

MANDATORY REPORTING OF CHILD ABUSE AND NEGLECT

Because children are among the most defenseless victims of crime, the law provides special protection for them. A key legal protection is the requirement that people involved in certain occupations must report suspected child abuse to law enforcement or DCFS. In Los Angeles County, the designated county welfare department is DCFS. The mandatory reporting statutes appear at PC §11164 et seq.

It is important to recognize that not all criminal acts require a mandatory report. Criminal acts which do not appear on this list must still be investigated and prosecuted where evidence warrants. In addition, children who are subject to acts which do not require a mandatory report may benefit by intervention from DCFS.

The following is a summary of the statutes.

Mandated Reporter Occupations

Mandated Reporters {PC §11165.7}

- teacher
- instructional aide
- teacher's aide or teacher's assistant employed by any public or private school
- classified employee of any public school
- administrative officer or supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school
- administrator of any public or private day camp
- administrator or employee of a public or private youth center, youth recreation program or youth organization
- administrator or employee of a public or private organization whose duties require direct contact and supervision of children
- employee of a county office of education or the California Department of Education whose duties require direct contact with children on a regular basis
- licensee, administrator, or employee of a licensed community care or child day care facility
- headstart teacher
- licensing worker or licensing evaluator employed by a licensing agency as defined in PC §11165.11
- public assistance worker

- employee of a child care institution including, but not limited to, foster parents, group home personnel, and personnel of a residential care facility
- social worker, probation officer, or parole officer
- employee of a school district police or security department
- administrator or presenter of, or counselor in a child abuse prevention program in any public or private school
- district attorney investigator, inspector or local child support agency caseworkers¹
- peace officer
- firefighter, except voluntary firefighter
- physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family and child counselor, clinical social worker
- any other person who is currently licensed under Div. 2 Business and Professions Code [B&P] §500 including but not limited to, research psychoanalyst, speech pathologist and audiologist, opticians, occupational therapist, dietitian, physical therapist, vocational nurse, hearing aid dispenser, physician assistant, osteopath, respiratory therapist, pharmacist, veterinarian, acupuncturist, or social worker
- emergency medical technician I or II, paramedic or other person certified pursuant to Div. 2.5 of the Health and Safety Code [H&S], commencing with H&S §1797
- psychological assistant registered pursuant to B&P §2913
- marriage, family and child counselor trainee, as defined in B&P §4980.03(c)
- unlicensed marriage, family and child counselor intern registered under B&P §4980.44
- state or county public health employee who treats a minor for venereal disease or any other condition
- coroner
- medical examiner or any other person who performs autopsies
- commercial film and photographic print processor, which means a person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation, including any employee of such a person; it does not include a person who develops film or makes prints for a public

¹ unless working with an attorney appointed pursuant to WIC §317 to represent a minor. {PC §11165.7(a)(18)}

agency²

- any person who, for financial compensation, acts as a monitor of a visit between a child and any other person when the monitoring of that visit has been ordered by a court of law
- animal control officer, which means any person employed by a city, county, or city and county for the purpose of enforcing animal control laws or regulations
- humane society officer, which means any person appointed or employed by a public or private entity as a humane officer who is qualified pursuant to Corporations Code [Corp C] §§14502, 14503
- clergy member, which means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple or recognized religious denomination or organization³
- any custodian of records of a clergy member
- employee of any police department, county sheriff's department, county probation department, or county welfare department
- an employee or volunteer of a court-appointed special advocate [CASA] program
- a custodial officer as defined in PC §831.5
- anyone providing services to a minor under WIC §12300.1
- drug and alcohol counselors

What to Report -- Mandatory

All mandated reporters shall report if they have knowledge of or observe a child, defined as any person under age 18, while in their professional capacity or within the scope of the job, and they know or reasonably suspect that the child has been abused or neglected. {PC §11166(a)}

Reasonable suspicion means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. {PC §11166(a)(1)}

[P]rofessionals . . . must evaluate facts known to them in light of their training and experience to determine whether they have an objectively

² The report by a commercial film or photographic print processor must only be made to law enforcement, not to DCFS. {PC §11166(d)}

³ Unless disclosure is made during a "penitential communication" as defined in PC §11166(c)(1).

reasonable suspicion of child abuse. [Citation.] However, nothing in the Act requires professionals . . . to obtain information they would not ordinarily obtain in the course of providing care or treatment. Thus, the duty to report [to a child protective agency] must be premised on information obtained by the [professional] in the ordinary course of providing care and treatment according to standards prevailing in the medical profession. Whether this information creates a reasonable suspicion of reportable child abuse will depend in many instances on application of the [professional's] training and experience, as the act expressly directs. People ex rel. Eichenberger v. Stockton Pregnancy Control Medical Clinic, Inc. (1988) 203 Cal. App. 3d 225, 239-240.

