officer should leave the phone number where they can be reached. Officers should ensure that the telephone equipment is operational before requesting that the Duty Judge utilize that number. If the Duty Judge is not available, the officer should ask to speak to another Judge.

NOTE: The Duty Judge may elect to call County Communications at (408) 299-2501 and request that the phone call be transferred to the number where the officer is located. This will protect the privacy of the Duty Judge's home phone number if the Duty Judge is calling into a private residence.

i. EPROs are not issued at the County Jail or Juvenile Hall. They must be requested by the investigating officer. They remain in effect for 7 calendar days.

ii. Information in support of the need for restraint should be included in the probable cause affidavit or Juvenile Contact Report.

iii. Once a defendant is arraigned in a criminal case, the Court will issue a Criminal Protective Order which will endure for the pendency of the case and for up to 10 years beyond sentencing.

iv. In a non-arrest situation where an EPRO is desired, the officer should complete an application then contact the Duty Judge or Family Court for evaluation and issuance of the EPRO.

v. Upon obtaining an Emergency Protective Order, a law enforcement officer must take the following FOUR (4) actions (Family Code § 6723):

a. Serve the order on the restrained person. An officer is to make a reasonable attempt to serve the restrained party. If they are present or can be readily contacted, serve the order and complete the Proof of Service on the form. Document whether and how the order was served in the police report.

b. Give a copy to the Protected Person.

c. File a copy with the Court. Once an EPRO is issued, it is the responsibility of the police agency to promptly file the EPRO with the Family Justice Center Courthouse at 201 N.1st Street, San Jose, California 95113.

d. Enter the order into the Department of Justice's computer database.

e. Copies of the EPRO should be distributed as follows:

Original	–	Court
Yellow	–	Restrained Person
Pink	–	Protected Person
Goldenrod	–	Law Enforcement Agency

4. If a parent or guardian is arrested on charges <u>not</u> related to child abuse, and there is <u>no</u> indication of abuse or neglect, the investigating officer should consider alternatives to protective custody by consulting his or her department's policies regarding release to relatives, friends, or neighbors. Investigating officers should contact DFCS at (408) 975-5250 to inquire whether the proposed caregiver selected by the arrestee-parent has any record of prior abuse.

   Officers contacting DFCS for this purpose should clarify to the call-taker that they are calling to obtain information only.

5. Upon arrest of a parent or guardian, officers should inquire as to the existence and whereabouts of any siblings and make appropriate arrangements for care and custody.

6. Homelessness alone is not justification for protective custody placement. If the presenting problem is only homelessness, other suitable placement should be sought.

C. When Warrants are Generally Required to Place a Child in Protective Custody.

Unless exigent circumstances exist, or the officer has obtained parental consent, the investigating officer or social worker must obtain a search warrant, protective custody warrant, or other court order to enter the child's home, place a child into protective custody, or obtain an investigatory or sexual abuse medical exam.

(See *Rogers v. San Joaquin* (2007, 9th Cir.) 487 F.3d 1288; *Calabretta v. Floyd* (1999, 9th Cir.) 189 F.3d 808; *Wallis v. Spencer* (1999, 9th Cir.) 202 F.3d 1126; *Mabe v. San Bernardino DPSS* (2001, 9th Cir.) 237 F.3d 1101; *Doe v. Lebbos* (2003, 9th Cir.) 348 F.3d 820.)

D. When Peace Officers and Social Workers Can Place a Minor in Protective Custody Without a Warrant.

1. Peace Officers.

a. W&I § 305 authorizes peace officers to take children into protective custody without a warrant when:

i. The officer has reasonable cause to believe that the child is a person described by any subdivision of W&I § 300; AND

ii. The child has an immediate need for medical care, or the child is in immediate danger of physical or sexual abuse; OR

iii. The physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety.

b. Penal Code § 279.6 independently authorizes law enforcement officers to take children into protective custody without a warrant, when any of the following conditions exist:

i. It reasonably appears that a person is likely to conceal the child from a legal guardian, flee the jurisdiction with the child without legal authority, or evade the authority of the court by flight or concealment.

ii. There is no lawful custodian available to take custody of the child.

iii. There are conflicting custody orders or conflicting claims to custody and the parties cannot agree which party should take custody of the child.

iv. The child is an abducted child.

2. Social Workers.

a. W&I § 306 authorizes social workers to take children into protective custody without a warrant when:

i. The social worker has reasonable cause to believe that the child is a dependent child of the court; OR

ii. There is reason to believe that the child is a person described by W&I § 300 subdivision (b) (failure to provide or protect) or subdivision (g) (caretaker absence or abandonment); AND

iii. The social worker has reasonable cause to believe that the child has an immediate need for medical care; OR

iv. The child 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.

E. Other Factors Requiring Protective Custody.

1. When making the decision to take a child into protective custody, the officer should consider not only the current case but also prior DCFS referrals.

2. The child should be taken into protective custody if legally permitted and the following circumstances exist:

a. The parent or guardian is a suspected abuser.

b. There is a suspected abuser with ongoing access to the child.

c. The parent or guardian is unable or unwilling to protect the child from abuse by another.

d. The child is an abducted child or it reasonably appears the child will be abducted if not placed in protective custody.

3. Upon the arrest of a parent or guardian, officers should inquire as to the existence and whereabouts of any siblings and make appropriate arrangements for care and custody.

F. The investigating officer shall notify the parent or guardian that the child is in protective custody.

II. COOPERATION BETWEEN LAW ENFORCEMENT AND DFCS

A. Conflicts.

Any conflicts between the officer and the DFCS worker shall be kept confidential from the subjects of the investigation and referred to respective supervisors and/or a designated DFCS law enforcement liaison. The law enforcement officer and the DFCS worker should attempt to reach a consensus regarding the placement of involved children. However, in situations where the law enforcement officer has sole legal authority for taking a child into protective custody, the law enforcement officer shall make the ultimate decision.

B. Documents.

1. Peace Officer:

   The investigating officer shall be responsible for obtaining any EPROs or search warrants that may be required.

2. Social Worker:

   The social worker shall be responsible for obtaining any required protective custody warrant under W&I § 340.

III. TRANSPORTATION TO RECEIVING ASSESSMENT AND INTAKE CENTER (RAIC) OR OTHER OUT-OF-HOME PLACEMENTS

A. Transportation Generally.

Once a child is taken into protective custody, the child at risk and siblings also at risk shall be taken to the Receiving Assessment and Intake Center (RAIC) at:

2300 Enborg Lane, San Jose, CA 95128
(408) 792-1860

Immediate follow-up evaluations will be conducted by DFCS personnel upon arrival. After taking a child into protective custody, the investigating officer shall not release that child to relatives, friends, or neighbors.

B. Transportation by DFCS.

The DFCS worker, if on-scene with a county vehicle, shall transport the child to the RAIC or other out-of-home placement.

C. Transportation by a Peace Officer.

If the DFCS worker does not have a county vehicle, or is not on-scene, the investigating officer shall arrange the transportation of the child. The investigating officer should:

1. Document allergies, medications and the name of the child's primary care provider (pediatrician, other physician, family practitioner or clinic name.)

2. Whenever possible, allow the child to take a favorite toy, change of clothes, and personal necessities to the RAIC.

3. If the information is available, advise the RAIC of the child's age and any special needs. Prompt communication about active medical problems – such as diabetes, asthma, and psychiatric diagnoses – is crucially important.

4. Child safety seats or seat belts must be used.

5. When possible, use an unmarked police vehicle without a prisoner cage to transport the child to the RAIC.

D. The DFCS Worker May Elect Not to Transport if:

1. The child is under the influence of drugs or alcohol.

2. The child is uncooperative, violent, assaults a worker, or if a family member is threatening a worker.

3. The child is in custody for a crime.

4. The child has a history of assaultive behavior.

5. The child has serious health problems or is incapacitated such that medical transport is more appropriate.

6. In the professional judgment of the social worker, transport would result in an unacceptable risk of harm to the child or the social worker.

E. Immediate Follow-up Evaluations Will Be Conducted by DFCS.

DFCS personnel will conduct immediate follow-up evaluations to determine whether the child can be safely placed into the custody of a non-offending parent, relative, or appropriate adult.

F. Siblings of Abused or Neglected Children.

1. All siblings at risk that are taken into protective custody shall be placed in the RAIC.

2. After taking a child at risk into protective custody, the law enforcement investigating officer shall not release the child to other family members or friends or leave the child in a potentially hazardous situation.

G. Protective Custody Warrant. (W&I § 340)

Persons detained solely under a protective custody warrant shall be taken to the Receiving Assessment and Intake Center or a RAIC designated placement. Under no circumstances shall a person detained solely under a protective custody warrant be placed in county jail or juvenile hall.

H. Juvenile Contact Report. (JCR)

1. The transporting officer must submit a copy of the JCR (not the police report) to the RAIC.

2. The transporting officer has the responsibility to review the JCR for adequate detail before transporting the child. Information should include:

a. The names and dates of birth of parents or guardians; AND

b. A detailed description of the incident that includes:

i. The charge;

ii. If the parent(s)/guardian(s) was released; and

iii. What circumstances justified removal of the child prior to placing them into protective custody.

3. The JCR must contain sufficient factual information to justify any protective custody placement.

4. In the event of a continuing criminal investigation, officers should also be aware that information, statements, and observations contained in a JCR will be made available to the child's parents, who may be suspects, in juvenile or family court proceedings.

5. If the placement is pursuant to PC § 279.6 (Circumstances for Protective Custody), available court orders shall be given to the RAIC.

IV. MEDICAL CONCERNS OF A CHILD TAKEN INTO PROTECTIVE CUSTODY

A. When a Child Has Sustained an Injury.

1. The investigating officer should ask the parent or guardian to consent to medical treatment. If the parent or guardian refuses, the investigating

officer should notify their supervisor, request an ambulance, and take the child for treatment at the nearest hospital.

2. Joint response should be activated immediately.

B. Health and Medical Concerns.

Any child who is placed into protective custody based on health or medical concerns should receive a prompt or urgent a medical evaluation. The RAIC Social Worker Team will contact the Medical Director at the Center for Child Protection, at SCVMC, to determine the most efficient and appropriate course of action.

C. Requirements of the Mann case for all medical procedures for children in protective custody

County Counsel should be contacted for advice on all cases where a medical procedure is to be performed on a child in protective custody. Call Kim Warsaw at (408) 758-4272 or her mobile (408) 479-0810. Only if Ms. Warsaw is not available, call Assistant County Counsel Gita Suraj, (408) 758-4269. Pursuant to a 2018 9th Circuit decision in *Mann v. County of San Diego*, whenever a medical procedure is to be performed on a child in protective custody there must be:

1. **parental notification, consent, and opportunity to be present; or**
2. **determination that either the exception for medical emergency or the exception for fear of evidence dissipating while trying to obtain consent or a court order apply; or**
3. **the obtaining a court order if parental consent is refused or is impossible to get due to inability to locate the parents.**

V. HOSPITALIZED CHILDREN

A. Newborn Babies Whose Blood Tests Reveal the Presence of Alcohol or Drugs.

1. Hospital personnel must notify DFCS about an infant born with alcohol or drugs in his or her system if other factors are present that indicate risk to the child. DFCS shall only cross-report the case to law enforcement if there are risk factors present other than mother's inability to provide the child with regular care due to the mother's substance abuse. (See PC § 11165.13)

2. Children born with positive toxicology may be eligible for victim compensation benefits. Coordinate with DFCS regarding a referral to the Victim Services Unit of the District Attorney's Office - (408) 295-2656.

B. Non-Release to Prospective Adoptive Parents.

1. Any peace officer may, without a warrant, take into temporary custody a minor who is in a hospital if the release of the minor to a prospective adoptive parent or representative of the adoptive agency poses an immediate danger to the minor's health or safety.

2. A peace officer may not, without a warrant, take into temporary custody a minor who is in a hospital if all of the following conditions exist regarding perspective adoptive parents:

   a. The minor is a newborn who tested positive for illegal drugs or whose birth mother tested positive for illegal drugs;

   b. The minor is the subject of a petition for adoption and an adoption placement agreement signed by the placing birth parent or birth parents is filed with the court; AND

   c. The release of the minor to a prospective adoptive parent or parents does not pose an immediate danger to the minor;

      The prospective adoptive parents or their representative shall provide a copy of the filed petition for adoption and signed adoption placement agreement to the local child protective agency or to the peace officer who is at the hospital to take the minor into temporary custody.

C. Voluntary Surrender (aka "Safe Surrender") of a Newborn.

1. No parent or other person having lawful custody of a minor child 72 hours old or younger may be prosecuted for a violation of Penal Code §§ 270, 270.5, 271, or 271(a) if they voluntarily surrender physical custody of the child to personnel on duty at a "safe surrender site" as defined by H&S § 1255.7.

2. The safe-surrender site must notify DFCS immediately, and DFCS must place the child into protective custody and initiate a dependency proceeding in juvenile court.

3. The parent/custodian has 14 days to reclaim custody. (See Penal Code § 271.5; W&I §§ 300, 309, 361.5, 14005.24; H&S § 1255.7)

D. "Safe surrender" To On-Duty Personnel Defined.

1. "Safe surrender" site means one of the following (H&S § 1255.7):

a. A location designated by the county board of supervisors to be responsible for accepting physical custody of a minor child pursuant to PC § 271.5.

b. All regularly operated fire stations within Santa Clara County.

c. A location within a public or private hospital that is designated by that hospital to be responsible for accepting physical custody of a minor child pursuant to PC § 271.5.

2. "Personnel" means any person who is an officer or employee of a safe surrender site or who has staff privileges at the site. (H&S § 1255.7)

E. Removal of a Child from a Hospital by a Person Claiming Right of Custody.

1. If questions arise regarding the protective custody status of a hospitalized child, or a person's right to remove a child from a hospital, consult with DFCS personnel.

2. Determine whether the child's medical file contains a "Notification of Temporary Custody of Child in Hospital" (DFCS Form SC 155A) or a "Notification of Change in Temporary Custody of Child in Hospital". (DFCS Form SC 155B).

VI. TEMPORARY PROTECTIVE CUSTODY ("PAPER ADMIT")

A. Joint Response.

If an at-risk child is already hospitalized and it becomes necessary to place the child in temporary protective custody, Joint Response shall be activated. The following steps must be taken by the investigating officer to place the child in protective custody:

1. Obtain all the facts surrounding the child's injuries or health problems from the attending doctor, including toxicology reports.

2. Obtain the parent or guardian's identifying information.

3. Ensure a "Suspected Child Abuse Report" is completed by patrol or a follow-up detective.

4. Telephone RAIC**,** 408-792-1860, and explain to the admissions supervisor that you have taken the child into protective custody.

5. Take the completed JCR to the RAIC as soon as possible.
6. If the child or parent resides out-of-county, notify that county's child protective agency.

7. The DFCS social worker shall fill out Form SC 155(A).

SECTION 4

INVESTIGATING A CHILD'S DEATH

I. CHILD DEATH RESPONSE TEAM

A. Purpose and Philosophy of Maintaining a Child Death[2] Response Team.

1. Santa Clara County is committed to thorough and coordinated investigations into child fatalities.

2. The investigation and prosecution of child homicide differs from other crimes as follows:

a. The successful investigation and prosecution of child homicide requires the coordination and cooperation of multiple agencies.

b. Because of the physiology of a child and the unique mechanisms of death in child homicide cases, the successful investigation and prosecution of these cases require the use of numerous experts.

c. Notification often originates hours or days after the act that causes death, resulting in the contamination of the crime scene, the possibility of multiple scenes, and the loss of evidence.

d. There is a need for extensive forensic interviews.

B. Members of the Child Death Response Team that may respond to a child's death include the following:

1. The law enforcement agency with jurisdiction over the case.

2. The on-call Medical Examiner-Coroner (MEC).

3. The Medical Examiner-Coroner Investigator.

4. A District Attorney Investigator.

5. A DFCS Social Worker.

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[2] **Remember that the term "child death", wherever it appears in the Protocol unless qualified by the word "all", refers to child deaths due to suspected abuse, neglect, endangerment or apparent suicide. It does not include murders by a non-caregiver, vehicle/pedestrian accidents where a caregiver is not at fault, or medical-related deaths.**

6. A Deputy District Attorney.

7. The Criminalist from the Santa Clara County Crime Lab.

C. Activation of the Child Death Response Team.

1. The investigating law enforcement agency must immediately contact the Child Death Call-Out Team regarding any child death. The initial contact should be contacted 24 hours/day through the District Attorney's Bureau of Investigation. The number is:

(408) 590-8370

2. The District Attorney's Bureau of Investigation will immediately consult with the investigating law enforcement agency and coordinate the immediate notification to the Medical Examiner-Coroner's Office and consult with the Medical Examiner-Coroner's Office to determine the appropriate response. After initial consultation and communication has occurred, the Child Death Response Team will respond to the scene as appropriate and as a team. An agreed-upon representative of the Team will notify additional team members as appropriate. If members of the Team are not responding to the scene, the law enforcement agency securing the scene will be immediately notified.

3. In appropriate situations, the investigating law enforcement agency should also contact the Medical Examiner-Coroner's Office at:

(408) 793-1900

II. INVESTIGATING A CHILD'S DEATH

A death of an infant or child should initially be investigated and treated as a potential homicide. Any unattended, unexplained, or suspicious child death should be treated as a homicide until a complete investigation, including autopsy, has been performed.

Officers should not give an opinion regarding cause or manner or death to the decedent's family without consultation from the MEC.

A. Causes.

The death of a child may result from many causes including, but not limited to, the following:

1. Trauma.

a. Intentional trauma including hitting, stabbing, gun fire, intentional suffocation and abusive head trauma.

b. Accidental trauma.

c. Trauma inflicted due to the negligence, or gross negligence of a caretaker.

2. Natural causes including infection, cancer, or congenital defects.

3. Toxic substances and poisoning.

a. Death from toxic substances can result from voluntary or involuntary ingestion of toxins.

b. Digestion of lethal doses of narcotics including phencyclidine (PCP) and methamphetamine.

c. Death by toxic absorption, drug entry through the skin, is usually associated with burned areas of the skin.

4. Drowning.

a. Drowning can occur in a tub, swimming pool or even a bucket of water.

b. Drowning of children rarely occurs without some level of negligence or abuse by a caregiver.

5. Neglect/Endangerment that may cause death includes:

a. General neglect or endangerment including the failure to take reasonable actions as a parent, caretaker or guardian.

b. Being left in a hot car.

c. Lack of food, medical assistance or appropriate supervision.

d. Unsafe sleeping including layovers, accidental suffocation in soft bedding (pillows, blankets, comforters, boppies), entrapment causing suffocation (for example getting stuck between a bed/couch and a wall).

e. Improper storage of a firearm. If death is from a gunshot inflicted by a child, there may be a criminal violation of the Firearm Storage Statute. (PC § 12035)

f. Falling from a window.