A detailed discussion of reasonable suspicion is included in these materials entitled "Determining Reasonable Suspicion." [See Index of Appendices]

Reportable child abuse or neglect includes {PC §11165.6}

- sexual abuse {PC §11165.1}
- physical injury which is inflicted by other than accidental means on a child by another person {PC §11165.6}
- willful cruelty or unjustifiable punishment of a child {PC §11165.3 and PC §273a}
- unlawful corporal punishment or injury {PC §11165.4 and PC §273d}
- neglect {PC §11165.2}
- abuse or neglect in out-of-home care {PC §11165.5}

Each of the categories above is discussed in more detail below.

Reportable child abuse or neglect does not include {PC §11165.6}

- a mutual affray between minors
- injury caused by reasonable and necessary force used by a peace officer within the course and scope of his or her employment as a peace officer

Sexual Abuse means either sexual assault or sexual exploitation {PC §11165.1}

Sexual assault means conduct in violation of one or more of the following sections {PC §11165.1(a)}

- rape {PC §261}
- statutory rape -- unlawful sexual intercourse where one party is under age 16 and the other is age 21 or over {PC §261.5(d)}
- rape in concert {PC §264.1}

- incest {PC §285}
- sodomy {PC §286}
- lewd act on a child {PC §288 (a), (b), or (c)(1)}
- sexual penetration {PC §289}
- oral copulation {PC §288a}
- child molestation {PC §647.6}

The conduct described as sexual assault includes, but is not limited to, all of the following {PC §11165.1(b)}

- any penetration, however slight, of the vagina or anal opening of one person by the penis of another person, whether or not there is an emission of semen
- any sexual contact between the genitals or anal opening of one person and the mouth or tongue of another person
- any intrusion by one person into the genitals or anal opening of another person, including the use of any object for this purpose, unless the act is performed for a valid medical purpose
- intentional touching of the genitals or intimate parts [including the breasts, genital area, groin, inner thighs, and buttocks]⁴ or the clothing covering them, of a child or of the perpetrator by a child, for purposes of sexual arousal or gratification, except that, it does not include acts which may reasonably be construed to be normal caretaker responsibilities, interactions with or demonstrations of affection for the child, or acts performed for a valid medical purpose
- intentional masturbation of the perpetrator's genitals in the presence of a child

Sexual exploitation refers to any of the following {PC §11165.1(c)}

- preparing, selling or distributing matter depicting a minor engaged in obscene acts {PC §311.2; PC §311.4}
- coercing a child to engage in prostitution or coercing parental consent for a child to engage in prostitution
- depicting a child in or creating, developing or trading photos of minors engaged in obscene sexual conduct {PC §311.3(c); PC §311.3(e)}

In addition, the law requires a report in the following situations

- any sexual activity where one party is under age 14 and the other party

⁴ This conduct would include a violation of PC §243.4, sexual battery.

is over age 14, whether the conduct is consensual or not People ex rel. Eichenberger v. Stockton Pregnancy Control Medical Clinic, Inc. (1988) 203 Cal.App.3d 225, 249 Cal.Rptr. 762.

- any sexual activity where both parties are under age 14 and there is a significant difference in their ages, whether the conduct is consensual or not Planned Parenthood Affiliates of California v. Van de Kamp (1986) 181 Cal.App.3d 245, 226 Cal.Rptr. 361.
- The pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse. {PC §11166(a)(1)}

Physical Abuse includes a physical injury which is inflicted by other than accidental means on a child by another person. {PC §§11165.6} It also includes willful cruelty or unjustifiable punishment {PC §11165.3}, unlawful corporal punishment or injury {PC §11165.4}, or abuse in out-of-home care {PC §11165.5}.