6. Burns including burns from fire, immersion in hot water, or placing a hot object on the skin.

7. Suicide.

8. Automobile accidents including unsafe security and buckling of a child.

III. COORDINATED RESPONSIBILITIES – MEDICAL EXAMINER AND LAW ENFORCEMENT

A. Response When Deceased Child has Been Located at Crime Scene.

1. The investigating law enforcement agency will take control and freeze the crime scene.

2. The Medical Examiner/Coroner (MEC) is responsible for the body and the scene death investigation. The MEC will perform a separate and parallel investigation pursuant to their legal obligations. All efforts will be made to cooperatively investigate a child's death between the MEC and law enforcement agencies.

3. Any potential evidence linked to the decedent's body should be secured by Medical Examiner personnel, and when deemed necessary and appropriate, turned over to law enforcement. This evidence may also be secured by law enforcement but only after approval by the MEC.

4. The infant/child shall not be manipulated nor shall clothes or items on the decedent be manipulated at the scene unless approved by the on-call Medical Examiner.

5. The law enforcement agency with jurisdiction over the case may consult with any and all members of the Child Death Response Team during an investigation of a child's death.

   a. The Child Death Response Team will consult with law enforcement about the necessity for specialized forensic interviews with witnesses and/or suspects. A law enforcement member of the Team will be available to conduct forensic interviews if requested by the law enforcement agency conducting the investigation.

   b. The Child Death Response Team will consult with the law enforcement agency about the necessity for additional expert consultation.

   c. All members of the Team shall cooperate and share information to reach decisions that are in the best interests of the investigation.

6. The Team will consult with law enforcement to ensure DFCS is notified. DFCS shall be contacted even if possible abuse was not a factor contributing to the death. (PC § 11166(a)(2)) If the deceased child has sibling(s), DFCS must be notified immediately. DFCS will make available to law enforcement relevant records relating to a suspect/caregiver's prior contacts with DFCS.

B. Response Scenario When Child Has Been Taken to a Hospital.

1. The investigating law enforcement agency shall ensure that all possible crime scenes are secured and maintained. The scenes shall be secured until the law enforcement agency has had an opportunity to consult with the Team.

2. If Child Death Response Team members respond to the hospital, they shall attempt to obtain all of the decedent's medical records and any records of the mother during pregnancy. Consent for the records shall be requested from the parents or legal guardian of the child.

3. In cases where a crime has not been ruled out, the infant/child shall not be manipulated until cleared by the MEC.

4. A Deputy District Attorney will be available to assist with search warrants or subpoenas to the Grand Jury for medical records.

5. Witnesses, family members, and all hospital personnel involved with the case shall be interviewed. A law enforcement member of the Child Death Response Team will be available to conduct specialized forensic interviews if requested by the investigating law enforcement agency. The Medical Examiner or Medical Examiner Investigator should be in attendance during the interview.

6. The Child Death Response Team will aid law enforcement in determining where the fatal injury occurred or where the child was last seen prior to becoming ill and respond to that location if necessary.

7. Prior to leaving the hospital, the Team shall obtain consent to search relevant locations from persons with the right to give consent.

8. All members of the Child Death Response Team shall cooperate and share information to reach decisions that are in the best interests of the ongoing investigation.

9. The Child Death Response Team will consult with law enforcement to ensure DFCS is notified and to determine whether DFCS should respond. DFCS shall be contacted even if possible abuse was not a factor contributing to the death. (PC § 11166(a)(2)) If the deceased child has sibling(s), DFCS must be notified immediately. DFCS will make available to law enforcement relevant records relating to a suspect/caregiver's prior contacts with DFCS.

C. Cross-Reporting with DFCS.

Ensure that DFCS has been notified. DFCS shall be contacted if the child has expired, regardless of whether or not possible abuse was a factor contributing to the death. (PC § 11166(a)(2))

If the deceased child has sibling(s), DFCS must be notified.

IV. INVESTIGATING CHILD DEATH—PATROL OFFICER RESPONSE

A. Response When Initially Arriving at a Scene.

1. Follow standard first-aid protocol - preservation of life is the first priority.

2. Administer first-aid and call the Fire Department and paramedics unless there are obvious signs of death, such as post-mortem lividity, rigor mortis, or decomposition.

3. Make mental notes of the scene, particularly things that will change in time, such as the condition of the child (body temperature, pallor) and appearance of the scene.

4. Continue with the investigative steps listed in the following sections after relinquishing responsibility for the child's care to fire personnel or paramedics.

5. If the law enforcement agency has an available detective response, notification should be made immediately.

6. Coordinate with detectives to ensure that the Child Death Response Team is notified through the District Attorney's Bureau of Investigation - (408) 590-8370. The Medical Examiner-Coroner's Office is also to be contacted immediately on all child deaths or imminent deaths.

7. Contact the Department of Family and Children's Services - (408) 975-5250. DFCS shall be contacted even if the child has expired, regardless of whether or not possible abuse was a factor contributing to the death. (PC § 11166(a)(2)) If the deceased child has sibling(s), DFCS must be notified immediately.

8. Promptly take necessary steps to control the immediate death scene (the location where the child was first discovered unresponsive.) Preserve all items of evidence that may assist in determining the cause of death. Any potential evidence linked to the decedent's body should be secured by Medical Examiner personnel, and when deemed necessary and appropriate, turned over to law enforcement. This evidence may also be secured by law enforcement but only after approval by the MEC.

9. Document all persons (including emergency personnel) who have entered or left the crime scene.

10. Identify and record the names of all persons who may be involved, or witnessed, the incident.

11. Identify and record the names of anyone who may have had recent contact with the child.

12. Request consent to examine the scene of the child's death and the rest of the premises where the child was found. Inspect, measure and photograph the immediate area where the child was located as well as the surrounding area and all other locations that the child was known to have been prior to the discovery of the body.

13. Consent should be requested for blood tests of involved caregivers and others. A refusal to give consent should be noted and documented.

14. Obtain a basic statement from the child's most recent caregivers concerning the circumstances surrounding the child's death. If there is more than one caregiver, interview each separately and as soon as possible. Make appropriate field notes which will serve as preparation for the required reports documenting the circumstances of the incident from the time the child was last seen alive through discovery and revival efforts. Relay this information to the assigned detective for a full interview.

B. Check List for Investigating the Death of Child.

1. Determine and document (including photographs):

   a. Age of child.

   b. Whether the child was asleep or awake before being found unresponsive.

   c. A description of the circumstances surrounding how the unresponsive child was found.

d. The exact position of the child when found: back (supine), side, or stomach (prone).

e. Who found the unresponsive child?

f. What time the child was found to be unresponsive.

g. The condition of the child's body, especially signs of trauma.

h. The condition of the child's nose and mouth, vomit, mucous or blood.

i. The items found with the baby, such as blankets and toys.

j. The condition of the bed and bedding (photograph and collect).

k. The general health of the child.

l. The description and condition of any persons who may have been sleeping with the child (whether the sleeping partner was intoxicated or on drugs).

m. The child's health and activities over the last 48 hours.

n. The child's food intake over the last 48 hours.

o. The presence of smokers in the household.

p. Whether or not the child was born drug-exposed.

q. Whether the child was known to have apnea problems.

r. Name and phone number of the child's pediatrician and last visit.

s. Names and birthdates of all persons normally in the household and all present at the time of death.

t. All medications in the home or care facility.

u. All baby bottles that are found and were recently used prior to the death.

v. The last time the child was seen alive.

V. DETECTIVE RESPONSE

A. Review the Initial Patrol Response and Verify that the Child Death Response Team Has Been Notified.

B. Conduct the Follow-up Investigation.

1. Define and secure the area where the child was discovered, as well as any other area that may contain evidence which will assist in determining the cause of death. Any potential evidence linked to the decedent's body should be secured by Medical Examiner personnel, and when deemed necessary and appropriate, turned over to law enforcement. This evidence may also be secured by law enforcement but only after approval by the MEC.

2. Obtain the names, dates of birth, addresses, and telephone numbers of the child's parents, caregivers, and all possible witnesses or other persons who may be able to furnish information concerning this incident.

3. Obtain name, date of birth, sex, and race of the child.

4. Avoid a premature arrest.

a. Maintain a relationship with the suspect(s) that will allow continuing non-custodial interview until definitive information is obtained from the Medical Examiner-Coroner's Office identifying all injuries with corresponding time limits. Record all statements if possible.

b. Do not read Miranda rights to non-custodial suspects. Beheler admonitions should be given.

5. Interview all suspects, caregivers, witnesses and those who discovered the child. Interviews should be coordinated with the Medical Examiner-Coroner/Medical Examiner-Coroner Investigator and District Attorney's Office to ensure a minimum number of interviews are conducted. Topics should include:

a. Pediatrician - Identify the child's regular pediatrician, recent illnesses, and recent clinic visits. Get the address and phone number for the child's pediatrician.

b. Medical Release - Obtain a signed medical release for all recent medical records, including visits to the child's pediatrician and any current or prior hospital visits.

c. Developmental - Establish the child's developmental abilities prior to death. Size, mobility, mental abilities, milestones (e.g. ability to roll, sit, stand, crawl, grasp or turn objects). Is the child developmentally delayed or appropriate for age?

d. Previous Conditions - Inquire about any previous injury, illness, accident, play activity, or condition that would explain the child's injury/death.

e. Time-Line - Obtain a detailed timeline. Review the child's daily routine (i.e., care or custody, feeding, bathing, dressing, diaper changes, school/daycare). Go back in time as long as possible or necessary.

f. Discipline - Establish if, and how, the child is disciplined. Determine who usually disciplines.

g. Demeanor - Note suspect/caregiver demeanor.

h. Medical History - Review the child's birth and medical history for any chronic or congenital conditions. This information can be elicited by the Medical Examiner-Coroner/Medical Examiner-Coroner Investigator.

i. Symptoms - Determine when the child was last seen healthy and the first onset of symptoms. Get a detailed description of symptoms, progression of symptoms and actions taken by suspects(s)/caregivers.

j. Incident - Obtain a detailed account of any precipitating incident with a particular focus on care and custody, first onset of symptoms and who discovered the child.

k. Resuscitation Attempts - Determine the nature of any resuscitation attempts and who performed resuscitation. Have involved person demonstrate resuscitation attempts. Videotape if possible.

l. Delay in Seeking Medical Attention - Obtain an explanation for any delays in seeking medical attention for the child.

6. Describe the location where the child was found by the responding officer or other emergency personnel. If the child was initially found elsewhere and moved before emergency personnel arrived, describe that location.

7. Note the behavior of the individuals who are present.

8. Secure 911 tape(s).

9. Contact District Attorney's Office for status conference the first work day after investigation commences.

10. Video re-enactments should be conducted when appropriate and should be coordinated with the MEC.

C. Autopsy.

1. The Lead Investigator should be invited to attend the autopsy.

2. The Medical Examiner/Coroner will provide information regarding the findings and conclusions to the Lead Investigator.

3. The Medical Examiner/Coroner's Office will provide Law Enforcement and the District Attorney's Office with all written reports including the Autopsy Report, Toxicology Report, and Coroner's Investigative Report.

VI. ONGOING COMMUNICATION

A. The primary members of the Child Death Response Team should meet at least once after the initial activation to debrief the activation, scene response and scene investigation.

B. The primary members of the Child Death Response Team should continue to meet as often as necessary after the initial activation and scene response to ensure thorough exchange of developing information and analysis of its relevance to the case.

VII. SUMMARY

Law enforcement, DFCS, the District Attorney's Office and the Medical Examiner-Coroner's Office should make every attempt to perform side-by-side parallel investigation and collectively gather all pertinent information to prevent placing the parents or caregivers in a situation of giving multiple interviews.

SECTION 5

PHYSICAL ABUSE

I. SEVERE CHILD INJURY RESPONSE TEAM

A. Purpose and Philosophy of Maintaining a Severe Child Injury Response Team.

1. Santa Clara County is committed to thorough and coordinated investigations into severe child injuries.[3]

2. The investigation and prosecution of severe child injuries differs from other crimes as follows:

a. The successful investigation and prosecution of severe child injuries requires the coordination and cooperation of multiple agencies.

b. Because of the physiology of a child and the unique mechanisms of severe child injuries, the successful investigation and prosecution of these cases requires the use of numerous experts.

c. Notification often originates hours or days after the act that causes severe child injuries, resulting in the contamination of the crime scene, the possibility of multiple scenes, and the loss of evidence.

d. There is a need for extensive interviews.

B. Members of the Severe Child Injury Response Team May Include the Following:

1. The law enforcement agency with jurisdiction over the case.

2. A Medical Expert from the Center for Child Protection, Santa Clara Valley Medical Center.

3. A DFCS Social Worker.

4. A Deputy District Attorney.

5. Criminalists from the Santa Clara County Crime Lab.

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[3] **The term "injury", wherever it appears in the Protocol refers to physical injury due to suspected abuse, neglect or endangerment.**

6. Upon request, the on-call Medical Examiner-Coroner or Medical Examiner-Coroner Investigator.

7. A District Attorney Investigator.

C. Activation of the Severe Child Injury Response Team.

1. The investigating law enforcement agency must immediately activate a joint response by contacting DFCS and other appropriate members of the SCIRT as needed regarding any situation where a child suffers from a severe injury caused by abuse, neglect or endangerment. Severe physical injuries include, but are not limited to:

   a. Head Trauma.

   b. Broken bone(s).

   c. Severe bruising or burns.

   d. Pattern injuries, such as injuries sustained from severe corporal punishment.

2. A joint response shall be initiated if a child is hospitalized with a severe injury and child abuse, neglect, or endangerment is a possible contributing factor. This includes, but is not limited to:

   a. Unexplained severe injuries.

   b. Severe injuries with suspicious or inconsistent explanations.

   c. Severe injuries occurring while children are not under direct and appropriate supervision.

If a child has sustained injuries caused by suspected abuse, neglect or endangerment and those injuries are life-threatening, the investigating law enforcement agency should contact the Medical Examiner-Coroner's Office at:

(408) 793-1900

And also contact the District Attorney's Bureau of Investigation at:

(408) 590-8370

D. Response Scenario When a Child is Located at a Potential Crime Scene.

1. The law enforcement agency with jurisdiction over the case may consult with any and all members of the Severe Child Injury Response Team during an investigation.

    a. The Team will consult with law enforcement about the necessity for specialized forensic interviews with witnesses and/or suspects.

    b. A law enforcement member of the Team will be available to conduct interviews if requested by the law enforcement agency conducting the investigation.

    c. The Team will consult with the law enforcement agency about the necessity for additional expert consultations.

    d. All members of the Severe Child Injury Response Team shall cooperate and share information to reach decisions that are in the best interests of the investigation.

2. Cross-reporting protocols with The Department of Family and Children's Services will be followed.

3. The investigating law enforcement agency shall ensure that all possible crime scenes are secured and maintained. The scenes shall be secured until the law enforcement agency has had an opportunity to consult with the Severe Child Injury Response Team.

4. When appropriate, law enforcement shall attempt to obtain all of the child's medical records and any record of the mother during pregnancy. Consent for the records shall be requested from the parents or legal guardian of the child.

5. A Deputy District Attorney will be available to assist with search warrants or subpoenas to the Grand Jury for medical records.

6. Witnesses, family members, and all hospital personnel involved with the case shall be interviewed.

7. A law enforcement member of the Severe Child Injury Response Team will be available to conduct specialized forensic interviews if requested by the investigating law enforcement agency with the Medical Examiner or Medical Examiner Investigator in attendance during the interview.

II. TYPES OF PHYSICAL INJURIES

A. Abusive Head Trauma.

1. Serious intracranial injury may occur without skull fractures and without any visible evidence of trauma on the face or scalp. Shaking or collision with an object (such as being thrown against a bed post) are common causes of abusive head trauma.

2. Subdural hematomas (bleeding between the brain and the skull) due to abuse are common in children less than 24 months of age, with a peak incidence rate at approximately 6 months old.

3. Signs of an injury to the brain include:

    a. Irritability.

    b. Lethargy.

    c. Lack of eating.

    d. Vomiting.

    e. Seizures.

    f. Coma.

4. The Severe Child Injury Response Team should be immediately contacted in all abusive head trauma cases.

B. Strangulation cases

1. Strangulation can cause serious internal injuries, including traumatic brain injury.

2. There may be no visible injury.

C. Internal Injuries.

1. Blunt blows to the body may cause serious internal injuries to the liver, spleen, pancreas, kidneys and other vital organs. These injuries may even cause shock and result in death.

2. There may be no visible injury.

3. The Severe Child Injury Response Team should be immediately contacted in all severe abusive internal injuries.

D. Fractures.

1. Fractures in non-mobile children (i.e. non-walkers) are very rare and suggest child abuse or neglect. Fractures of the long bones in non-mobile children are highly suspicious for abuse.

2. Common areas of abusive fractures include the skull, the ribs, arms and legs.

3. The Severe Child Injury Response Team may be notified depending on the nature of the fracture(s).

E. Bruises.

1. Appearance.

Bruises may appear in a characteristic pattern such as a hand or an instrument including paddles, switches or extension cords.

2. Infants.

Bruises seen in non-mobile infants (typically under nine or ten months of age) are extremely suspicious for child abuse.

3. Toddlers and Children.

In toddlers and children, bruises on the torso and around the face and neck are suspicious for child abuse.

4. Disease.

Diseases that make a child prone to bruising are rare. Consult a qualified medical physician for questions about bruising as related to a child's medical condition.

F. Burns.

1. Burns.

a. Burns of children rarely occur without some level of negligence or abuse by a caregiver.

b. A complete investigation is required in all burn cases. If a child is hospitalized, immediately notify the Severe Child Injury Response Team.

2. Scalding.

a. Scalding a child with hot liquid is the most common abusive burn.

b. Young children are scalded by immersion and older children by having liquids thrown or poured on them.

c. If a child is immersed in water there may be sharply demarcated marks on the child's body; this is called a stocking or glove pattern burn.

3. Contact or branding burns.

a. Contact or branding burns occur when an object is placed on a child's skin.

b. Objects such as cigarettes, curling irons, irons, or an electric heater may be used to create a contact burn.

III. PATROL OFFICER RESPONSE

A. A Crime Report Must be Written For:

1. Suspected abuse.

2. Unfounded abuse.

3. Neglect and endangerment, including any act which results in non-accidental injury.

B. Juvenile Contact Reports (JCR).

1. A JCR is required if the child is taken into protective custody. The JCR is an officer's responsibility and cannot be delegated to a social worker.

2. The JCR must contain sufficient factual information to justify any protective custody placement.

3. In the event of a continuing criminal investigation, officers should be aware that information, statements, and observations contained in a JCR will be made available to the child's parents, who may be suspects in a criminal investigation, or involved with juvenile or family court proceedings.

C. Coordination with Department of Family and Children's Services (DFCS).

1. If the initial report is to law enforcement, prior to DFCS involvement, the responding officer should follow the "Joint Response Protocol."

2. Joint Response is initiated through the law enforcement agency's communications division.

3. When responding to a call with a DFCS worker who is already involved, the responding officer shall obtain as much information as possible from the DFCS worker before questioning the child. In these instances, a joint investigation shall be conducted.

4. Whenever possible, the investigating officer shall coordinate the investigation with the DFCS worker while mindful that the officer's investigative focus may differ from that of the DFCS worker.

5. The investigating officer should include the DFCS worker in interviews with the child victim and family members whenever possible. State law authorizes the investigating officer and DFCS worker to share relevant information relating to the investigation of child abuse or neglect. (W&I § 827)

6. When appropriate and legally permissible, determine if warrantless entry is justified based on exigent circumstances.

D. Investigating Interview Techniques.

1. Interview all parties involved including:

a. The reporting party.

b. Victims.

c. Suspects.

d. Siblings.

e. Caregivers.

f. Relatives.

g. Teachers.

h. Social workers.

i. Other children.

2. Interviews should be recorded, if possible.

3. Interview each party separately.

4. Children should not be used to translate statements.

5. Children should be interviewed as few times as possible.

    a. The child should be interviewed in a comfortable room and the child should be put at ease.

    c. The suspect should not be present during the interview.

    b. Non-suspect parents should not be present in the immediate area.

6. Children should be interviewed in a non-leading, non-suggestive manner. The National Institute of Child Health and Human Development (NICHD) Structured Investigative Interview Protocol provides an example. *This can be found in Section 9: Interviewing Techniques*.

7. Establish the timeline of:

    a. The care and custody of the child.

    b. When physical symptoms first appeared.

    c. Previous medical conditions.

    d. Previous medical care.

8. Obtain full history of prior physical abuse or neglect toward:

    a. The child.

    b. A sibling.

    c. Intimate partner.

    d. Other family member(s.)

9. Avoid a premature arrest. Maintain a relationship with the suspect(s) that will allow continuing non-custodial interviews until definitive information is obtained from medical experts identifying all injuries with corresponding time limits.

10. Do not read Miranda rights to non-custodial suspects. Beheler admonitions should be given.

11. Consult with a medical expert. Compare and contrast the suspect's explanation with the medical information.

12. Note all spontaneous statements given by a suspect or potential witness.

13. It is not necessary for a patrol officer to obtain a court order prior to interviewing a child at a school. Consult the policy and procedures for each individual agency on this topic.

E. Digital Recording.

1. Photograph all injuries.

   a. The photographs should include several angles and from different distances, including a full body picture, that can be used for identification purposes.

   b. When appropriate, measurements should be taken of the injuries with a forensic measuring device.

   c. Respect a child's privacy and dignity when photographing injuries, a child's genitalia or other private areas of a child's body.

2. Coordinate with a medical professional to photograph injuries if a child sees a medical professional.

3. Photograph sleeping arrangements.

4. Photograph animal or insect bites.

5. Document any pets and the condition of the animals.

6. Photograph health hazards including, but not limited to:

   a. Unguarded stairwells.

   b. Broken Windows.

   c. Exposed Wires.

   d. Inadequate plumbing.

7. Audio record all interviews when possible.

8. Video record all reenactments.

F. Securing Physical Evidence.

1. Seize any object used to injure the victim including belts, shoes, sticks or any other instrument.

2. Seize any object involved in an alleged accident.

3. Take all measurements pertinent to the suspected crime.

4. Document all sights, odors, or unusual sounds.

5. Obtain relevant trace evidence such as fibers.

G. Information to be Included in Investigative Reports.

1. Jurisdiction: Where did the event(s) take place?

2. Contact information for the parties. This should include:

   a. Cell phone numbers;

   b. Home phone numbers;

   c. Email addresses; and

   d. Work contact numbers and e-mail addresses.

3. The relationship between the suspect and victim.

4. Information about siblings including names and date of birth.

5. Descriptions and photographs of all injuries.

6. Description and photographs of all aspects of an unfit home.

H. Medical Treatment.

1. If a child is hospitalized, immediately notify the Severe Child Injury Response Team. (See page 39.)

2. Request a medical release form from the parents and/or guardians.

3. Fully document, record, and photograph all injuries and treatments.

4. Obtain contact information for all fire, paramedic, or medical personnel involved.

I. Warrantless Arrest of Suspect.

When officers encounter situations involving children who are exposed to dangerous environments, the safety and well-being of those children shall not be overlooked. In addition to any other violations, the following factors should be considered when determining whether or not to arrest the suspect(s) for child neglect or endangerment without a warrant:

1. Imminent danger to the victim, suspect, or community.

2. The likelihood that the suspect(s) will flee.

3. Destruction of evidence.

4. Verification of identification of suspect(s.)

5. All other considerations regarding lawful arrest which are consistent with current law.

6. For misdemeanor crimes, the occurrence of the offense(s) in the officer's presence.

IV. DETECTIVE RESPONSE

A. Review Patrol Officer's Report(s) and Ensure that the Protocol Has Been Followed.

1. Initial case review.

a. Determine the protective custody needs of the child and any siblings at risk.

b. Ensure that the case has been cross-reported to the Department of Family & Children's Services (DFCS). Make contact with the assigned DFCS social worker to facilitate a joint investigation – call (408) 975-5250 to find out who has been assigned the case.

c. If a child is hospitalized, ensure that the Severe Child Injury Response Team has been notified.

2. Verify that the preliminary investigation has addressed all elements of the reported crime.

3. Determine the need for further interviews and photographs, including appropriateness of using the Children's Interview Center and a multi-disciplinary interview. Coordinate with the assigned DFCS worker.

4. Determine custody status of the suspect(s). Has the suspect been interviewed?

5. If there is an unidentified suspect, or the suspect is at large, make the appropriate law enforcement notifications and all-points bulletins; coordinate with other agencies.

6. Determine whether an appropriate truancy inquiry and referral have been made.

B. Obtain Information from the Following Resources:

1. DOJ's Child Abuse Central Index - (916) 227-3285.

2. Criminal history data (local, state, national).

3. Department of Motor Vehicles.

4. Family court records (divorces, paternity actions).

5. Schools.

6. Medical facilities and practitioners.

7. Department of Family and Children's Services.

8. Interview of medical personnel. Seek an opinion from the treating physician or a specialist at the treating facility on the issue of whether the injury is consistent with accidental or non-accidental trauma.

9. If the treating physician is unwilling or unable to offer an opinion as to whether the injury is consistent with accidental or non-accidental trauma, contact the Center for Child Protection at Santa Clara Valley Medical Center to arrange for a comprehensive evaluation and opinion regarding the potential abuse or neglect or endangerment.

Center for Child Protection Contact Information

Sexual Abuse – (408) 885-6460 OR call (408) 885-5000 and ask for the SART Examiner on call. (See pages 79 and 80 in Section 7 – Sexual Abuse - for protocol information with respect to these cases.)

Physical Abuse – (408) 712-7242 OR call (408) 885-5000 and ask for the Child Abuse Pediatrician on call.

In most cases, a pediatrician at the Center for Child Protection will evaluate a child within 24 hours when there is a concern regarding child physical abuse.

C. Obtain Corroborating Information From:

1. Medical Examination and records.

2. Suspect interviews including video reenactment. Interview of the suspect(s) should be audio and/or video recorded.

3. Statements of all potential caregivers.

4. Pretext telephone call.

5. Photograph and videotape living conditions.

6. Relevant clothing and bedding.

7. Dates and inventory of refrigerator contents.

D. Obtain Physical Evidence.

1. Biological samples when appropriate.

2. Medical records: Medical release forms should be obtained from guardian or parent even if they are a suspect.

3. From the treating physician.

4. Photographs of the victim and/or suspect. Bruises may change over time and photographs should be taken to reflect these changes.

5. Electronic devices should be searched and seized when legally permissible. A search warrant is generally required to search a cell phone. A deputy district attorney can help prepare a search warrant.

E. Filing the Complaint.

1. Meet with Supervising Deputy District Attorney from the District Attorney's Family Violence Team on serious cases when seeking a complaint.

2. Complete warrant due diligence form.

3. Ensure the arrest warrants are served.

4. Complete DOJ form BCIA 8583 (Child Abuse or Severe Neglect Index Form) and distribute copies.

5. Send out letter to suspect with notice of entry into the DOJ Child Abuse Central Index.

F. Additional Considerations.

1. Consider the use of a news release for cases involving licensed or unlicensed child-care facilities, including:

   a. Group homes.

   b. Preschools.

   c. Family day-care homes.

   d. Or other such facilities.

   Notification must be made to and assistance can be obtained from the California Department of Social Services/Community Care Licensing Division - (408) 324-2112 (residential facilities) or (408) 324-2148 (daycare facilities.)

   An investigation of reported child abuse in a group home or institution shall be done in accordance with the regulatory "Guidelines for Investigation of Child Abuse in Out-of-Home Care Facilities" (PC § 11174). These guidelines are found in Title II, California Administrative Code, Article 3, §§ 930-930.10.

2. Determine previous residences for all involved parties (prior consistent behavior, criminal history or both).

3. Special Social Considerations: Officers should be aware of special circumstances that may resemble or mitigate child neglect or endangerment including:

   a. Cultural, socio-economic, and religious differences.

   b. Poverty.

   c. Ignorance or lack of parenting skills.

   d. Medical conditions not caused by neglect.

   e. Developmental disabilities of the caregiver or the child.

SECTION 6

NEGLECT AND ENDANGERMENT

I. OVERVIEW

A. General Neglect and Endangerment.

1. Neglect and endangerment includes both acts and omissions on the part of a parent or caregiver. It is the failure to protect, provide or supervise. It includes willfully causing or permitting a child to be in circumstances which endanger the health or well-being of the child.

2. Physical indicators of the child:

a. Short stature, thin, sparse or dry hair.

b. Potbelly with diarrhea, extreme hunger.

c. Edema (swelling or bloating).

d. Poor hygiene.

e. Listlessness or lethargy.

f. Delayed development including speech, coordination, and physical (somatic) growth.

g. Physical conditions indicating digestion of narcotics or alcohol.

h. Inappropriate clothing for the weather or temperature.

i. Extreme behavior including social withdrawal, noticeable antisocial behavior or destructive behavior.

j. Chronic school absences or tardiness.

k. Begs, hoards, and steals food or other necessities.

l. Children caring for children in inappropriate maturity or parental roles.

m. Lack of medical or dental care for the child including untreated sores, bites, broken bones, bruises, skin infections or other injuries.

n. Inappropriate or lack of supervision of children.

o. Inappropriate sleeping conditions.

p. Access by the child to harmful material including firearms, drugs, alcohol, hypodermic needles, pornography.

3. Physical indicators of the residence include:

a. Lack of clothing.

b. Lack of food and/or rotting food.

c. No utilities including heat, water and electricity.

d. Accessibility to weapons, narcotics, broken glass, or other dangerous objects within the child's reach.

e. Unsanitary conditions including garbage, feces and urine, and rotting food.

f. Exposed wiring.

g. Broken doors or windows.

h. Nonfunctioning toilet or bathing facilities, back-up sewage.

i. No refrigeration.

j. Insect infestation.

4. Parental or Caregiver indicators of neglect/endangerment:

a. Apathy or passiveness.

b. Unresponsive attitude.

c. Depression.

d. Lack of concern for child.

e. Substance abuse.

f. Irrational behavior.

g. Social or physical isolation.

h. Leaving child unattended.

i. Habitual drunkenness.

j. Exposing the child to a dangerous environment, person or situation.

5. Officer should assess for imminent danger.

a. Assess need for medical attention.

b. Determine if caregiver is providing the basic necessities for each child.

c. Assess weapons storage. (PC §§ 12035, 12036)

II. PATROL OFFICER RESPONSE

A. Report Writing.

1. A crime report must be written for:

a. Suspected abuse.

b. Unfounded abuse.

c. Neglect and endangerment, including any act which results in non-accidental injury.

2. An officer should maintain objectivity in reporting and avoid personal opinions or legal conclusions regarding the filing of the case.

B. Juvenile Contact Reports.

1. A JCR is required if the child is taken into protective custody. The JCR is an officer's responsibility and cannot be delegated to a social worker.

2. The JCR must contain sufficient factual information to justify any protective custody placement. In the event of a continuing criminal investigation, officers should be aware that information, statements, and observations contained in a JCR will be made available to the child's parents, who may be suspects in a criminal investigation, or involved with juvenile or family court proceedings.

C. Coordination with Department of Family and Children's Services (DFCS).

1. If the initial report is to law enforcement, prior to DFCS involvement, the responding officer should follow the joint response procedures in Section 2. Joint Response is initiated through the law enforcement agency's communications division.

2. When responding to a call with a DFCS worker who is already involved, the responding officer shall obtain as much information as possible from the DFCS worker before questioning the child. In these instances, a joint investigation shall be conducted.

3. Whenever possible, the investigating officer shall coordinate the investigation with the DFCS worker while mindful that the officer's investigative focus may differ from that of the DFCS worker. The investigating officer should include the DFCS worker in interviews with the child victim and family members whenever possible. State law authorizes the investigating officer and DFCS worker to share relevant information relating to the investigation of child abuse or neglect. (W&I § 827)

D. Investigating Interview Techniques.

1. Interview all parties involved including the reporting party, victims, suspects, siblings, caregivers, relatives, teachers, social workers and other children. The interview should be recorded if possible and each person should be interviewed separately.

2. Children should not be used to translate statements.

3. Children should be interviewed as few times as possible. The child should be interviewed in a comfortable room and the child should be put at ease. The suspect should not be present during the interview. Non-suspect parents should not be present in the immediate area.

4. Children should be interviewed in a non-leading, non-suggestive manner. The National Institute of Child Health and Human Development (NICHD) Structured Investigative Interview Protocol provides such a format.

5. Interview all suspects and caregivers separately. Establish the timeline of care and custody of the child, when physical symptoms first appeared, and previous medical conditions and medical care.

6. Obtain full history of prior physical abuse or neglect toward the child, a sibling, intimate partner or other family member.

7. It is not necessary for a patrol officer to obtain a court order prior to interviewing a child at a school. Consult the policy and procedures for each individual agency on this topic.

8. Do not read Miranda rights to non-custodial suspects. Beheler admonitions should be given.

E. Digital Recording of a Scene.

1. Photograph all injuries. The photographs should include several angles and from different distances including a full body picture that can be used for identification purposes. When appropriate, measurements should be taken of the injuries with a forensic measuring device. Be conscientious of a child's privacy and dignity when photographing injuries, a child's genitalia or other private areas of a child's body.

2. Coordinate with a medical professional to photograph injuries if a child sees a medical professional.

3. Photograph sleeping arrangements.

4. Photograph animal or insect bites.

5. Photograph health and safety hazards including unguarded stairwells, broken windows, exposed wires and inadequate plumbing.

6. Audio record all interviews when possible.

7. Video record all re-enactments.

8. Measure child's height and height of any exposed hazards.

F. Securing Physical Evidence.

1. Seize any object used to injure victim including belts, shoes, sticks or any other instrument.

2. Seize any object involved in an alleged accident.

3. Take all measurements pertinent to the suspected crime.

4. Document all sights, odors or unusual sounds.

G. Information to be Included in Investigative Reports.

1. Jurisdiction. Where did the event(s) take place?

2. Contact information for the parties. This should include cell phone numbers, home phone numbers, email addresses and work contact information.

3. Relationship between the suspect and victim.

4. Information about siblings including names and date of birth.

5. Describe and photograph all injuries.

6. Describe and photograph all aspects of an unfit home.

H. Warrantless Arrest of Suspect.

1. When officers encounter situations involving children who are exposed to dangerous environments, the safety and well-being of those children shall not be overlooked. In addition to any other violations, the following factors should be considered when determining whether or not to arrest the suspect(s) for child neglect or endangerment without a warrant:

a. Imminent danger to the victim, suspect, or community.

b. Likelihood that the suspect(s) will flee.

c. Destruction of evidence.

d. Verification of identification of suspect(s.)

e. All other considerations regarding lawful arrest which are consistent with current law.

f. For misdemeanor crimes, the occurrence of the offense(s) in the officer's presence.

III. DETECTIVE RESPONSE

A. Review patrol officer's report(s) and ensure that the Child Abuse Protocol has been followed.

B. Immediate Response.

1. Determine the protective custody needs of the child and any siblings at risk.

2. Ensure that the case has been cross-reported to the Department of Family & Children's Services (DFCS). Make contact with the assigned DFCS worker to facilitate a joint investigation - call (408) 975-5250 to find out who has been assigned the case.

3. Make sure that the appropriate members of the Serious Child Injury Response Team (see list on pages 38-39) have been notified.

4. Verify that the preliminary investigation has addressed all elements of the reported crime.

5. Determine the need for further interviews and photographs, including appropriateness of using the Children's Interview Center and Multi-Disciplinary Interview Protocol. Coordinate with the assigned DFCS worker.

6. Determine custody status of the suspect(s). Make sure the suspect been interviewed.

7. If there is an unidentified suspect, or the suspect is at large, make appropriate law enforcement notifications and all-points bulletins; coordinate with other agencies.

8. Determine whether an appropriate truancy inquiry and referral have been made.

C. Obtain Information from the Following Resources:

1. DOJ's Child Abuse Central Index - (916) 227-3285.

2. Criminal history data (local, state, national).

3. Department of Motor Vehicles.

4. Family court records (divorces, paternity actions), including Family Court Service records.

5. Schools.

6. Medical facilities and practitioners.

7. Department of Family and Children's Services.

8. Interview of medical personnel: Contact the Center for Child Protection at Santa Clara Valley Medical Center for a medical opinion regarding the potential neglect or endangerment. Call (408) 712-7242 or call (408) 885-5000 and ask for the Child Abuse Pediatrician on call.

D. Obtain Corroborating Information.

1. Medical Examination and records.

2. Suspect interviews including video reenactment. Interview of the suspect(s) should be audio and/or video recorded.

3. Statements of all potential caregivers.

4. Pretext telephone call.

5. Photograph and videotape living conditions.

6. Relevant clothing and bedding.

7. Dates and inventory of refrigerator contents.

E. Physical Evidence.

1. Biological samples when appropriate.

2. Medical records. Medical release forms should be obtained from child's guardian or parent even if they are a suspect.

3. Interview treating physician.

4. Photographs of the victim and/or suspect. Bruises may change over time and photographs should be taken to reflect these changes.

5. Electronic devices should be searched and seized when legally permissible. Cell phones generally need a search warrant to be searched. A deputy district attorney can assist in preparing a search warrant.

6. All appropriate physical evidence should be sent to the Crime Lab for testing.

F. Verify that the Following Subjects Have Been Interviewed:

1. The victim.

2. All suspects.

3. Siblings.

4. Adults with supervising responsibilities or access to the child.

5. DFCS social workers.

6. Medical personnel.

7. School officials.

IV. FILING THE COMPLAINT AND POST-FILING PRODECURES

A. Meet with Supervising Deputy District Attorney from the District Attorney's Family Violence Division on serious cases when seeking a complaint.