Willful cruelty or unjustifiable punishment of a child means {PC §11165.3}

- any person willfully causing or permitting any child to suffer, or inflicting on the child unjustifiable physical pain or mental suffering
- any person with care or custody of any child, willfully causing or permitting the person or health of the child to be placed in a situation where the child's person or health is endangered

Unlawful corporal punishment means {PC §11165.4}

- any person willfully inflicting upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition

Corporal punishment does not include

- reasonable and necessary force for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property for purposes of self defense or to obtain possession of weapons or other dangerous objects within the control of the pupil
- the exercise of the degree of physical control authorized by Education Code [Educ C] §44807
- injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer

Abuse or neglect in out-of-home care includes {PC §11165.5}

- physical injury inflicted upon a child by another person by other than accidental means
- sexual abuse as defined in PC §11165.1, neglect as defined in PC §11165.2, unlawful corporal injury as defined in PC §11165.4, or the willful cruelty or unjustifiable punishment of a child as defined in PC §11165.3, where the person responsible for the child's welfare is a licensee, administrator, or employee of any facility licensed to care for children, or an administrator or employee of a public or private school or other institution or agency

Abuse or neglect in out-of-home care does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer.

Neglect includes {PC §11165.2}

- negligent treatment or maltreatment of a child by someone responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare
- may include both acts and omissions

Severe neglect means {PC §11165.2(a)}

- the negligent failure of a person having the care or custody of a child to protect the child from severe malnutrition or medically diagnosed nonorganic failure to thrive
- those situations of neglect where any person having the care or custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that his or her person or health is endangered, [such as willful cruelty or unjustifiable punishment of a child] including the intentional failure to provide adequate food, clothing, shelter or medical care

General neglect means {PC §11165.2(b)}

- the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred

Neglect does not include {PC §11165.2}

- children receiving treatment by spiritual, cultural, or religious means as provided in WIC §§ 16509 and 16509.1, unless the practices present a

specific danger to the physical or emotional safety of the child. Children do not receive specified medical treatment for religious reasons, shall not, for that reason alone, be considered a neglected child

- an informed and appropriate medical decision made by a parent or guardian after consultation with a physician or physicians who have examined the minor

Evidence of maternal substance abuse merits risk assessment. Maternal substance abuse determined through a positive toxicology screen at the time of delivery of the infant does not, in and of itself, mandate a report, unless other factors are present that indicate risk to the child. These risk factors, alone, could be sufficient to mandate a report even if the toxicology screen is negative. The practitioner shall conduct a needs assessment of the mother and child pursuant to H&S §123605. [See Index of Appendices] If, after that assessment, it is determined that the risk to the child relates solely to the inability of the parent to provide the child with regular care due to the parent's substance abuse, the report shall only be made to a county welfare or probation department, not law enforcement. {PC §11165.13}

Pediatric Condition Falsification [PCF] traditionally referred to as Munchausen by Proxy, is a form of child abuse in which a parent, guardian, or caregiver deliberately produces or feigns physical or psychological illness symptoms in a child who is under his or her care. The child is presented for medical treatment and the parent or caregiver fails to acknowledge the deception. PCF often involves physical abuse, neglect, and emotional abuse.

PCF cases are typically complex, difficult to identify and document, and child victims suffer from a wide spectrum of harm. A multi-disciplinary approach is optimal to accurate assessment, diagnosis, and intervention. [See Index of Appendices]

Mandatory Reporting Requirement

Mandatory reporting is governed by the procedure set forth in PC §11166.

In Los Angeles County, once a mandated reporter knows or reasonably suspects child abuse or neglect, the reporter must make a report immediately, or as soon as is practicably possible, by telephone to any police department, sheriff's department, or DCFS.

Notification to school district police or security department *does not* satisfy the reporting requirements of this statute.

A mandated reporter may choose to make this *immediate* telephonic report either to the DCFS Child Protection Hotline at (800) 540-4000 or directly to a police or sheriff's station. *Within 36 hours* after learning of the suspected abuse, the mandated reporter must send a written Suspected Child Abuse Report [SCAR, Form SS8572] to the agency where the report was made.⁵ A mandated reporter must make a report, even if the child has died, whether or not the abuse contributed to the death, and even if suspected child abuse was discovered during an autopsy. {PC §11166(a)(2)} [See Index of Appendices]

Failure to report may result in criminal, civil and/or professional liability. Refer to the criminal liability section.