B. Issuing Packets, whether hard copy or electronic, should include the Following:

1. All police reports.

2. All video and audio recordings.

3. Photographs.

4. Criminal History (CII and local rap sheets).

5. DFCS reports.

6. Medical reports.

7. Opinion letters prepared by medical personnel.

8. Complete warrant due diligence form.

9. Complete DOJ form BCIA 8583 (Child Abuse or Severe Neglect Index Form) and distribute copies.

C. Ensure the Arrest Warrants Are Served.

D. Other Concerns.

1. Consider use of a News Release.

2. For cases involving licensed or unlicensed child-care facilities, including group homes, preschools, family day-care homes, or other such facilities, notification must be made to and assistance can be obtained from the California Department of Social Services/Community Care Licensing Division - (408) 324-2112 (residential facilities) or (408) 324-2148 (daycare facilities). An investigation of reported child abuse in a group home or institution shall be done in accordance with the regulatory "Guidelines for Investigation of Child Abuse in Out-of-Home Care Facilities" (PC § 11174). These guidelines are found in Title II, California Administrative Code, Article 3, §§ 930-930.10.

3. Determine previous residences for all involved parties (prior consistent behavior, criminal history or both).

4. Special Social Considerations: Officers should be aware of special circumstances that may resemble or mitigate child neglect or endangerment including:

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 (caregiver or child.)

f. Mental Health issues.

V. SPECIFIC CONCERNS

A. Truancy.

1. Any child subject to compulsory full-time education who is absent from school without a valid excuse for three full days in one school year, or tardy or absent for more than any 30-minute period during the school day without a valid excuse on three occasions in one school year or any combination thereof, is a truant and shall be reported to the attendance supervisor or to the superintendent of the school district. (Education Code § 48260)

2. Ask parents/guardians for names, dates of birth, addresses, schools, names of teachers, and recent attendance history of any school-age children. Obtain all school records.

3. Refer suspected truancy issues to the appropriate school district to follow up on any violations of the compulsory education laws.

B. Children Born Under the Influence of a Controlled Substance.

1. Substance use or abuse during pregnancy and/or giving birth to a child who tests positive for drugs or alcohol will not by itself result in a criminal prosecution for child abuse or endangerment.

2. "[T]he word 'child' as used in Penal Code section 273a . . . was not intended to refer to an unborn child and . . . prenatal conduct does not constitute felonious child endangering within contemplation of the statute." (*Reyes v. Superior Court* (1977) 75 Cal.App.3d 214, 216)

C. Children Left in an Automobile.

1. Any child left unattended in a car faces multiple hazards including emotional distress, kidnapping, abuse at the hands of a stranger, and accidental injury. In hot weather, a child is also exposed to elevated temperatures, which can cause severe injury, permanent disability or death in a matter of minutes.

    a. Caregivers who leave children unattended in cars face a variety of legal consequences from infractions (VC § 15620) to misdemeanor or felony child endangerment (PC §§ 273a(a) and 273a(b)). If death occurs, murder (PC § 187) and/or manslaughter (PC § 192) may apply.

    b. All unattended children in car cases should be referred to the District Attorney's Office for review, even if the law enforcement agency has already issued a citation for an infraction or a misdemeanor

2. Factors to determine if the child was endangered:

a. Age of the children.

b. If the car windows were rolled up or down and by how much.

c. If the car doors were locked.

d. If the key was in the ignition. If the engine was running.

e. The temperature inside and outside of the car.

f. Whether the caregiver could see the vehicle. The distance between the caregiver and the child.

g. Corroborate the length of time child was unattended. Evidence to corroborate the time include:

i. Receipts from stores caregiver claims to have visited.

ii. Contents of grocery/shopping bags or other purchases caregiver claims to have made. Are the purchased items consistent with the amount of time alleged?

iii. Security videos and employee observations at businesses visited by the caregiver.

iv. Determine if the car engine/hood was warm.

h. If the child was dehydrated or lethargic.

i. The physical condition of the child. Was the child sweating, crying or exhibiting other signs of trauma.

3. Call for medical aid.

D. Near Drowning.

Drowning usually occurs in a tub or swimming pool. Drowning of children rarely occurs without some level of negligence or abuse by a caregiver. A complete investigation is required in all near drowning cases. If a child is hospitalized, immediately notify the Severe Child Injury Response Team.

E. Failure to Provide Proper Medical Care.

1. Obtain all medical records. Interview the treating physician and determine when and where child has received previous medical care.

2. Interview all adults with supervising responsibilities.

3. Create a timeline of when the symptoms developed.

4. Contact the Severe Child Injury Response Team.

5. Immediately Cross-report to DFCS.

F. Drug Endangered Children (DEC).

1. Drug Endangered Children are persons under 18 years of age who are at risk for physical harm or neglect due to direct or indirect exposure to illegal drugs, drug use, drug sales or drug manufacturing.

2. DEC includes children who have:

a. Ingested or inhaled drugs in the home.

b. Been exposed to chemicals used in home drug labs.

c. Live in an environment where illegal drug sales occur.

d. Suffered from neglect due to their caregiver's substance abuse.

e. Have been exposed to marijuana cultivation grows.

3. Initial assessment.

a. When possible, all adequate precautions must be taken to ensure the health and safety of sworn and non-sworn personnel who will respond, or who are likely to respond, to the scene.

b. Determine areas that narcotics are kept and the ability of the children to obtain access to the narcotics. Determine the likelihood that children will access hazards due to the accessibility of the hazard; the proximity to children's food, living, sleeping and play areas; combined with poor supervision.

4. Identification of possible forms of endangerment.

a. The possibility of illness or injury from direct or indirect contact with contaminated clothing.

b. Hazardous waste products dumped on the ground or in areas where children have access.

c. The presence of toxic fumes, booby traps, explosives, incompatible chemicals, or multiple hazards.

d. Unsafe practices of a "cook."

e. Degree and duration of exposure (sporadic vs. chronic, short-term vs. long-term, visiting vs. residing at the site).

f. Exposure to firearms or other weapons.

5. Knowledge of danger/hazards of the drug manufacturing site/process may be documented by:

a. Presence of safety/protective gear for adults, but none for children.

b. Literature depicting precautions.

c. Presence of objects designed to be dangerous, such as weapons and booby traps.

d. Actions, such as having children assist in the drug manufacturing process, which place the child in danger or injures the child.

6. Investigating DEC.

a. Determine if the child is in need of immediate medical attention – call out emergency medical personnel – fire/ambulance if necessary.

b. Contact County Communications to alert the on-call Deputy District Attorney assigned to DEC.

c. Contact County Communications for initiation of a joint response by DFCS. If a drug investigation is planned, notify DFCS of the investigation and the possible presence of a child in a drug environment.

d. Detain parents/caregivers pending child endangerment investigation when reasonable cause exists for DEC situation.

e. If a drug lab or marijuana grow house is discovered, contact your agency for hazardous material team ("hazmat"), often through DOJ or DEA, to respond to the crime scene for assessment, evaluation, evidence collection, appropriate enforcement and supportive reports.

f. If the area is contaminated, if there is a possibility of contamination, or other hazards located at crime scene, the law enforcement officer should freeze the location and remove all law enforcement personnel and civilians from inside the premises pending arrival of the hazmat team or fire/ambulance personnel.

g. Contact police dispatch or County Communications for initiation of a joint response by the Santa Clara County Department of Family and Children Services (DFCS). If drug investigation is planned, notify DFCS of investigation and possible presence of child in drug environment.

h. Coordinate evidence collection from crime scene and victim (drugs, guns, paraphernalia, hazardous conditions, evidence of exposure or ingestion of drugs or chemicals from victim).

i. Obtain a Search Warrant, if one has not already been obtained, to collect evidence described above. Contact the on-call Deputy District Attorney with the Santa Clara County District Attorney's Office through County Communications for assistance with a Search Warrant after hours. During regular business hours contact the Narcotics Team of the Santa Clara County District Attorney's Office.

j. When arresting parents or caregivers, ensure all children are accounted for, not just the ones that are at home at the time of the investigation.

k. Make a referral to the Santa Clara County District Attorney's Office for filing criminal charges on all crimes investigated including child endangerment.

l. Report DEC investigation to the California Department of Justice.

7. Collection of Evidence – Conducting a thorough assessment, obtaining photographs, correctly seizing evidence and documenting the scene of a criminal or DFCS DEC investigation is essential to the success of a case. Additionally, collecting forensic evidence of a child's exposure to contaminated drug environments or hazardous chemicals aids in the successful prosecution of the case. It is recommended that the following evidence be collected whenever possible in a DEC case:

a. Collection of urine and/or blood samples within two hours of contact with child victim – drugs can metabolize out of the body rapidly.

b. Collection of hair samples – can show exposure within approximately 3 months.

c. Swab samples from household surfaces, walls, ceilings and vents – can show child was exposed at the crime scene.

d. Samples from carpet, furniture, bedding, clothing, toys and food within the residence – can identify drug absorption, residue or hazardous chemical spills.

e. Head-to-toe assessment and photographs of child for:

i. Signs of physical abuse – contusions, abrasions, burns, skin discolorations, etc.

ii. Signs of malnutrition or neglect.

iii. Behavioral signs of emotional abuse – note any developmental delays or problems with language or speech.

f. Photograph and make notations of the condition of the residence and property (inside and outside) – each room inside of the residence, as well as all outbuildings.

g. Document condition of the house and the DEC environment – drug lab, marijuana grow house, drug sales or drug use environment.

h. Note and photograph any electrical hazards to the house.

i. Note the lack of ventilation in the home.

j. Note and photograph the condition of the kitchen including the adequate, edible food and food in proximity to hazards or toxic substances.

k. Document all drugs, chemicals, firearms and drug paraphernalia accessible to children. Measure and note accessibility.

8. Ingestion of Narcotics.

a. Obtain immediate medical attention.

b. Do a thorough investigation and search to determine who had access to the child and who used narcotics in the home.

c. Evaluate and test all members of the household for current or previous drug use.

d. Obtain a medical release form.

TYPICAL CHEMICALS-SUBSTANCES FOUND AT DRUG LOCATIONS								
Chemicals-Substances	**Common Legitimate Uses & Ways to Identify**	**Poison**	**Flammable**	**Toxic Vapor**	**Explosive**	**Corrosive**	**Skin**	**Common Health Hazards ***
METH LABS								
Acetone	Fingernail polish remover, solvents	X	X	X			X	Reproductive disorders
Methanol	Brake cleaner fluid, fuel	X	X	X			X	Blindness, eye damage
Ammonia	Disinfectant	X		X		X	X	Blistering, lung damage
Benzene	Dye, varnishes, lacquer	X	X		X	X	X	Carcinogen, leukemia
Ether	Starter fluid, anesthetic	X	X		X			Respiratory failure
Freon	Refrigerant, propellants	X		X		X		Frostbite, lung damage
Hydriodic Acid	Driveway cleaner	X		X		X	X	Burn, thyroid damage
Hydrochloric Acid (HCL Gas)	Iron ore processing, mining	X		X		X	X	Respiratory, liver damage
Iodine Crystals	Antiseptic, catalyst	X	X		X	X		Birth defects, kidney failure
Lithium Metal	Lithium batteries	X				X	X	Burns, pulmonary edema
Muriatic Acid	Swimming pool cleaner	X		X		X		Burns, toxic vapors
Phosophine Gas	Pesticides	X		X			X	Respiratory failure
Pseudoephedrine	Cold medicine	X						Abuse; heart damage
Red Phosphorus	Matches, fireworks	X	X	X	X			Unstable, flammable
Sodium Hydroxide	Drain cleaners, Lye	X		X		X	X	Burns, skin ulcers
Sulfuric Acid	Battery acid	X		X		X	X	Burns, thyroid damage
Toluene	Paint thinners, solvents	X	X	X	X		X	Fetal damage, pneumonia
Liquid Lab Waste	None	X	X	X	X	X	X	Unknown long-term effects
HONEY OIL OR HASH OIL LABS								
Butane	Lighter fluid, torches	X	X	X	X		X	Euphoria, drowsiness, narcosis, asphyxia, cardiac arrhythmia, fluctuations in blood pressure, temporary memory loss and frostbite, which can result in death from asphyxiation and ventricular fibrillation
Marijuana Plant Matter	Bud, stem, stock and leaves for the Marijuana plant	X	X					Possible allergic reaction, rapid heart rate, increased blood pressure, increased rate of breathing, red eyes, dry mouth, increased appetite, slowed reaction time. Psychological effects: distorted sense of time, paranoia, magical or "random" thinking, short-term memory loss, anxiety and depression
Cannabis Crystallized Resin		X	X					Same as above. More concentrated and potent

TYPICAL CHEMICALS-SUBSTANCES FOUND AT DRUG LOCATIONS								
Chemicals-Substances	**Common Legitimate Uses & Ways to Identify**	**Poison**	**Flammable**	**Toxic Vapor**	**Explosive**	**Corrosive**	**Skin**	**Common Health Hazards ***
MARIJUANA CULTIVATION OR GROW								
Convoluted Wiring			X		X			Electrocution
Poorly Constructed Rooms								Falling objects causing injury
Unstable Trays								Same as above
Pesticides	A variety of household and garden pesticides	X	X	X	X	X	X	Could cause a variety of ailments if exposed and ingested including death
Fungicides	Same as above	X	X	X	X	X	X	Same as above
Spores, Mold and Fungus	Can occur in locations where water has pooled or exposed to excessive moisture	X		X			X	Headaches, repertory illnesses, autoimmune diseases
Marijuana Plant Material								Effects summarized above
GHB GAMMA-HYDROXYBUTYRIC ACID LAB								
Different Forms	Typically a sodium liquid in numerous colors	X	X				X	General anesthetic, causing drowsiness, deep sleep or coma. It is also used as an intoxicant (illegally in many jurisdictions) or as a date rape drug
Gamma Butyrolactone	Precursor - restricted chemical substance	X	X				X	Same effects as discussed above
Sodium Hydroxide	Lye, drain cleaner	X	X	X		X	X	Burns, skin, ulcers
Ethanol	Form of alcohol	X	X		X		X	Blindness, eye damage
Magnesium Sulfate	Inorganic salt compound with Magnesium							Hypermagnesemia
Sodium Nitrate	Meat preservative							
Ferric Chloride	Circuit board etchant	X	X	X		X	X	Burns, skin, ulcers
Sulfuric Acid	Battery acid	X	X	X	X	X	X	Burns, skin, ulcers
LSD LYSERGIC ACID DIETHYLAMIDE LAB								
Different Forms	Perforated paper, sugar cubes, pills, gelatin capsules and vials	X				X	X	Manufactured in dark locations

Ayserguc Acid Amide	Plant material and fungus	X				X	X	Contact with skin and cause exposure resulting in severe rash, gangrene and death
Sodium Carbonate	Washing soda and baking ash							Possibly poisonous
Ergometrine	Fungus or plant	X				X	X	Contact with skin and cause exposure resulting in severe rash, gangrene and death
Ergocristine	Fungus or plant	X				X	X	Contact with skin and cause exposure resulting in severe rash, gangrene and death
Sodium Nitrate	Meat preservative							
Ergotamine Tartrate	Fungus or plant	X				X	X	Contact with skin and cause exposure resulting in severe rash, gangrene and death
Hydrochloric Acid	Drain cleaner	X	X	X	X	X	X	Poisonous
Anhydrous Hexane	Meat preparation	X					X	Poisonous
Lysergic Acid Amid	Morning glory seeds	X				X	X	Contact with skin and cause exposure resulting in severe rash, gangrene and death

TYPICAL CHEMICALS-SUBSTANCES FOUND AT DRUG LOCATIONS								
Chemicals-Substances	**Common Legitimate Uses & Ways to Identify**	**Poison**	**Flammable**	**Toxic Vapor**	**Explosive**	**Corrosive**	**Skin**	**Common Health Hazards ***
MDMA METHYLENEDIOXYMETHAMPHETAMINE LAB								
Sassafras Oil	Aromatherapy		X					Flammable
Methanol	Wood Alcohol	X	X	X			X	Blindness, eye damage
Distilled Water	Available by name at grocery store							
P-Benzoquinone	Photo supply store	X	X	X	X		X	Poisonous
Palladium (II) Chloride (PdC12)	Photo supply store	X	X	X	X		X	Poisonous
DCM-Methylene Chloride or Dichloromethane	Available by name at chemical supply store	X	X	X	X		X	Poisonous
Xylene	Available by name at chemical supply store	X	X	X	X	X	X	Fetal damage, pneumonia
Acetone	Paint thinner	X	X	X	X	X	X	Fetal damage, pneumonia
NaCl-Non-Iodized	Table salt							
NaHCO3 Sodium Bicarbonate	Baking soda							
Muriatic Acid/Hydrochloric Acid	Pool cleaner	X	X	X	X	X	X	Burns, toxic vapors
MgSO4 Magnesium Sulfate	Epsom salts							
Nitro RC Fuel	Hobby shop model fuel	X	X	X	X	X	X	Blindness, eye damage
Aluminum Foil	Available at grocery store by name							
Peanut Oil	Available at grocery store by name		X					
Safflower Oil	Available at grocery store by name		X					
Sulfuric Acid	Drain cleaner	X	X	X	X	X	X	Burns, toxic vapors
CaC12 Calcium Chloride	Mildew remover	X					X	Poisonous
DMT (DIMETHYLTRYPTAMINE) LAB								
Origin and Forms	African root also known as Ayahuasca, Hoasa, Acacia Confusa Root, Daime Tea	X						Hallucinogenic
Ether	Engine starter fluid	X	X	X	X			Toxic vapor
Ammonium Hydroxide	Meat processing agent	X						

Chloroform	Available at arts and crafts store	X		X				Toxic vapor
Sodium Hydroxide	Caustic soda, Lye	X	X	X	X	X	X	Burns, toxic vapors
Naphtha	Lighter fluid	X	X	X	X	X	X	Flammable, burns, eye damage
Hydrochloric Acid	Mining equipment	X	X	X	X	X	X	Burns, toxic vapors
Dichloromethane (DMC)	Adhesive solvent	X	X	X	X			Burns, toxic vapors
Muriatic Acid	Pool cleaner	X	X	X	X	X	X	Burns, toxic vapors

COMMON DRUG PARAPHERNALIA
Planting or growing kits
Manufacturing kits
Isomerization devices
Testing equipment
Scales and balances
Diluents
Adulterants
Separation gins
Sifters
Balloons
Envelopes
Capsules
Hypodermic syringes
Pipes
Water pipes
Carburetion tubes
Carburetion masks
Roach clips
Cocaine spoons
Cocaine vials
Chamber pipes
Carburetor pipes
Electric pipes
Chillums
Bongs
Ice pipes

* This index is only a guide of possible dangers and health hazards at drug locations - this is not an exhaustive list of chemicals, equipment, substances that can pose a danger to law enforcement personnel or children. Seek immediate assistance from medical personnel, fire department and/or crime lab team **IF ANY** of the above substances are discovered or a person has accidently ingested the above listed items.

SECTION 7

SEXUAL ABUSE

I. REPORTS

A. Initial Crime Report.

1. A crime report shall be written for all suspected or alleged sexual abuse. Sexual abuse includes commercial sexual exploitation. (See Section 1, I.A.3. on page 8.)

   If Human Trafficking of a child is suspected or occurring (i.e. child is being prostituted), refer to Section 6 (pp. 14-19) of the Santa Clara County Human Trafficking Protocol for Law Enforcement for information on responding to Commercially Sexually Exploited Children.

2. Maintain objectivity in reporting and avoid personal opinions or legal conclusions regarding the filing of a case.

B. Juvenile Contact Report (JCR) if applicable.

1. A JCR is required if the child is taken into protective custody. The JCR is an officer's responsibility and cannot be delegated to a social worker.

2. The JCR must contain sufficient factual information to justify any protective custody placement. In the event of a continuing criminal investigation, officers should be aware that information, statements, and observations contained in a JCR will be made available to the child's parents who may be suspects, in juvenile or family court proceedings.

C. Supplemental Reports if Applicable.

D. Pediatric medical examination documents for children under 12 and Sexual Assault Response Team (SART) documents for children between 12 and 18, if applicable.

II. PATROL OFFICER RESPONSE

A. Interaction with Department of Family and Children's Services (DFCS).

1. If the initial report is to law enforcement, prior to DFCS involvement, the responding officer should follow the "Joint Response Protocol" in place between the law enforcement agency and DFCS. Joint Response is initiated through the law enforcement agency's Communications Division.

2. When responding to a call with a DFCS worker who is already involved, the responding officer shall obtain as much information as possible from the DFCS worker before questioning the child. In these instances, a joint investigation shall be conducted.

3. Whenever possible, the investigating officer shall coordinate the investigation with the DFCS worker while mindful that the officer's investigative focus may differ from that of the DFCS worker. The investigating officer should include the DFCS worker in interviews with the child victim and family members whenever possible. State law authorizes the investigating officer and DFCS worker to share relevant information relating to the investigation of child abuse or neglect. (See W&I § 827)

B. Interaction with Rape Victim Counseling Centers.

1. Contact the YWCA Silicon Valley 1-800-572-2782 or Community Solutions 1-877-363-7238 for an advocate and/or counselor as soon as possible.

2. Per PC 679.04, victims of the crimes listed in the following paragraph have a right to have a victim advocate (who may be a sexual assault counselor) and an additional support person of the victim's choosing present for any interview.

3. Per PC 264.2, victims of PC 261, 261.5, 262, 286, 288a and 289 have a right to have a sexual assault counselor and an additional support person of the victim's choosing present for any physical examination.

4. Note that a support person may be excluded if law enforcement or the medical provider determines that the support person's presence would be detrimental to the purpose of the interview or examination. (PC 264.2(b)(4), 679.04(a))

C. Patrol Officer Contact with Victim and Involved Parties.

1. Santa Clara County's policy is to minimize the number of interviews of child victims.

2. Victim interview(s).

a. The patrol officer interview should be limited to establishing corpus of the offense. A Detective should conduct the detailed follow-up interview. It is important to establish only the basic information of the allegation:

i. Determine the NATURE of sexual abuse allegations (oral/genital, digital/genital, etc.).

ii. Determine JURISDICTION, TIMES(s) and DATE(s) of offenses. (See PC § 784.7 when acts of child abuse occur in more than one jurisdiction.)

iii. Determine SUSPECT(s) involved and the relationship to the victim.

iv. If the suspect is a stranger, obtain the best possible description of the suspect and vehicle. Immediately broadcast a "Be on the Look-Out" (BOL). Immediately canvass the area, noting all license plates. Notify investigative personnel of details of the offense and solicit their input.

v. Consider issuing an Amber alert.

vi. Consult with detectives to ensure that they are aware of the potential for a Multi-Disciplinary Interview (MDI) and need for SART.

b. The patrol officer should use a comfortable room to conduct the interview and make every effort to put the victim at ease. This may include sitting down at the child's eye level. The suspect(s) shall not be present. Non-suspect parents should not be present in the immediate area. If they are, they should be out of the victim's visual range.

c. Be sensitive to the time of day and whether the child is in immediate danger.

d. Children who are suspected victims of abuse shall be interviewed in a non-leading, non-suggestive manner. The *NICHD Structured Investigative Interview Protocol* provides such a format. The National Institute of Child Health and Human Development (NICHD) Interview Protocol will be used by forensic interviewers or detectives who have been specifically trained in its use.

e. It is not necessary for a patrol officer to obtain a court order prior to interviewing a child at school. Consult policy and procedures for your individual agency on this topic.

f. Interviews with all parties contacted regarding an allegation of child sexual abuse should be audio recorded. Video recording is encouraged when available.

3. Suspect interview(s).

a. Suspect In-Custody for Felony Charges.

i. Contact Investigative Services Division and coordinate with the assigned investigator/detective. The investigator/ detective should be notified and made aware of the need to conduct an in-depth interview with the suspect.

ii. Whenever possible, the patrol officer should avoid reading *Miranda* rights and obtaining a statement from the suspect. This can be counterproductive in view of the overall investigative considerations.

iii. Whenever possible, the suspect should be audio and/or visually recorded to capture any spontaneous statements made while in custody. The patrol officer shall document any spontaneous statements made in the crime report.

iv. When appropriate, a standard rape evidence kit shall be used to collect items that could be of evidentiary value from the suspect. Contact local Crime Scene Investigation or Evidence Technician for assistance. Consult your local agency policy for full collection protocol.

b. Suspect In-Custody for Misdemeanor Charges.

i. Patrol officer should consult with supervisor as to whether Investigative Services/Detective should be notified.

ii. No "cite and release" in cases of suspected child abuse. (Not precluded by law in misdemeanor cases unless facts also involve domestic violence, stalking and/or restraining order violations, but strongly discouraged.)

ii. In the case of an in-custody (or "cite and release") misdemeanor, the patrol officer should attempt to obtain a *Miranda* waiver and statement from the suspect(s). When possible, the statement should be audio and/or visually recorded.

iii. See Section 9 starting on page 97 "Interview Techniques".

c. Suspect Out-of-Custody.

i. Utilizing the appropriate county and department resources, an attempt should be made to identify the suspect, the suspect's residence, workplace, vehicles, associates,

criminal history and other information that can assist with the investigation of the suspect.

ii. A basic search of CSAR online database should be utilized to determine if the suspect is a sex registrant pursuant to PC § 290.

iii. Contact the Investigative Services Division and consult with the assigned investigator prior to taking the suspect into custody.

4. Other witness interviews.

a. Determine if there are possible additional victims, such as siblings or neighbors.

b. If the victim(s) are developmentally disabled, identify their caregivers/teachers and with which care program they are associated.

c. Determine if the child was taken to any medical facility after disclosure as well as the name of the treating personnel.

d. Identify any other potential witnesses or persons to whom the child may have made disclosures.

D. Crime Scene & Physical Evidence Collection.

1. Crime Scene.

a. Prior to proceeding with evidence collection, determine if there is a need to obtain a search warrant.

b. Photograph all scenes and physical evidence prior to the collection of evidence. Use a high-resolution digital camera.

c. If in a residence, secure, label and preserve any items of evidentiary value. Consult crime scene investigators for collection and processing of evidence.

d. Each evidence item such as clothing, paraphernalia, bedding, tissues, etc. should be collected, bagged and labeled separately. In collecting clothing of child, bag the item so that it is lying flat and unfolded.

e. Look for items such as photographs, pornography, sexual aids, paraphernalia, contraceptives and correspondence to/from suspect from/to victim.

f. If in a vehicle, impound and seal it unless there is time-critical evidence that will lead to capture (exterior fingerprints, indicia, etc.). Leave processing for follow-up investigators.

g. If outdoors, secure the area. Process in a sequential search pattern. Photograph evidence prior to collection with a scale device and draw a sketch.

h. Secure, label and preserve all cell phones, smart phones, computers and similar devices used by suspect or victim if applicable. If possible, obtain passwords, login names, email addresses and social networking sites used. Obtain consent if possible. Otherwise, seek a search warrant.

i. Consider canvassing the scene/neighborhood for potential witnesses.

2. Injury Documentation.

a. Consult with assigned investigator/supervisor and coordinate with medical/SART staff to ensure that all victim injuries will be photographed for evidentiary purposes.

b. Be conscientious of a child's privacy and dignity when photographing non-genital injuries.

c. Photograph any injuries or distinguishing characteristics of the suspect.

d. Consider evidentiary value of obtaining <u>suspect</u> SART. Contact Linda Richards at (408) 705-3578.

III. SEXUAL ABUSE EVIDENCE

A. Acute Examinations.

1. Children ages 11 years and younger, 5 days (120 hours) or less since alleged abuse.

a. DURING BUSINESS HOURS: Obtain approval for a sexual assault exam, as required by your department policy. Notify the Center for Child Protection at (408) 885-6460 and transport the child to the Center for Child Protection at SCVMC. Communicate all known facts to the medical/SART professional prior to the examination. Include information regarding the nature of the sexual contact or other contact which might have left physical evidence or injury.

b. AFTER HOURS: Call (408) 885-6460 and press "2" to speak to a pediatric sexual assault on-call examiner. Or call the VMC operator at (408) 885-5000 and say "Operator" and then ask for the Pediatric SART examiner on call. Proceed with the child to the SCVMC emergency room where you will meet with the examiner and crisis counselor. Communicate all known facts to the medical/SART professionals prior to the examination. Include information regarding the nature of the sexual contact or other contact which might have left physical evidence or injury.

c. Take custody of sexual assault evidence, reports, etc., and handle as biological evidence. Store appropriately.

d. Parental/guardian consent is required unless there are exigent circumstances or there is a court order authorizing the exam. Victims and non-suspect parents may refuse and shall not be forced to cooperate.

2. Children ages 12 years and older, 10 days or less since alleged abuse.

a. Obtain approval for a sexual assault exam, as required by your department policy and expedite transport of the child to SCVMC Emergency Department. Contact the SCVMC operator at (408) 885-5000 or dial "0" on the hospital phone. Say "Operator" and ask for the Adult/Adolescent Nurse Examiner on call. Communicate known facts to the medical/SART prior to the examination.

b. Take custody of sexual assault evidence, reports, etc. and handle as biological evidence. Store appropriately.

c. Child, age 12 years and older, can consent to or decline any or all parts of the examination.

d. Child, age 12 years and older, can utilize the SCVMC clinic in Gilroy for the sexual assault examination with a qualified SART Examiner. Arrangements are made through the SCVMC operator.

B. Non-Acute Examinations:

1. Non-acute examinations are performed for:

Children ages 11 years and younger, more than 5 days after alleged abuse.

Children ages 12 years and older, more than 10 days after alleged abuse.

2. Non-acute examinations may include: a physical examination, testing for sexually transmitted infections, and medical treatment as appropriate. These examinations do not include forensic evidence collection kits.

3. Please call the Center for Child Protection at SCVMC (408) 885-6460 or (408) 885-5000 to access the SART provider in order to schedule an appointment.

4. Please also call (408) 885-6460 or the SCVMC operator at (408) 885-5000 if you have questions about the timing or appropriateness of the non-acute examination.

IV. DETECTIVE RESPONSE

A. Review Patrol Officer's Report(s) and Ensure that the Protocol Has Been Followed.

1. Initial case review.

   a. Determine the protective custody needs of the child and any siblings at risk.

   b. Ensure that the case has been cross-reported to the Department of Family & Children's Services (DFCS). Make contact with the assigned DFCS worker to facilitate a joint investigation – call (408) 975-5230 to find out who has been assigned the case.

      i. If the child sexual abuse victim is placed in protective custody, the Social Worker needs a copy of the crime report or sufficient verbal information from law enforcement within 48 hours (excluding weekends and holidays) to support an order for continued detention at the Initial Hearing in Juvenile Dependency Court. The Social Worker must file a petition with the Juvenile Court within 48 hours (excluding weekends and holidays) of protective custody, and the Initial Hearing must be conducted on next judicial day after the petition is filed. Without prima facie evidence of sexual abuse, the Court is required to return the child to the parent unless other indicia of abuse or neglect exist.

      ii. If there is a compelling reason to temporarily preserve confidential aspects of the police investigation, the

investigating officer shall **call a Deputy County Counsel** in the Office of the County Counsel, Child Dependency Unit **to request the opportunity** to present sensitive information to the Juvenile Court confidentially under the Evidence Code § 1040 official information privilege. **Call Kim Warsaw (408) 758-4272 or her mobile (408) 479-0810. Only if Kim is not available, call Assistant County Counsel Gita Suraj, (408) 758-4269.**

c. If a child is hospitalized, ensure that the Severe Child Injury Response Team has been notified.

2. Verify that the preliminary investigation has addressed all elements of the reported crime.

3. Determine the need for further interviews and photographs, including appropriateness of using the Children's Interview Center and Multi-Disciplinary Interview Protocol. Coordinate the interview with the assigned DFCS worker. If possible, any detailed interview of the child should occur before any non-acute Pediatric or Adult/Adolescent SART examinations.

4. Determine custody status of the suspect(s). Has the suspect been interviewed?

5. If there is an unidentified suspect, or the suspect is at large, make the appropriate law enforcement notifications and all-points bulletins; coordinate with other agencies.

6. Determine whether an appropriate truancy inquiry and referral have been made.

7. Ensure that the victim and parent or guardian has been made aware of the right to nondisclosure of identity (PC section 293).

8. A victim of a violation of PC §§ 261, 261.5, 262, 286, 288a, or 289 has the right to have victim advocates and a support person of the victim's choosing present at any interview by law enforcement authorities, district attorneys, or defense attorneys, unless the presence of that person would be detrimental to the purpose of the interview. A victim shall be notified of this right orally or in writing prior to the commencement of the interview. (PC §§ 679.04, 264.2)

9. Review all available evidence, including medical information. This may include an acute Pediatric or Adult/Adolescent SART examination. If the incident did not meet the guidelines for an immediate, acute examination (i.e. the offense did not occur within 5 days of law enforcement response

for victims ages 11 years and younger or within 10 days for victims ages 12 to 18 years), contact the Center for Child Protection at Valley Medical Center (408) 885-6460. Consult with medical/SART professionals to determine whether the circumstances warrant a non-acute examination. If so, a pediatric medical examination (victim age 11 years and younger) or Adult/Adolescent SART examination (victim age 12 years and older) should be arranged.

B. Obtain Information from the Following Resources:

1. DOJ's Child Abuse Central Index - (916) 227-3285.

2. Criminal history data (local, state, national).

3. Department of Motor Vehicles.

4. Family court records (divorces, paternity actions).

5. Schools.

6. Medical facilities and practitioners.

7. Department of Family and Children's Services.

8. Interview of medical personnel.

9. Contact the Center for Child Protection at Santa Clara Valley Medical Center for a medical opinion regarding the potential sexual abuse - (408) 885-6460.

10. Coplink.

C. Obtain Corroborating Information From:

1. Pretext telephone call.

2. History of medical examination and records.

3. Identification of suspect. Follow your agency's line-up protocol.

4. Suspect interviews (Interview of the suspect(s) should be audio and/or video recorded). An attempt should be made to interview all suspects. The suspect should be interviewed by a detective or follow-up investigator, if available. All statements, including spontaneous statements, shall be made a part of the offense report.

5. Statements of all potential caregivers.

6. Statements of witnesses. Children or involved parties should not be used to translate statements.

7. Photograph and videotape living conditions.

8. Relevant clothing and bedding.

9. Medical (SART) examination, if appropriate, based on age of victim, time of reported occurrence, and specific acts alleged. If the victim is age 11 years or younger, police and social workers must have parental consent, a court order, or exigent circumstances before obtaining an investigatory medical examination of a suspected child sexual abuse victim. (*Doe v. Lebbos* (2003, 9th Cir.) 348 F. 3d 820) **If the child under 12 years of age is in protective custody, the Pediatric SART Examiner can provide a CalOES 2-930 or 2-925 consent form to the DFCS social worker or law enforcement officer or county counsel in order to get written parental or judge's signature for consent prior to a Pediatric SART examination.**

10. Suspect's access to victim at the time of the reported offense.

11. School records. Interview teacher/administrator when appropriate.

D. Obtain Physical Evidence From:

1. Biological samples when appropriate.

2. Medical records: Medical release forms should be obtained from guardian or parent even if they are a suspect.

3. Interview treating physician.

4. Consult with the physical abuse medical expert at the Center for Child Protection at Santa Clara Valley Medical Center - (408) 712-7242.

5. Photographs of the victim and/or suspect. Bruises may change over time and photographs should be taken to reflect these changes.

   Note: Photographs of genital and anal areas of any child, and breasts of teens should be taken only during SART examinations, or by other qualified medical personnel for review by SART examiners.

6. Trace evidence.

7. 911 tapes.

8. Electronic devices should be seized and searched when legally permissible.

9. Photos of victim at age of offense(s.)

10. Preservation requests for social media used by victim and suspect.

F. Medical Evaluation.

Contact the Center for Child Protection at Santa Clara Valley Medical Center for an interpretation of injuries found on a potentially abused child - (408) 712-7242.

G. Additional Considerations.

1. Consider the use of a news release for cases involving licensed or unlicensed child-care facilities, including:

   a. Group homes.

   b. Preschools.

   c. Family day-care homes.

   d. Or other such facilities.

   Notification must be made to and assistance can be obtained from the California Department of Social Services/Community Care Licensing Division – (408) 324-2112 (residential facilities) or (408) 324-2148 (daycare facilities).

   An investigation of reported child abuse in a group home or institution shall be done in accordance with the regulatory "Guidelines for Investigation of Child Abuse in Out-of-Home Care Facilities" (PC § 11174). These guidelines are found in Title II, California Administrative Code, Article 3, §§ 930-930.10.

2. Determine previous residences for all involved parties (prior consistent behavior, criminal history or both).

3. For cases involving suspects who are public or private school employees, notification shall be made in accordance with PC § 291.

4. If the suspect is unidentified or is known but is at large, make all appropriate investigative notifications, and consider use of a news release.

5. Previous and current relationships (spouses, ex-spouses, cohabitants, other children, relatives).

V. INTRAFAMILIAL MOLEST: INTERVIEW WITH NON-OFFENDING PARENT/CAREGIVER

A. Warning Signs.

1. Has the child exhibited any signs that suggested something was wrong (e.g., behavioral, sleep or eating problems)? If so, what were those signals and when did the non-offending parent notice them?

2. How did the non-offending parent react to those signals?

3. Has the child ever done or said anything that caused the non-offending parent to suspect there was something wrong between the child and the suspect?

B. Child's Relationship with the Suspect.

1. How have the child and the suspect gotten along?

2. How has the suspect treated the child?

3. Has the child showed fear of the suspect?

C. Non-offending Parent's Relationship with the Suspect.

1. How long has the non-offending parent known the suspect?

2. How were the non-offending parent and the suspect getting along at the time of the disclosure?

3. How did the non-offending parent and the suspect get along before the disclosure?

4. How does the non-offending parent feel about the suspect now?

5. Has the suspect been in contact with the non-offending parent or the child since the disclosure?

D. Child's Relationship with the Non-offending Parent.

1. How does the child get along with the non-offending parent?

2. Has the child ever disclosed the sexual assaults to the non-offending parent?

3. If so, what did the child say; what was their demeanor; what were the circumstances of the disclosure (i.e., how did it show up in conversation);

did the non-offending parent question the child in a suggestive way; and when was the disclosure?