The absence of training does not excuse a mandated reporter from the duty to report. {PC §11166(e)}

Additional Reporting Requirements for Health Practitioners Only

PC §11160 et seq. requires immediate mandatory reports by any health practitioner who, in his or her professional capacity or within the scope of his or her employment, provides medical services for a physical condition to a patient [victim] when the health practitioner knows or reasonably suspects

- the patient [victim] is suffering from any wound or other physical injury inflicted by his or her own act or by another with a firearm; or
- the patient (victim) is suffering from any wound or other physical injury which is the result of assaultive or abusive conduct.

For this section, *health practitioner* means any of the people listed in the mandatory reporting section, above, who are employed in a health facility, clinic, physician's offices, local or state public health department, or a clinic or other type of facility operated by a local or state public health department.

When a report is made pursuant to the Child Abuse and Neglect Reporting Act {PC §11164 et seq.}, a separate report is not required under this section. {PC §11162.7} The Health Insurance Portability and Accountability Act [HIPAA]

⁵ A medical professional who has performed a forensic examination for a sexual assault can submit the OES 925 or OES Form 930 in lieu of the SCAR form [Form SS8572] for reporting purposes only. {PC §13823.5(c)}

permits and California law requires disclosure of this medical information.

The reporter shall not inform the person suspected or accused of injuring the patient (victim), or that person's attorney, of the whereabouts of the patient. {PC §11163.2(b)}

Individuals who report pursuant to this section {PC §11160 et seq.} receive the same immunity and confidentiality protections as provided by the child abuse reporting statutes {PC § 11164 et seq.}.

Coroner's Report

The duty to report is mandatory when there is a preliminary finding that the manner of death is homicide. The Chief Medical Examiner has discretion to report when the preliminary finding of the manner of death is undetermined. Additional investigation by law enforcement or DCFS may enable the Chief Medical Examiner/Coroner to reclassify the manner of death.

If the manner of death is found to be homicide following a final autopsy, a confirming report must be made to the Child Protection Hotline. Where the final result is undetermined but the Chief Medical Examiner/Coroner believes the death is potentially suspicious of abuse, the coroner has discretion to report this result.

What to Report -- Discretionary

Any mandated reporter who knows or reasonably suspects that mental suffering has been inflicted upon a child or that his or her emotional well-being is endangered in any other way may report the known or suspected instance of child abuse or neglect. {PC §11166.05}

When making a mandatory report under PC §11160 et seq., in domestic violence situations, even if the patient (victim) on whose behalf the report is made is not a child, the reporter is encouraged to list names of minor children in the home and to report to the Child Protection Hotline [CPH].

Another example of a discretionary report is an act of unlawful sexual intercourse, also called statutory rape, when the minor is over age 16 or the suspect is under age 21. Planned Parenthood Affiliates of California v. Van de Kamp (1986) 181 Cal.App.3d 245, 226 Cal.Rptr.361.

While the pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse, such a pregnancy may require a referral to the CPH for an assessment of risk for abuse or neglect, especially if the mother is under age 14.

Additionally, any other person [non-mandated reporters] who has knowledge of or observes a child who he or she knows or reasonably suspects has been a victim of child abuse or neglect may report the known or suspected instance of child abuse or neglect. {PC §11166(e)}

How To Make a Report

A mandated reporter may choose to make the *immediate* telephonic report either to the county welfare agency at (800) 540-4000 or directly to a police or sheriff's station. {PC §11166.2} In Los Angeles County the designated county welfare department is DCFS.

During the initial contact with law enforcement or DCFS, the mandated reporter should obtain any available referral identification, "tag," department file, or reference number, the DCFS regional office where the case will be referred, and any appropriate phone numbers.

Within 36 hours after learning of the suspected abuse or neglect, the mandated reporter must send a written Suspected Child Abuse Report [SCAR, Form SS8572; see Index of Appendices] to the agency where the report was made. {PC §11162.2} If reported to DCFS, the written report can be done online approximately 30 minutes after the call at www.dcfs.lacounty.gov in the "For Mandated Reporters Only" section.