4. If the disclosure was made to someone else, why does the non-offending parent think the child did not disclose to him/her?

E. Relationship Between Suspect and Other Children in Family/Neighborhood.

1. Has the suspect had access to other children in the family/neighborhood?

2. If so, who are they; what are the circumstances surrounding that contact; and how do those children behave around the suspect?

3. Has the non-offending parent noticed any unusual activities or behavior involving the suspect and other children?

VI. EVIDENCE CHECKLIST

1. All evidence that corroborates or disproves statements by a child victim(s.) Review the child interview carefully for facts mentioned by the child and then attempt to verify those facts (i.e. if the child said the room was a certain color or if there was a television show playing that day. Verify this information.)

2. Biological evidence including semen, saliva, blood and hair.

3. All medical evaluations.

4. Pretext telephone conversations. This should generally occur before interviewing a suspect. Detailed information regarding the suspect's statements, reactions and/or silence during the pretext telephone conversation should be included.

5. All photographs.

6. Line-ups.

7. Computer and cell phone information. Search warrants may be required.

8. Trace evidence including fibers.

9. 911 calls.

10. All recorded interviews.

CENTER FOR CHILD PROTECTION
Marlene Sturm, MD
Mary Ritter, CHA, PA-C
Santa Clara Valley Medical Center
751 S. Bascom Avenue, Building W, San Jose, CA 95128
Phone: 408-885-6460
SPARK Clinic
777 E. Santa Clara Street, San Jose, CA 95112
408-977-4504

CHILD and YOUTH SEXUAL ABUSE MEDICAL EVALUATIONS

Welcome to the Center for Child Protection.
We evaluate children and youths who may have been sexually abused or assaulted within a few days—or at any time in the past. Evaluations include examination for new and old injuries, tests for sexually transmitted infections, collection of forensic evidence when appropriate, and medical treatment. We encourage you to make a report to Law Enforcement and/or Child Protective Services prior to the exam.

Please follow the instructions below to arrange for a timely evaluation. The exam location may be the VMC campus in Building W near the Emergency Department, or at the Downtown SPARK Clinic at 777 E. Santa Clara Street. We will confirm the location.

Evaluations may be forensic or medical. Forensic exams will be billed to the investigating agency. Medical exams will be billed to the patient's health insurance. Examinations are facilitated by crisis advocates and/or social services.

1. **Event 5 days ago or less, for a child age 11 and younger:**
   For children ages 11 years and younger who may have been sexually abused 5 days ago or less:
   During regular business hours, Monday- Friday 9AM-5PM, please call:
   - **408-885-6460**, Pediatric SART unit at The Center for Child Protection

   OR
   - **408-885-5000,** say "Operator", ask for the Pediatric SART examiner on call
     This is the general number for Valley Medical Center.
   - **After Hours:** After 5 PM, please call
     408-885-5000, say "Operator", then ask for the Pediatric SART Examiner on call

2. **Event more than 5 days ago, for a child age 11 and younger: Please call**
   - **408-885-6460**, SART unit at The Center for Child Protection

3. **Event 10 days ago or less, for a child age 12 years and older: Please call**
   - **408-885-5000,** say "Operator", ask for the Adult/Adolescent SART examiner on call

4. **Event more than 10 days ago, for a child age 12 and older: Please call**
   - **408-885-6460**, Pediatric SART unit at The Center for Child Protection

We look forward to collaborating with you to provide accurate medical and forensic information in a supportive, child-centric environment.

The Center for Child Protection

MLR/ MAS January 2018

SECTION 8

PARENTAL KIDNAPPING AND CHILD ABDUCTION

This section applies when a person abducts a child from their lawful custodian. This information is provided to identify the applicable law and describe the appropriate responses in an abduction scenario. The officer should always consider the safety, welfare and risk to the child when responding to an abduction.

I. APPLICABLE PENAL CODE SECTIONS

A. Definitions.

1. "Child" means a person under the age of 18 years.

2. "Court order" or "custody order" means a custody determination decree, judgment, or order issued by a court of competent jurisdiction, whether permanent or temporary, initial or modified, that affects the custody or visitation of a child, issued in the context of a custody proceeding. Once made, an order shall continue in effect until it expires, is modified, is rescinded, or terminates by operation of law.

3. "Custody proceeding" means a proceeding in which a custody determination is an issue, including but not limited to, an action for dissolution or separation, dependency, guardianship, termination of parental rights, adoption, paternity, except actions under Section 11350 or 11350.1 of the Welfare and Institutions Code, or protection from domestic violence proceedings, including an emergency protective order pursuant to Part 3 (commencing with Section 6240) of Division 10 of the Family Code.

4. "Lawful custodian" means a person, guardian, or public agency having a right to custody of a child. (It is important to note that a court order is NOT necessary for a person to have a right to custody. If a court order exists, read it carefully to determine if it limits a person's custodial right.)

5. A "right to custody" means the right to the physical care, custody, and control of a child pursuant to a custody order as defined in subdivision (b) or, in the absence of a court order, by operation of law, or pursuant to the Uniform Parentage Act contained in Part 3 (commencing with Section 7600) of Division 12 of the Family Code. Whenever a public agency takes protective custody or jurisdiction of the care, custody, control, or conduct of a child by statutory authority or court order, that agency is a lawful custodian of the child and has a right to physical custody of the child. In any subsequent placement of the child, the public agency continues to be a lawful custodian with a right to physical custody of the child until the public agency's right of custody is terminated by an order of a court of competent jurisdiction or by operation of law.

6. In the absence of a court order to the contrary, a parent loses their right to custody of their child if they are unable or refuse to take custody. A natural parent whose parental rights have been terminated by court order is no longer a lawful custodian and no longer has a right to physical custody.

7. "Keeps" or "withholds" means retains physical possession of a child whether or not the child resists or objects.

8. "Visitation" means the time for access to the child allotted to any person by court order.

9. "Person" includes, but is not limited to, a parent or an agent of a parent.

10. "Domestic violence" means domestic violence as defined in Section 6211 of the Family Code.

11. "Abduct" means to take, entice away, keep, withhold, or conceal.

12. "Malice" means to import a wish to vex, annoy, or injure another person, or an intent to do a wrongful act, established either by proof or presumption of law.

B. Criminal Statutes for Abduction.

1. PENAL CODE § 278; Abduction: A person without a right to custody who maliciously abducts a child from their lawful custodian with the intent to detain or conceal the child from the lawful custodian.

2. PENAL CODE § 278.5: A person who maliciously abducts a child from their lawful custodian with the intent to deprive the lawful custodian of their right to custody or visitation.

C. Penal Code § 278.7; "Good Cause": A person with a right to custody of a child who, when they abduct a child:

1. Has good faith and a reasonable belief that the child would suffer immediate bodily injury or emotional harm if left with the other person; or

2. Has been a victim of domestic violence and has good faith and a reasonable belief that the child would suffer immediate bodily injury or emotional harm if left with the other person.

a. "Emotional harm" includes a child having a parent who has committed domestic violence against the parent who abducted that child.

3. The abducting person MUST perform the following steps in order for this "exception" to apply:

a. The person made a "Good Cause" report to the District Attorney's Office in the county where the child lived within 10-days after the abduction; AND

b. The person initiated custody proceedings in a "court of competent jurisdiction" within 30-days after the abduction.

4. Please note that the "Good Cause Exception" does not apply to a person who only has a right to visitation.

D. Penal Code § 279.6; Protective Custody:

1. A law enforcement officer may take a child into protective custody in certain circumstances:

a. It reasonably appears the child is about to be abducted or endangered;

b. There is no lawful custodian available;

c. There are conflicting custody orders or claims to custody and the parties cannot agree who should take custody of the child; OR

d. The child is an abducted child.

2. When a law enforcement officer takes a child into protective custody, the officer shall do one of the following:

a. Release the child to a lawful custodian (as defined in Penal Code § 277), unless it appears that the child would be abducted or endangered;

b. Get an emergency protective restraining order (EPRO);

c. Take the child to a receiving center; OR

d. Return the child pursuant to a valid court order.

E. Penal Code § 784.5; Jurisdiction:

1. The jurisdiction of a criminal action for a violation of Section 277, 278, or 278.5 shall be in any one of the following jurisdictional territories:

a. Any jurisdictional territory in which the victimized person resides or where the agency deprived of custody is located at the time of the taking or deprivation;

b. The jurisdictional territory in which the minor child was taken, detained, or concealed; OR

c. The jurisdictional territory in which the minor child is found.

2. When the jurisdiction lies in more than one jurisdictional territory, the district attorneys concerned may agree about who will prosecute the case.

II. EVALUATION OF CUSTODY ORDERS

Use caution when evaluating custody orders. Enforcement of an invalid order may result in civil liability.

A. The Officer Should be Aware of Potential Difficulties When Evaluating Custody Orders.

1. Superseding or conflicting orders.

2. Pending court actions.

3. Altered documents or orders.

4. Misinterpretation of custody orders.

5. Order was made due to fraud.

6. Order is void for lack of jurisdiction.

7. "Good Cause Exception" applies.

8. Not properly signed by a judge.

9. Is it the most recent custody order? Even if it is certified or file-stamped, it is not enforceable if there is a subsequent order.

10. Is it a certified copy? It does not have to be certified, but it is better if it is.

11. Does it contain a file-stamp in the upper right corner? It must be file-stamped.

12. Do both parties agree it is valid?

13. The validity of the order.

14. Is it clear and understandable?

15. Make sure the case number is valid. Santa Clara County case numbers follow this pattern:

    a. 123-CP-123456: These cases are confidential, so you will not be able to have them verified through family court unless one of the parties signs a waiver for you to see the file.

b. 123-FL-123456: This is the standard family law case designation.

c. 123-DV-123456: This is a family law case where domestic violence has been alleged.

d. Here are the patterns for juvenile cases. These cases can be viewed by law enforcement, but no information contained in them can be shared or made public without a Court order:

1. JD12345

2. JD012345

3. 115JD12345

4. 115JD012345

5. 18JD012345

16. If you are dealing with an out of state custody order, make sure that the order has been "domesticated" or "registered" through the local family court. If it has not, it is not enforceable.

B. Unless the officer can verify the order with the issuing court, the officer should exercise caution in enforcing the order. If the child and the parties are present and the parties cannot agree that the produced custody order is valid, the officer should consider obtaining an Emergency Protective Restraining Order (EPRO) or taking the child into protective custody pursuant to Penal Code § 279.6.

III. OFFICER RESPONSE FOR MISSING OR ABDUCTED CHILDREN

A. If an officer makes the determination that a child abduction occurred, the officer must immediately contact the District Attorney's Child Abduction Unit (CAU). County Communications can be used to contact the DA CAU outside business hours. The District Attorney's CAU doesn't take the investigation for a parental kidnapping case until the victim parent is interviewed by the DA CAU. The law enforcement agency remains responsible for the case until notified by the DA CAU that the CAU has opened a case.

B. When a Lawful Custodian or Person Acting as a Parent Reports that a Child is Missing or Abducted:

1. The officer shall immediately conduct a preliminary investigation to determine if the child is actually missing or abducted.

a. If the child is missing, a report shall be taken, and an assessment made of steps to locate the child.

b. The report is entitled to priority handling, regardless of the relationship of the suspected abductor to the child.

c. If the missing child is under 16-years-old or there is evidence that the person is at risk, the LEA shall broadcast a "Be on the Look-Out" (BOLO) bulletin without delay and create and disseminate an APBnet flyer.

d. If there is evidence that the child is at risk, the child must be entered into the Violent Crime Information Center, the National Crime Information Center and Missing/Unidentified Persons System (MUPS) databases within two hours of receiving the report. (Penal Code § 14205(a) and (b))

2. A child who has been abducted by a parent is statutorily classified as "at risk." (Penal Code § 14213(4))

C. Risk Assessment: An Officer Shall Assess the Risk to the Child. The Officer Should Consider:

1. Whether there is evidence that the child may have been abducted by a stranger.

2. Whether a parent abducted the child.

3. Whether the child has a medical condition that could pose additional risk.

4. Risks of physical or sexual abuse.

5. The suspect's history of drug or alcohol abuse.

6. Whether the child has been threatened or harmed.

7. The child's age.

8. The mental state of the abducting parent.

9. Whether there is a suicide risk or a history of mental illness with the abducting parent.

10. Whether there is a risk that the child will be removed from the county, state or country.

11. Whether the suspect has a criminal history that indicates possible danger to the child, including domestic violence.

12. Whether the suspect has a verifiable address.

13. Whether the suspect is employed or has other ties to the community (family, church, etc.).

14. Whether there are other people helping the suspect conceal the child.

15. Whether there is a Department of Family and Children's Services history.

16. Whether there is a history of prior abductions or withholdings.

17. Whether there has been a threat of abduction.

18. Whether there has been a recent change in custody of the child.

19. Whether there has been a recent change in the marital status of the parents.

D. Investigation of a Child's Whereabouts Should Include:

1. Determine if there is a valid, current custody order and obtain and review it. Such orders must be viewed with caution until they can be verified as current and valid. If there is no custody order, determine whether the reporting person is a lawful custodian.

2. Obtain proper physical descriptions of the child and abducting parent and other necessary information for entry into the Missing/Unidentified Persons System (MUPS) and National Crime Information Center (NCIC) databases.

3. Enter the missing child into the MUPS/NCIC system within two hours after accepting the report, along with any known risk factors to the child or officer safety.

4. Obtain photographs of the suspect and child and collect evidence such as letters, audio recordings, etc.

5. If it is determined that the child is in danger, the agency shall immediately assign investigators to the case and conduct a search for the child. A BOLO bulletin should be prepared and broadcasted, appropriate NCIC and Stolen Vehicle System (SVS) entries should be made, and an APBnet flyer should be created and disseminated.

6. Recover the child and contact other agencies as necessary.

E. Amber Alerts.

1. Law enforcement agencies may consider using the California Child Safety Amber Network for a family abduction. Four criteria must be met to qualify for an Amber Alert:

a. There is a confirmed abduction;

b. The victim is 17 years-old or younger or has a proven mental or physical disability;

c. The victim is in imminent danger of serious bodily injury or death; AND

d. Information is available, and if given to the public, could assist in the safe recovery of the victim.

2. Agencies should fill out the Amber Network checklist and notify the California Highway Patrol Emergency Notification Tactical Alert Center (ENTAC).

IV. OFFICER RESPONSE TO A THREAT OF A CHILD ABDUCTION

A. When a Parent or Lawful Custodian Reports a Child has Been Abducted and the Location of the Child is Known:

1. The officer shall take a report and conduct an assessment of risk to the child as described in Subdivisions III.A and III.B above. If the child is at risk, the procedures described in Subdivisions III.A and III.B should be followed.

2. If the child does not appear to be in immediate danger, the officer should determine whether a recovery of the child could be made within a reasonable time of the initial response. The officer should carefully evaluate the custody situation to assure the child is with the lawful custodian, and not in danger of being concealed or transported out of the county, state or country.

3. If it does not appear that the child is in immediate danger and the child cannot be located within a reasonable time, the case should be referred to detectives for investigation on a priority basis. The victim-parent should also be referred to the District Attorney's Child Abduction Unit for further assistance. The phone number for the District Attorney's Child Abduction Unit is (408) 792-2921. All reports should be faxed to the District Attorney's Child Abduction Unit as soon as possible. The fax number for the District Attorney's Child Abduction Unit is (408) 297-9910. After hours, the CAU can be reached through County Communications.

B. When a Threatened Abduction Call is Received:

1. The officer shall assess the situation to determine if there is an imminent threat of abduction.

2. The officer shall review the custody orders.

3. If there are no custody orders, the officer shall determine whether one of the parents is attempting to take exclusive possession of the child in violation of the custody rights of the other.

4. If the risk of immediate abduction would continue if the child were left with a lawful custodian, the officer shall either obtain an EPRO providing for temporary custody of the child and protection of the custodian and child or take the child into protective custody.

C. When a Request for a Civil Standby to Enforce a Custody or Visitation Order is Received:

1. The officer shall assess the situation, review any custody orders, and enforce the order if it is clear and enforceable and the situation is safe for the child.

2. If the order is unclear and the parties cannot agree, the officer should refer back to Section III. C (Risk Assessment).

SECTION 9

INTERVIEWING TECHNIQUES

I. INTERVIEWING CHILDREN

A. Goals of Multi-Disciplinary Interviews.

1. To create the least traumatic, best coordinated and most effective system possible for interviewing child victims.

2. To place a special emphasis on cases of intra-familial child abuse in which concurrent juvenile dependency and criminal court investigations are likely.

3. To assist in training child interviewers in a manner consistent with identified best-practices and the latest research in the field.

4. Whenever practicable, to conduct all interviews of children who are reported victims of sexual abuse, severe physical abuse, or severe neglect at the Children's Interview Center.

5. To reduce the number of persons who interview the child to the minimum number necessary to conduct criminal and dependency investigations and prosecution.

B. Guidelines.

1. In general, the following guidelines apply to cases in which:

a. The suspected perpetrator is living in the same home with or has direct or recurring access to the child.

i. Examples of "direct or recurring access" include but are not limited to suspected perpetrators who are involved with:

- The child's family.
- Youth activities.
- Sports.
- A relative of the child.
- A neighbor.

- A school volunteer or employee.
- Religious institution.

b. There is the likelihood of a Juvenile Dependency investigation of the parental rights of the perpetrator or a custodial parent.

2. These cases will hereafter be referred to as a Multi-Disciplinary Interview (MDI) cases.

C. Coordination Among the Department of Family and Children's Services, the Santa Clara County District Attorney's Office, and the Investigating Law Enforcement Agency.

1. Each agency will designate on-call personnel who will be available Monday through Friday between the hours of 0800-1700.

2. Personnel will be available to respond within a 2-hour period for the purpose of scheduling an in-depth interview with the child.

3. Personnel within the participating three agencies will be responsible for notifying MDI personnel within their own agency about any MDI case immediately (or as soon as practicable) between 0800-1700 Monday through Friday.

4. MDI personnel will then be required to immediately (or as soon as practicable) notify MDI personnel from the other two agencies.

5. If calls are received after normal working hours, agency personnel who receive that notification will be responsible for notifying their on-call personnel who will in turn notify MDI personnel Monday through Friday, 0800-1700.

D. Participating MDI Personnel Will Coordinate in Order to Schedule an MDI Interview of the Child Within the Following Time Periods:

1. Sexual abuse cases.

a. When the child is in a Receiving Center: Interview within one (1) judicial day.

b. When the suspect in custody: Interview within one (1) judicial day.

c. When the child is not in the Receiving Center, but the case involves joint investigation (police and Social Services): Interview within five (5) judicial days.

2. Severe physical abuse or severe neglect cases.

a. Whether the case involves severe physical abuse or neglect is a determination that will be made jointly by the social worker and a child abuse detective from the investigating law enforcement agency.

b. Such a determination will be made within forty-eight (48) hours (excluding weekends and holidays) of the child being placed into protective custody or from the initial report of the abuse.

c. The MDI will then take place within five (5) judicial days.

E. Preliminary Interviews.

1. Any field contact by a patrol officer or an Emergency Response social worker with a minor child in an MDI case will be limited to a preliminary interview only.

2. A preliminary interview is the initial discussion with the child by a social worker or a first-response police officer.

3. After the preliminary interview in an MDI case there shall be no further interviews of the child except the in-depth interview conducted at the Children's Interview Center.

4. All interviews should be video recorded if possible.

F. Availability of In-Depth Interviewers for Special-Needs Children.

1. The coordinator for the Children's Interview Center will maintain a list of professionals who are available to conduct the in-depth interview of a special-needs child in an MDI case.

2. Developmental or language issues are examples of special needs.

3. The interviewer will be selected from a panel of child interviewers based upon the special needs of the child.

G. Interviewers.

1. All in-depth interviews of children in MDI cases shall be conducted by an interviewer who has, at minimum, completed training specified in Penal Code § 13516(c) or its equivalent. The coordinator for the Children's Interview Center will maintain a list of professionals who are available to conduct the in-depth interview in an MDI case.

2. The in-depth interviewer will be available to other MDI team members handling issues related to the in-depth interview and to testify in related court proceedings.

3. When the Deputy District Attorney is preparing the case for court, they will in many cases need to speak with the child regarding the substantive testimony.

   a. Every attempt should be made to delay this interview until testimony is imminent since the need for the child to testify in court is often avoided.

   b. Up until that time, all questions regarding the child's statement should be directed to the child interviewer.

4. When necessary, the in-depth interviewer shall be available to conduct any follow-up interviews.

5. In extraordinary cases it may become necessary to assign a second child-interviewer for the purpose of conducting a re-interview at the Children's Interview Center.

6. Interviews should be audio and video recorded.

H. Obligations of MDI Team Members.

1. The respective members of the MDI team will prepare the required reports of MDI cases for the team agencies within seven (7) calendar days after the in-depth interview.

2. The assigned social worker will be in charge of the dependency investigation and will provide the needed support and coordination of services for the child and family.

3. The assigned police officer will be in charge of the criminal investigation.

4. The MDI Team will work together to research decisions that are in the best interest of the child.

II. NATIONAL INSTITUTE OF CHILD HEALTH & HUMAN DEVELOPMENT (NICHD)

A. NICHD Provides a Structured Investigative Interview. Features Include:

1. Developed for sexual assault, physical assault, and child witnesses.

2. Based on 25 years of international research.

3. Allows children to report accurately and with rich, narrative accounts.

4. The way a child is questioned affects the quality and quantity of the information provided.

5. There is more organization when a structure is followed.

6. Children report more accurately when using free-recall memory.

7. Children provide narrative accounts in their own words, which they are not used to doing.

B. P.O.S.T.-Certified Child Interview Training Utilizing the NICHD Structured Investigative Interview Technique may be provided by the South Bay Regional Public Safety Training Consortium in conjunction with the Steering Committee of the Children's Interview Center of Santa Clara County.

III. DETECTIVE INTERVIEWS OF CHILD VICTIM

A. Information Prior to Interview.

1. Evaluate what you know and formulate specific questions based on that information.

2. Be careful to suggest as little information as possible.

3. Find a quiet place (as quiet as possible) for the interview.

4. Interview each child separately.

5. Sit with the child and not across a table or desk.

6. Record the interview.

7. Ask the child to clarify words which are not understood.

8. Coordinate DFCS.

B. Interview.

YOU SHOULD PAUSE AFTER EVERY QUESTION.

1. Introduction.

   a. My name is _____. It's my job to talk with children about things that might have happened to them.

   b. When we talk today it's really important that we only talk about things that really happened, okay?

2. Rapport Building.

   a. Tell me about things you like to do for fun.

   b. That sounds like fun. Tell me about that.

   c. Tell me about the last time you _____ (whatever the child does for fun).

   d. Thanks for telling me all about what you do for fun.

3. Ability to Tell the Truth.

   a. Tell me—do you know the difference between telling the truth and a lie?

   b. What happens if you tell a lie?

   c. If I said my shirt was the color ___, would that be the truth or a lie?

   d. Can you tell me the truth when I ask you a question?

4. Investigating an Allegation.

   Go through the questions in this section <u>in order</u>, using those that apply.

   If at any point in this section the child discloses abuse, go to the section "Information About the Abuse."

   a. Overview: Basic questions about what happened.

      i. Now that I know you a little better, let's talk about why I'm here today. Tell me why you think I'm here today.

ii. As I told you, it's my job to talk with children about things that might have happened to them. It's important that I understand the things that might have happened to you. Tell me why you think I'm talking with you today.

iii. I understand ___ (a policeman, a social worker) came to your house before. Tell me everything about that.

iv. I heard ___ is worried about you/that something might have happened to you. Tell me everything about that.

b. Observed injuries or physical evidence.

i. I see that ___ (you, your brother, your mother) has ___ (a bruise, cut…). Tell me everything about that.

ii. I see ___ (this picture, needle, magazine, sex toy, or other item in plain sight). Tell me everything about ____ (the item).

iii. I saw ___ (some pictures on the computer, item not in plain sight). Do you know about that?

iv. I heard that ___ saw you ___ (describe observed behavior). Tell me about that.

c. Evidence of a crime.

i. I understand something may have happened with you ___ (mom and dad, brother, etc.). Tell me everything about that.

ii. Did someone do something to you (your brother, mother, etc.) that wasn't right?

(If child says yes)…Tell me everything about that.

iii. Has anything happened at your house that wasn't right?

(If child says yes)…Tell me everything about that.

d. Other people and their relationship to the child.

i. Tell me about the people who live with you.

ii. Tell me some things that you like/don't like about ___ (go through each person child mentioned).

iii. Tell me one thing you would change about your family/the people who live with you.

iv. Tell me fun/not so fun things about living here.

v. Tell me about (dinner time, bath time, bedtime, babysitters, etc.) at your house.

vi. Tell me about the rules in the house.

vii. Tell me what happens in the house when someone breaks the rules.

viii. Tell me one thing you would change about living here.

e. Information about the abuse.

Whenever the child refers to some aspect of the suspected abuse, ask the following and pause after every question and wait for an answer.

i. Tell me everything about that.

ii. You said ___, tell me everything about that.

iii. Tell me everything that happened from ___ to ___.

iv. And then what happened?

f. Has anything else happened?

If child has given you a brief disclosure in response to the above questions, say:

i. Has anything else happened to you at home that wasn't right?

(If child says yes)…Tell me everything about that.

ii. Has anything like this happened to you before?

(If child says yes)…Tell me everything about that.

iii. Do you know if something like that happened to other children?

(If child says yes)…Tell me everything about that.

C. Closing.

1. You've told me lots of things today and I want to thank you for helping me.

2. Is there anything else you think I should know?

3. Is there anything else you want to tell me?

4. Are there any questions you want to ask me?

a. If child made disclosure, say:

i. What you told me today is important. I'm going to have _____ talk to you about it in the next few days.

IV. SUGGESTED TACTICS FOR INTERVIEWING A SUSPECT

An attempt should be made to interview all suspects. Interviews should be recorded, minimally on audiotape and optimally on videotape. The suspect should be interviewed by a detective or follow-up investigator, if available. All statements, including spontaneous statements, shall be made a part of the offense report.

A. Preparation Before the Interview.

1. Thoroughly know the facts of your case.

2. Know more about the suspect than they think you do.

3. Use the element of surprise when confronting the suspect—you pick the time and the place.

4. Conduct a non-custodial interview when appropriate.

5. Allow for input from others. If possible, conduct the interview in a place where other investigators can listen and observe.

6. Prepare a strategy.

B. Anticipate the Suspect's Denials.

1. Be prepared to counter each of the suspect's denials and explain why the suspect's version does not make sense.

2. If a successful pretext phone call has been made to the suspect before your interview, consider playing selected portions of the recording upon the suspect's denial.

3. Use a ruse to elicit incriminating responses.

C. Interviewing/Interrogating a Suspect in a Child Sexual Abuse Case.

1. Emphasize the child victim's love for the suspect.

2. Get suspect to admit the child is a good kid.

3. Explain that the child has no reason to fabricate the allegation and have the suspect agree.

4. If during your interview with the child victim you learned that the child has given the suspect birthday cards or other gifts or presents, remind the suspect of those gestures.

5. Explain to the suspect how emotionally difficult it was for the child to talk to you about the abuse.

6. Emphasize the suspect's love for the child victim.

    a. Explain to the suspect that they are essentially calling the child a liar.

    b. Remind the suspect of the great burden placed on children who have to testify in open court.

    c. Reassure the suspect that you, like they, want only what is best for the child victim.

7. Refrain from showing disgust or anger during interview in an attempt to build rapport with the suspect.

8. Allow the suspect to rationalize.

    a. Just because they give an excuse for the acts does not mean they did not happen.

b. In a situation where the suspect might be a substance abuser or is new to the family and the role of childcare provider, tell the suspect that you understand how things can happen (e.g., explain to the suspect that you already know what has been going on). Then ask:

i. "All I want to know is, did you mean to have sex with [name of child victim] or did it just kind of happen?"

c. Give suspect the option of minimizing their actions.

9. Always address the issue of force, threats and/or duress used in the abuse. (See PC §§ 261(b), 261(c); 288(b)(1); 269(a)(3); 269(a)(4))

10. Consider asking the suspect questions based on aspects of what the child victim told you.

a. Ask the suspect how the child's clothes got off.

b. Ask the suspect why they locked the door (or turned off the lights, unplugged the phone, turned the TV/radio volume off, or why they waited until no one else was home).

c. Ask the suspect what they did when the child said they did not want to perform/surrender to the acts.

d. Tell the suspect that you heard that the child victim cried and wanted to leave but could not. Ask them why not.

e. Ask the suspect how they would feel if given the same set of circumstances.

D. Interviewing a Suspect of Death, Physical Abuse or Neglect.

Interview all suspects/caregivers who had care or custody of the child prior to death or injury, especially those who discovered the child or observed the first onset of symptoms/injury.

Suggested topics include:

1. Demeanor: Note suspect's/caregiver's demeanor.

2. Medical History: Inquire about the child's birth and medical history for any chronic or congenital conditions.

3. Pediatrician: Identify the child's regular pediatrician, recent illnesses, and recent clinic visits. Get the address and phone number for the child's pediatrician.

4. Medical Release: Obtain a signed medical release for all recent medical records, including visits to the child's pediatrician and any current or prior hospital visits.

5. Developmental: Establish the child's developmental abilities prior to the injury.

    a. Size.

    b. Mobility.

    c. Mental abilities.

    d. Milestones (e.g. ability to roll, sit, stand, crawl, grasp, or turn objects.)

    e. Is the child developmentally delayed or appropriate for age?

6. Previous Injuries: Ask about any previous:

    a. Injury.

    b. Illness.

    c. Accident.

    d. Play activity.

    e. Conditions.

    That would explain the child's injury.

7. Timeline.

    a. Obtain a detailed timeline.

    b. Review the child's daily routine including, but not limited to:

        i. Care or custody.

        ii. Feeding.

iii. Bathing.

iv. Dressing.

v. Diaper changes.

vi. School/Daycare.

c. Go back in time as long as possible or necessary.

8. Discipline.

a. Establish if, and how, the child is disciplined.

b. Determine who usually disciplines the child.

9. Symptoms.

Determine when the child was last seen healthy and the first onset of symptoms. Get a detailed description of:

a. Symptoms.

b. Progression of symptoms.

c. Actions taken by suspect(s)/caregiver(s) in response to symptoms.

10. Incident.

Obtain a detailed account of any precipitating incident with a particular focus on:

a. Care and custody.

b. First onset of symptoms.

c. Who discovered the child/symptoms/injuries?

11. Resuscitation Attempts.

a. Determine the nature of any resuscitation attempts and who performed resuscitation.

b. Have involved persons demonstrate resuscitation attempts.

c. Videotape if possible.

12. Delay in Seeking Medical Attention: Obtain an explanation for any delays in seeking medical attention for the child.

13. Re-enact.

    a. Request that the suspect(s)/caregiver(s) re-enact significant events.

    b. Videotape if possible.

14. Re-Interview: Re-interview suspect(s)/caregiver(s) as necessary with a re-directed focus based on medical findings and discussion with medical experts.

15. Identify (full name and DOB) and determine whereabouts of all who live in home and whether they were present when incident occurred or not.

V. INTERVIEW OF A PHYSICIAN

A treating physician may be an emergency room physician, the child's pediatrician, or radiologist. The questions to the doctor should be general and relating to the specific treatment of the child.

A. Before the Interview Begins:

1. Confirm the doctor has reviewed patient records before the interview.

2. Brief the doctor regarding the interview process and outline of your questions.

3. Request that the doctor spell, define, and explain all medical terminology in layman's terms.

4. Make sure that the doctor cites:

    a. The patient's name.

    b. Date of treatment.

    c. Type of injury involved.

5. Obtain a copy of the doctor's credentials and confirm what type of doctor they are. Include the following information:

    a. Places and dates of:

        i. Education

ii. Certification

iii. Training

iv. Experience

b. Date they were licensed to practice medicine in California.

c. Board certification or eligibility, including any board certification in specialized areas of practice.

d. Total number of injuries of this type that they have seen and treated.

6. If possible, all interviews should be audio and video recorded, and include the following information:

a. Day of the week.

b. Date.

c. Time.

d. Case name and number.

e. Investigator or detective's name and agency.

f. The doctor's name.

g. Location of interview.

h. The doctor's information, including:

i. Spelling of their full name.

ii. Title and position.

iii. Employer.

iv. Dates that patient was under doctor's care.

v. Doctor's direct role regarding treatment.

v. Doctor's contact information.

B. When the Interview Begins.

1. Are you familiar with how medical records, including radiology films, are kept by [name of hospital]?

2. Did you review the medical records of [name and DOB of the victim] for [dates of treatment]?

3. In the course of your involvement with this patient, did you discuss the case with other professionals, such as radiologists?

4. Do these types of discussions regularly occur between experts in your field for the purpose of forming medical opinions?

C. Prior Medical History of Victim.

1. Obtain pre-existing medical conditions and their effect on this case, including:

a. Blood disorders

b. Bone disorders (i.e., periosteal elevation)

c. Heart disorders

d. Lung disorders

e. Brain disorders

that would contribute to this condition.

2. Describe any previous injuries this patient has sustained, including:

a. History or anything about previous injuries or medical history that would lead to suspicions about abuse or neglect.

b. History of injury.

c. Other doctors that have treated this patient.

d. Where this patient receives primary medical care.

e. Missing appointments.

f. Any prescription medication.

3. Are there any previous concerns about abuse or neglect?

D. Statements of Witnesses to Medical Staff.

1. How did patient arrive at hospital?

a. When?

b. How? (ambulance, Lifeflight, private conveyance)

c. With whom?

d. Was the child transferred from outside hospital or doctor's office?

i. If so, are records available?

e. What medical information was provided on arrival? (records, EMT statements.)

2. What did the parents or guardians say?

3. What did the friends or relatives say?

4. What did the hospital social worker say? (Collect social worker's notes.)

5. What was the attitude and demeanor of witnesses who made statements?

6. What explanations for injuries were given to medical staff?

7. Were witness suspicions voiced to medical staff?

8. What questions did you ask? How were these questions asked?

9. What, if anything, else did the witnesses say?

E. Examination of Patient.

1. Personal examination of general, physical and emotional condition.

a. Patient's size (height and weight).

b. Physical development and/or mobility.

c. Mental ability.

d. Comparison with average child of same age.

e. Age.

2. Review of medical records. Refer to records by type and date.

3. Describe lab tests, x-rays, and scans.

4. What are the results of these tests?

5. Did the treating physician consult with other physicians? If so, include:

a. Name;

b. Location; and

c. Date.

F. Injury.

1. Obtain a detailed description of the injury, including, but not limited to:

a. Location.

b. Type.

c. Size.

d. Shape.

e. Color.

f. Depth.

g. Edges.

h. Multiple surfaces.

i. Areas not damaged and their significance.

j. Evidence of healing.

k. Previously related or unrelated scars, marks or injuries.

l. Any other injuries observed.

2. Obtain a separate, detailed description for each specific injury.

3. Cause of each injury.

a. In your opinion, what exactly caused the injury?

b. How much force (pressure, heat, torque) would be needed to cause this injury? If possible, obtain examples and comparisons.

c. Where was the force applied?

d. Object used to cause injury (hand, fist, weapon, etc.).

i. Is this injury consistent with the regular use of such an instrument, or did this instrument in fact cause the injury?

e. What is the feasibility of this injury being self-inflicted? Consider:

i. Consistencies.

ii. Inconsistencies.

iii. Force and application used.

iv. Object used.

f. Can the physician rule out an accident, natural, or otherwise unexplained cause?

g. When did this injury occur?

h. Is the caregiver's explanation consistent with injury?

i. What is the doctor's opinion about feasibility of caregiver's explanation for the cause of injury?

ii. Consistencies.

iii. Inconsistencies.

iv. Force and application used.

vi. Object used.

G. Diagnosis.

1. What is your diagnosis?

2. What is the basis of this diagnosis?

3. In your medical opinion, how was this injury sustained?

4. Was the patient's injury consistent with that of an abused or neglected child?

5. What is the basis for your conclusion on the cause of the injury?

    a. Injury characteristics.

    b. Diagnostic imaging (X-rays, CT, MRI, ultrasound).

    c. Laboratory values.

6. How sure are you about this diagnosis?

    a. Was the child normal and healthy before the injury occurred? Or did they have any:

        i. Illnesses.

        ii. Congenital conditions.

        iii. Other injuries.

    b. What other conditions/scenarios have you considered?

    c. Have you reached a conclusion, or will more information be needed?

    d. Was the patient's injury a direct result of, or caused by abuse or neglect?

H. Treatment.

1. What medical treatment was provided, and was follow-up treatment recommended?

2. What, if any, prescriptions were given?

3. What, if any, therapy was given or recommended?

4. Follow-up Examinations.

    a. Date of follow-up examination.

    b. Why was a follow-up examination needed?

c. Was any medical treatment performed?

5. Any statements or explanations for injury from witnesses, parents, guardians, or caregivers?

I. Photographs.

1. Refresh the physician's memory with photographs of the injury if possible.

a. It is important to note the date the photograph was taken.

b. Ensure each photograph is numbered and refer to the numbers during the interview.

2. Determine if physician or medical staff took photographs.

3. If the physician or medical staff took their own photographs, be sure the photographer provides a copy and brings photos to court.

4. Are there any postmortem changes to the injury?

J. Prognosis.

1. What are the potential lasting adverse effects of this injury?

2. What are the short and long-term effects?

3. Rehabilitation?

4. Recovery chances?

VI. REFERENCE FOR SPECIFIC TYPES OF INJURIES

A. Burns.

1. Type.

a. Scald burns.

b. Spill burns.

c. Immersion burns.

d. Thermal (contact) burns.

e. Chemical burns.

2. Degree.

    a. Partial thickness superficial.

    b. Partial thickness deep.

    c. Full thickness.