There is no duty to report past incidents of child abuse when the victim has reached the age of 18. However, a reporter may, within his or her discretion, report incidents of past abuse that occurred before the child reached the age of 18. Such reports are encouraged, particularly when the abuser has current access to children. Reporters should be familiar with and abide by their professional confidentiality mandates governing adult patients or clients.

When the alleged perpetrator is not the parent, legal guardian, surrogate parent, or person in the home, DCFS will not respond. Therefore, the case may receive a more expedient response if the law enforcement agency is called directly instead of first calling DCFS.

Mandated reporters, especially from hospital SCAN teams, pediatric units and

emergency departments, are strongly encouraged, but not required, to report to both DCFS and law enforcement to ensure the most efficient response.

The Child's Disclosure

The mandated reporter should not investigate or attempt to obtain a detailed or extensive history of abuse. The reporter should competently perform all duties required under any and all professional guidelines as to the child. Beyond that, the reporter should obtain only enough information to report a "reasonable suspicion" and does not need to provide proof.

The mandated reporter should provide a quiet, private place in which to listen to and document the child's disclosure, and

- communicate with the child in the language most comfortable to the child
- use interpreters, where appropriate
- use open-ended questions
- refrain from making promises to the child
- limit questions to those necessary to complete the required reporting form

Once a disclosure of abuse has been made, while the reporter may continue to provide reassurance to the child, further questions about the abuse should not be asked. If the child continues the disclosure without questioning, permit the child to do so and document all statements made by the child.

Mandated reporters are not required by law to disclose to the child's parent or guardian that they are making a suspected child abuse or neglect report. Disclosure to a parent sometimes interferes with the fact-finding process, compromises the investigation, or endangers the child. If the abuse is familial, the child could be subject to undue influence by the abuser or by another person. An assessment of the risk associated with disclosing the report must be done on a case-by-case basis. Therefore, the reporter is encouraged to defer notification to the child's parent or guardian until DCFS or law enforcement arrives.

The school-based, mandated reporter is not to notify the parent, guardian, or alleged perpetrator when circumstances indicate possible child abuse or a report of suspected child abuse is made. The safety of the child is the primary concern. In rare instances, it is the parent who discloses possible abuse. When a parental disclosure occurs within the context of clinical family services provided on

campus, the decision to inform the parent that a report will be made rests with the licensed professional. Should the professional elect to inform the parent that a report will be made, the professional should document the rationale for this decision in the client record.

Communication

In some cases, the continuity of existing services or care may require close communication among the investigator, the CSW, and the mandated reporter. In other cases, the mandated reporter may become aware of additional information or the need for services for the child and should communicate that information to the investigator and the CSW. The reporter should record the investigator's contact information next to the SCAR number and keep that information for future reference in the event that follow-up communication is necessary.

The investigative agency, upon completion of the investigation, or after there has been a final disposition in the matter, *shall* inform the reporter of the final results of the investigation and any action the agency is taking with regard to the child or family. {PC §11170(b)(2)}

In addition, the investigative agency shall forward to the Department of Justice [DOJ] a written report of every case it investigates of known or suspected child abuse or neglect which is determined not be unfounded, other than cases of general neglect. Before forwarding this report, the agency must conduct an active investigation to determine that the report is not unfounded. If a report previously filed with DOJ subsequently proves to be unfounded, the agency shall notify DOJ in writing of that fact. The written report shall be submitted on a Child Abuse Investigation Report [Form SS8583]. The SCAR [Form SS8572] shall not be submitted for this report. {PC §11169(a)}

At the same time that the investigative agency forwards the Child Abuse Investigation Report to DOJ, the agency shall also notify the suspect in writing that he or she has been reported to the Child Abuse Central Index [CACI]. {PC §11169(b)}.

Agencies shall retain child abuse or neglect investigation reports which result in a Child Abuse Investigation Report to DOJ for at least as long as that information is required to be maintained on CACI. {PC §11169(c)}.