3. History.

    a. Does the history of what happened change and/or are there discrepancies in the stories given by each caretaker?

    b. Are injury accounts incompatible with age and developmental skill?

    c. Does the injury appear older than the given explanation?

    d. How serious is the burn?

    e. If hot liquid produced the burn, was the child dipped or fully immersed?

    f. What does the line of immersion look like?

    g. Are there any splash burns present?

    h. Was the child in a state of flexion?

    i. What was the temperature of water or other liquid that would cause such a burn?

        i. Running or standing water?

        ii. Time of immersion necessary to cause the burn.

        iii. Setting of the water heater.

    j. What, if any, type of object could cause such a burn?

    k. How much force could cause such a burn?

    l. Is it possible that this burn was accidental, given the child's age and developmental skills?

B. Failure to Thrive (F.T.T.).

1. Request all medical records from birth to first diagnosis of F.T.T.

2. Request nurses' bedside notes about patients feeding history while in hospital.

3. Compare this with feeding history of an average child of the same age.

4. Compare this with the patient's feeding history given by the defendant.

5. Ask doctor to plot and explain the growth chart of a child

6. Exclude non-organic F.T.T. including:

   a. Allergies

   b. Formula

   c. Family history

   d. Congenital defects.

7. Include follow-up photographs of child and present them to doctor.

C. Abusive Head Trauma.

Injuries consistent with Abusive Head Trauma include:

1. Exterior injuries (bruises, scrapes, and patterned injuries).

2. Skull fracture.

3. Subdural hematoma.

4. Cerebral contusion.

5. Swelling.

6. Head circumference.

7. Retinal hemorrhage(s).

8. Broken bones.

9. Seizures.

10. Neurological concerns.

11. Rib and other fractures (corner and bucket handle fractures at ends of long bones).

12. Whiplash or neck injuries.

13. Difficulty in responding to stimuli.

14. Parents have previously been advised of future complication and risk to child with specific regard to re-injury.

Medical evidence may include a review of X-rays, CT scans, MRI and EKG scans.

D. Skeletal Injuries.

1. Specific fractures.

a. Spiral fractures – caused by torsion, often to the long bones.

b. Rib fractures – especially in multiples.

c. Metaphysical fractures – caused by pulling, jerking, or shaking.

d. Fractures in unusual places – such as the sternum or scapula.

e. Repeated fractures to the same bone – a favorite target of the abuser.

2. When reviewing for potential abuse the following factors should be reviewed with the medical professional:

a. Location of fracture.

b. Bruising.

c. Swelling.

d. Previous treatment of injury.

e. Amount of force that may have been used.

f. If the force and application described by abuser are consistent/inconsistent with injury?

g. The significance of multiple fractures.

h. Age of fracture.

3. Concerns with infant fractures.

a. Pliability of bones.

b. Development of infant consistent with injury.

A common defense in skeletal injuries is the claim of osteogenesis imperfecta, or brittle bone disease. It exists, but it is an extremely rare genetic disorder. There is no such thing as "transient" brittle bone disease.

E. Drowning.

1. What happens with lack of oxygen – death of brain cells.

2. Time elements.

4. Temperature of water and its impact on the child.

5. What was the child's body temperature?

6. Determine when there was a heartbeat and breathing patterns.

7. Was CPR performed?

F. Factitious Disorder by Proxy (formerly known as Munchausen Syndrome by Proxy).

1. Types of FDBP abuse:

a. Poisoning.

b. Suffocation.

c. Tampering.

d. Scratching or adulteration.

e. False symptom reporting.

f. Withholding medication.

2. Manifestations of FDBP.

a. Respiratory – apnea, feigned or induced.

b. Gastrointestinal – vomiting, chronic diarrhea.

c. Neurological – seizures, false reports of induced.

d. Failure to thrive – starvation, induced vomiting, diarrhea.

e. Infections – tampering with lines, specimens.

f. Allergies – fictitious history.

3. Possible indicators of FDBP after pediatric death.

a. Any unexplained death or one inconsistent with the usual pattern for presumed accident or illness.

b. Inexplicable physical findings, signs, or biochemical values at death scene or autopsy.

c. History of unexplained sibling death(s), unexplained illnesses, injuries, and medical histories in family.

d. History of baffling, episodic illness.

e. Unexplained recurrence of illness after discharge from hospital.

f. Known child abuse history.

SECTION 10

ISSUING A CRIMINAL COMPLAINT

I. FELONIES

A. Investigating Officers Who Wish to Obtain a Felony Complaint Should Meet and Discuss the Case with the Appropriate Issuing Deputy District Attorney.

B. Investigators should bring or make available electronically the following materials.

1. Two sets of all reports (one redacted and one unredacted) including supplemental reports.

a. The following information of all victims should be redacted in copies of reports to be filed with the court pursuant to PC §§ 964, 841.5, & 293:

i. Name

ii. Address

iii. Telephone Numbers

iv. Driver's License Number

v. California Identification Card Number

vi. Social Security Number

vii. Date of Birth

viii. Place of Employment

ix. Employee Identification Numbers

x. Mother's Maiden Name

xi. Demand Deposit Account Numbers

xii. Credit Card Numbers

b. The following information of all witnesses should be redacted in copies of reports to be filed with the court pursuant to PC §§ 964, 841.5, & 293:

i. Address

ii. Telephone Numbers

iii. Driver's License Number

iv. California Identification Card Number

vii. Social Security Number

viii. Date of Birth

ix. Place of Employment

x. Employee Identification Number

xi. Mother's Maiden Name

xii. Demand Deposit Account Numbers

xiii. Credit Card Numbers

2. Photographs.

3. Recordings (audio and video).

4. Medical records.

5. DFCS or Juvenile Dependency Court records.

6. Defendant's rap sheet (local, state, and FBI).

7. Completed warrant due diligence form.

8. Completed DOJ form BCIA 8583 (Child Abuse or Severe Neglect Index Form) and distribute copies.

C. PARENTAL KIDNAPPING: Parental Kidnapping and visitation cases are filed by the District Attorney's Child Abduction Unit.

D. SEXUAL ASSAULT: Sexual assault cases are filed by the District Attorney's Sexual Assault Unit.

II. MISDEMEANORS

A. Out-of-custody misdemeanor complaints should be left with the secretary for the District Attorney's Family Violence Unit (FVU) or Ponied to the FVU.

B. In-custody misdemeanor cases should be given directly to the FVU.

III. RESPONSIBILITIES OF THE DISTRICT ATTORNEY'S OFFICE

A. Police reports will be filed with the defendant's discovery packet. The deputy district attorney reviewing the case will determine whether any reports (e.g. confidential juvenile case file material) should initially be held back.

B. The District Attorney's Office will be responsible for providing discovery to the defense attorney.

IV. SUPPLEMENTAL REPORTS

The investigating officer shall provide copies of or make available electronically all supplemental reports (including lab reports and autopsy reports) to the unit in the District Attorney's Office handling the case. It shall be the responsibility of the District Attorney's Office to discover these reports to the defense.

V. JUVENILE CASE FILE MATERIAL

A. W&I § 827 authorizes the District Attorney's Office and police department to view and copy relevant portions of juvenile case files (e.g. Juvenile Dependency Court and DFCS files).

B. It is a misdemeanor to disseminate juvenile case file material to any unauthorized agency or attorney (including the defendant's attorney) without a court order.

C. Law enforcement should make every effort to prevent the unauthorized dissemination of juvenile case file material. Furthermore, without a court order, juvenile case file material should never be released to an unauthorized entity as an attachment to other investigative reports.

SECTION 11

VICTIM SERVICES UNIT

VICTIM SERVICES UNIT (VSU)
A PROGRAM OF THE SANTA CLARA COUNTY DISTRICT ATTORNEY'S OFFICE
70 WEST HEDDING, WEST WING SUITE 116, SAN JOSE, CA 95110 (408) 295-2656
VICTIMSERVICES@DAO.SCCGOV.ORG

I. VICTIM SERVICES AND LAW ENFORCEMENT

A. Law Enforcement Duty.

Local law enforcement has the duty, as stated in Government Code § 13962, to inform victims of crime of the existence of local victim centers. This responsibility can be completed through use of the Victim Resource Card.

B. Government Code §§ 13954(d) and (e.)

Government Code §§13954(d) and (e) direct law enforcement agencies to provide a copy of the crime report, which may include supplemental reports and/or victim and witness statements, to the Victim Assistance Program (in Santa Clara County this is the Victim Services Unit of the District Attorney's Office) for the purpose of completing an application for the California Victim Compensation Program.

Each agency shall coordinate with VSU to develop policy and procedures to provide requested reports. VSU Victim Advocates will not give a copy of the crime report to any person or entity other than the California Victim Compensation Program to be used for verification of information in obtaining victim compensation.

C. Eligibility for the California Victim Compensation Program.

Eligibility for the California Victim Compensation Program is determined by the occurrence of a crime and not by whether a criminal complaint is filed.

D. VSU Victim Advocates.

VSU Victim Advocates are considered part of the prosecution team and are subject to all applicable Brady laws and restrictions.

II. SERVICES PROVIDED BY THE VICTIM SERVICES UNIT (PC § 13835)

A. Emergency Assistance:

1. Food.

2. Shelter.

3. Relocation.

4. Crisis Intervention.

5. Funeral/Burial costs.

6. In-home Crime Scene Cleanup.

7. Other services.

B. Community Resource and Referral:

1. Counseling.

2. Medical/Dental referrals.

3. Legal aid.

4. Emergency needs.

5. Other services.

6. Follow-up contact with community agencies to determine victim status.

C. Law Enforcement:

1. Assistance with crime-related compensation.

a. Assist victim in applying for compensation from the California Victim Compensation Program.

b. Upon request of the victim, assist victim with request for court ordered restitution.

2. Property Return: Assist victim with return of property held as evidence.

3. Orientation to the criminal justice system.

a. Explain the criminal justice system, the victim's role and responsibilities, and provide information about victims' rights, such as Marsy's Law.

b. Escort children to court before hearing to help assuage fears and concerns and provide support throughout the trial process.

c. Assist in preparation of Victim Impact Statement prior to sentencing.

4. Case status updates: Inform victims about the status of the case and act as a liaison to the District Attorney's Office.

III. CALIFORNIA WITNESS RELOCATION ASSISTANCE PROGRAM (CALWRAP)

Contact the District Attorney's Office Bureau of Investigations – (408) 792-2888.

SECTION 12

TRAINING

I. EACH LAW ENFORCEMENT AGENCY SHALL PROVIDE TRAINING FOR MEMBERS OF THE AGENCY PURSUANT TO PC §§ 13516 AND 13517

A. Training Should Inform Officers of:

1. Child abuse laws;

2. The department's child abuse policy and procedures;

3. The signs and dynamics of child abuse;

4. Police officer investigative techniques;

5. The District Attorney's child abuse policies;

6. The dynamics of parental kidnapping; AND

7. Proper techniques for conducting interviews with children.

B. Additional Training Should Include:

1. Written bulletins.

2. Video recordings.

3. Verbal instruction.

4. Updates during patrol briefings.

C. The Chief of Police, or Designee, Shall Ensure the Review of the Department's Training Policies Annually and Make any Revisions Deemed Necessary.

SECTION 13

DIRECTORIES

GOVERNMENT AGENCIES

AGENCY	PHONE
California Department of Social Services	
Community Care Licensing (Child Care Office)	
San Jose Regional Office	[Daycare Facilities] (408) 324-2148
2580 N. First Street, Suite 300	
San Jose, CA 95113	[Residential Facilities] (408) 324-2112
Center for Child Protection	
Pediatric SART	(408) 885-6460
After Hours (say "operator" to get a live person)	(408) 885-5000
Children's Interview Center (MDI)	
777 North First Street	
San Jose, CA 95112	(408) 277-5688
County Communications	(408) 299-2501
Department of Family and Children's Services (DFCS)	(408) 975-5230
DFCS Child Abuse and Neglect Center:	
Toll Free Number	(833) SCC-KIDS
	(833) 722-5437
Law Enforcement Number	(408) 975-5250
DFCS FAX	(408) 975-5851
Department of Justice (DOJ) – Child Abuse Central Index	(916) 210-4241
District Attorney	
Death and Severe Child Injury Response Teams	(408) 590-8370
Laboratory of Criminalistics	(408) 808-5900
Investigators	(408) 792-2888
CIC Coordinator	(408) 277-5688
Child Abduction Unit	(408) 792-2921
FAX	(408) 297-9910
Medical Examiner-Coroner	(408) 793-1900
Santa Clara County Department of Correction	
Administrative Booking	(408) 299-3545
SART Examination	
Pediatric Exam Team (CCP)	(408) 885-6460
Adult/Adolescent Exam Team	(408) 885-6466
Death and Severe Child Injury Response Teams	(408) 590-8370
Victim Services Unit (DA's Office)	
70 W. Hedding Street, Room #116	
San Jose, CA 95110	(408) 295-2656

LAW ENFORCEMENT AGENCIES

AGENCY	PHONE
Campbell Police Department 70 N. 1st Street Campbell, CA 95008	(408) 866-2121 FAX (408) 379-7561
Gilroy Police Department 7301 Hanna Street Gilroy, CA 95020	(408) 846-0350 FAX (408) 846-0339
Los Altos Police Department #1 N. San Antonio Road Los Altos, CA 94022	(650) 947-2770 24 HR. DISPATCH (650) 947-2779 FAX (650) 947-2704
Los Gatos Police Department 110 E. Main Street Los Gatos, CA 95030	(408) 354-5257 24 HR. DISPATCH (408) 354-8600 FAX (408) 354-0578
Medical Examiner-Coroner 850 Thornton Way San Jose, CA 95128	(408) 793-1900 FAX (408) 793-1934
Milpitas Police Department 1275 N. Milpitas Blvd. Milpitas, CA 95035	(408) 586-2400 24 HR. DISPATCH (408) 263-1212 FAX (408) 586-2488
Morgan Hill Police Department 16200 Vineyard Blvd. Morgan Hill, CA 95037	(408) 776-7300 24 HR. DISPATCH (408) 779-2102 FAX (408) 776-7328
Mountain View Police Department 500 Castro Street Mountain View, CA 94041	(650) 903-6344 24 HR. DISPATCH (650) 903-6922 FAX (650) 964-2202
Palo Alto Police Department 275 Forest Avenue Palo Alto, CA 94301	(650) 329-2406 24 HR. DISPATCH (650) 329-2413 FAX (650) 329-2562
San Jose Police Department Family Violence Center 1671 The Alameda, Suite #100 San Jose, CA 95126	(408) 277-3700 FAX (408) 287-7181

San Jose Police Department
Sexual Assault Unit
201 W. Mission Street
San Jose, CA 95110

(408) 277-4102
FAX (408) 971-8031

San Jose State University Police Department
One Washington Square
San Jose, CA 95192-0012

(408) 924-2222
FAX (408) 277-3512

Santa Clara Police Department
601 El Camino Real
Santa Clara, CA 95050

(408) 615-4700
DETECTIVE DIV. (408) 615-4800
FAX (408) 615-7864

Santa Clara County DA Investigators
Death and Severe Child Injury Response Teams
70 W. Hedding Street
San Jose, CA 95110

(408) 792-2888
(408) 590-8370
FAX (408) 286-2522

Santa Clara County Sheriff's Office
55 W. Younger Street
San Jose, CA 95110

(408) 808-4500
FAX (408) 808-4545

Santa Clara County Probation Department
2314 N. 1st Street
San Jose, CA 95131

(408) 435-2000
FAX (408) 456-0527

Stanford Department of Public Safety
711 Serra Street
Stanford, CA 94305-7240

(650) 723-9633
FAX (650) 725-8485

State Parole
909 Coleman Avenue
San Jose, CA 95110

(408) 277-1821
or (408) 277-1825
FAX (408) 277-1030

Sunnyvale Department of Public Safety
Investigations Bureau
700 All America Way
Sunnyvale, CA 94088

(408) 730-7120
FAX (408) 737-4942

California Highway Patrol
2020 Junction Avenue
San Jose, CA 95131

(408) 467-5400

TRUANCY CONTACT LIST

DISTRICT	NAME	E-MAIL	PHONE
Alum Rock	Jesus Araujo	jesus.araujo@arusd.org	(408) 928-6961
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Los Altos	Erin Green	egreen@lasdschools.org	(650) 947-1187

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Rocketship	Sara Escamilla	sescamilla@rsed.org	(408) 866-2607

SECTION 14

DEFINITIONS, LAWS AND STATUTES

The following are some of the laws relating to child abuse. An understanding of these code sections is essential to effectively and efficiently handle child abuse situations.

I. APPLICABLE LAWS

The following code sections are listed in alphabetical order.

A. Penal Code Sections.

Abandonment in Certain Circumstances, Decriminalization	271.5
Adult Stranger 21 Years or Older Who Contacts or Communicates With a Child 12 Years or Younger for Purpose of Luring	272(b)(1)
Aggravated Sexual Assault of Child	269
Annoy/Molest a Child, Misdemeanor/Felony	647.6
Assault with Intent to Commit	220
Child Abuse/Neglect	273a
Child Exploitation	311
Child Abduction, Definition	277
Child Abduction, Punishment	278
Child Abduction, Inapplicability ("Good Cause Exception")	278.7
Child Abduction, Law Enforcement Protective Custody	279.6
Closed Circuit 2-Way TV	1347
Continuous Sexual Abuse	288.5
Cruel or Inhuman Corporal Punishment	273(d)
DA & Court Shall Act to Prevent Psychological Harm to a Child	288(d)
Exclusion of Public	868.7
Forms	11168
Good Samaritan Law	152.3
Great Bodily Injury/Child Under 5	12022.7(d)
Incest	285
Lewd Act on Child	288
Lewd Act on Child with Force, Violence, Duress, etc.	288(b)(1)
Lewd Act on a Child Under 10 – Sexual Intercourse or Sodomy	288.7
Murder	187
No Psychological Exam to Determine Credibility	1112
Oral Copulation	288a
Postpone Preliminary Exam, Child Under 10 Years	861.5
Penetration by Foreign Object	289
Permits Oral/Written Information on Abuse to go to Law Enforcement Investigator	11167(b)
Permits Police Officer to Apply to Magistrate for Order Directing X-Rays	11171.5

Without Parent Consent	
Presence of Support Person(s)	868.5
Protect Minor Witness from Intimidation, Recesses, Remove Robes	868.8
Restructure Courtroom, Limit Testimony to School Hours	
Protection for Mandated Reporters	11172(b)
Rape	261
Reporting Law	11165
Sodomy	286
Special Room for Minors	868.6
Videotaping of Preliminary Hearing	1346

B. Welfare and Institution Code Sections.

Confidential Records; Disclosure	830
Counsel for Parent, Consent for Minor	317
County Counsel or District Attorney	318.5
Court Control Juvenile Court Proceedings; Testify in Chambers	350
Custody by Law Enforcement	305
Custody by Social Services Worker	306
Dependency Status	300
Duty of Social Worker	328
Inspection of Petitions and Reports	827
Petition, Notice	311
Pre-Petition Custody	313

C. Health and Safety Code Section.

Terms of Legal Infant Surrender	1255.7