Confidentiality {PC §§11167, 11167.5}

The mandatory reports of child abuse or neglect shall be confidential. Reports

may only be disclosed as provided in PC §11167.5(b), which limits disclosure to agencies or persons including, but not limited to

- DCFS
- law enforcement
- counsel representing a child protective agency
- the prosecutor in a criminal prosecution
- attorneys representing the child
- county counsel
- licensing agencies when abuse is in out-of-home care

None of the professionals who receive reports of child abuse or investigate child abuse may disclose the identity of the reporter, except to authorized personnel, without consent of the reporter or by court order. {PC §11167(d)(2)}

Failure to maintain confidentiality as mandated by law can result in criminal liability. Refer to the criminal liability section below.

Immunity

Mandated reporters are immune from civil or criminal liability for any report required or authorized by the code. All other reporters are immune from civil or criminal liability unless the report was made with reckless disregard for the truth or falsity of the report and the person who reported knew of the reckless disregard. If a reporter is sued, he or she may submit a claim to the State Board of Control for reasonable attorneys' fees and costs. {PC §11172}

The immunity provisions of PC §11172 shall not apply to the submission of a Child Abuse Investigation Report by an investigative agency to DOJ. However, all other immunity provisions available under state or federal law remain unaltered. {PC §11169(d)}

Criminal Liability

Failure to make a mandatory report {PC §11166(b)(2)} and failure to maintain confidentiality of the identity of a reporter {PC §11167.5(a)} are both misdemeanors and are punishable by six months in jail and/or a fine.

Internal Agency Procedures for Suspected Child Abuse Reporting

Agencies should develop, consistent with the mandatory reporting laws, their own internal procedures for handling suspected child abuse reports. Updated copies of the procedures should be reviewed and revised and made available to all mandated reporters within the agency. In order to avoid confusion of responsibility, internal agency procedures should clarify who is responsible for making the report if there are multiple mandated reporters.

When two or more persons who are required to report are present and jointly have knowledge of a known or suspected instance of child abuse or neglect, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by the selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so shall thereafter make the report. {PC §11166(f)}

The mandated reporter is encouraged to confirm that the team member designated to make the report has in fact made the report.

The reporting duties under this section are individual and no supervisor or administrator may impede or inhibit the reporting duties. No person making a report shall be subject to any sanction for making the report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with this article. The internal procedures shall not require any employee required to make reports to disclose his or her identity to the employer. {PC §11166(g)(1) and (2)}

Removal of Children from School

While a school official usually has a duty to inform the child's parent or guardian of the removal of a child from the school, Educ C §48906 states that in cases of suspected child abuse, the school officials are *not* to inform the parents. Instead, the school official shall provide the law enforcement officer with the address and telephone number of the child's parent or guardian.

Cross-Reporting Requirement

Mandatory cross reporting is governed by PC §11166(h) and (i).

Each agency that responds to a report of child abuse or neglect has different responsibilities to carry out. No single agency can address every aspect of the

child's situation. In most circumstances, time is of the essence to protect the child and to preserve evidence. Therefore, a prompt response to the report and a prompt cross report to other agencies are essential for effective investigation and case management. The mandatory reporting statutes require cross reports within specific time periods.

If DCFS receives a report of child abuse or neglect it must cross report to the appropriate law enforcement agency in the jurisdiction where the suspected abuse or neglect occurred. If law enforcement receives the report of child abuse or neglect, it must cross report to DCFS. Both agencies must cross report to the District Attorney. {PC §11166(h) and (i)} In jurisdictions that have a city prosecutor who prosecutes misdemeanors, DCFS and the appropriate law enforcement agency should cross report to the city prosecutor as well as the District Attorney unless the city prosecutor abdicates, in writing, the cross reporting receipt responsibility to the District Attorney.

In April of 2009, the first phase of the electronic Suspected Child Abuse Reports (eSCARs) program began. All Los Angeles County Sheriff's stations, law enforcement agencies outside of Los Angeles County, and the Los Angeles District Attorney's Office receive immediate electronic notification of reports of suspected child abuse from the DCFS Child Protection Hotline. The second phase of this web-based system will be extended to independent law enforcement agencies, LAPD and the Los Angeles City Attorney's Office sometime in 2010. The eSCARs facilitate a timely response to sensitive cases, consolidate reports from multiple mandated reporters, provide case tracking, expedite criminal investigation and enhance prosecution.

According to PC §11165.9, whenever DCFS or law enforcement receives a report of suspected abuse or neglect, even if the agency receiving the report lacks jurisdiction to investigate the case, that agency shall accept the report, whether offered by a mandated reporter or another person or agency, unless the call can be immediately electronically transferred to the proper agency. The agency receiving the report shall immediately refer the case by telephone, fax, or electronic transmission to an agency with proper jurisdiction.

If the reported abuse or neglect occurs while the child is being cared for in a child day care facility, involves a child-day-care-licensed staff person, occurs while the child is under the supervision of a community care facility, or involves a community care facility licensee or staff person, law enforcement and DCFS are required to make additional reports to the appropriate licensing agency [as defined in PC §11165.11]. These additional reports shall be made immediately or as soon as practically possible by telephone, fax, or electronic transmission. A written report shall be sent, faxed, or electronically transmitted within 36 hours. Law enforcement and DCFS shall send the licensing agency a copy of investigation reports and any other pertinent materials. {PC §11166.2}

Law enforcement and DCFS shall cross report all cases of child death suspected to be related to child abuse or neglect whether or not the deceased child has any known surviving siblings. {PC §11166.9(k)}

DCFS shall create a record in the Child Welfare Services/Case Management System [CWS/CMS] on all cases of child death suspected to be related to child abuse or neglect, whether or not the deceased child has any known surviving siblings. Upon notification that the death was determined not to be related to child abuse or neglect, DCFS shall enter that information into CWS/CMS. {PC §11166.9(l)}

Supplemental Cross Report

It is the intent of the Legislature that law enforcement and DCFS continue to communicate information learned about subsequent incidents or further disclosures of suspected abuse or neglect. {PC §11166.3}

All subsequent incidents of suspected abuse or neglect shall be cross reported to law enforcement, DCFS, and the District Attorney. Additional disclosures of already-cross-reported information should be discussed among the professionals assigned to the case in the various agencies.

How to Make a Cross Report

In Los Angeles County the designated county welfare agency is DCFS.

Cross reporting is a two-step process.

- Cross report immediately, or as soon as practically possible, to the appropriate agencies in accordance with PC §11166(h) and (i).
- Follow up with a written cross report within 36 hours to any agency to which an immediate report was required by PC §11166(h) or (i). The cross reporter may use the Child Abuse Investigation Report [Form SS8583] or the SCAR [Form SS8572] to make the written cross report or use the online system at www.dcfslacounty.gov [See Index of Appendices.]

Suggestions to Ensure Appropriate Response to the Initial Report

All agencies that receive cross reports should immediately or as soon as

practically possible review the reports and respond appropriately.

The CSW should distinguish between making a cross report to law enforcement and actually calling for a law enforcement unit to respond. In addition to making a cross report, the CSW should request that a law enforcement unit respond if the situation warrants an emergent law enforcement response and/or the CSW believes that a crime has occurred.

The law enforcement officer reviewing the cross report from DCFS must determine whether the situation warrants an immediate response. In addition to making its own cross report to DCFS, law enforcement should request that a CSW respond if investigating an incident with potential placement issues.

Mandated Reporter Training

At the time of initial employment, employers shall notify new employees who are mandated reporters that they are mandated reporters, informing them of the duty to report and providing them with copies of PC §§ 11165.7 and 11166. The employee shall sign a form acknowledging this duty and agreeing to comply. {PC §11166.5} The absence of training shall not excuse a mandated reporter from the duty to report. {PC §11165.7(e)}

In addition, employers should provide information on the recognition of signs of suspected child abuse, mandatory reporting laws, and their internal agency reporting procedures. Mandatory reporting law training should be repeated periodically.

Agencies that are unable to provide required training should contact appropriate regional resources for assistance in developing and implementing a training program. The training should be comprehensive and cover all aspects of the mandatory reporting law, the agency's internal policies and procedures for reporting incidents of suspected child abuse, and communication with the investigative agencies that handle the child abuse investigation.

The Department of Children and Family Services [DCFS], Training Division, provides training on mandated reporting to both public and private agencies.

The Los Angeles County Department of Mental Health [DMH] Training Division is also a valuable resource and should be used for training on the signs of suspected child abuse and reporting requirements. In addition, the Los Angeles County Office of Education [LACOE] is a valuable resource for training educators about the signs of suspected child abuse and reporting requirements.