

Mandatory Reporting

309.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for notification to the appropriate social services entities and local law enforcement in the case of encountered, reported, or suspected abuse by San Diego Probation Department members and contracted staff.

This policy also addresses documentation specific to the discovery of abuse.

309.2 DEFINITIONS

Child - Unless otherwise specified by a cited statute, a child is any person under the age of 18 years (Penal Code § 11165).

Child abuse - Any offense or attempted offense involving violence or neglect with a child victim when committed by a person responsible for the child's care or any other act that would mandate notification to a social service agency or law enforcement (Penal Code §§ 11165.9 and 11166).

Commercial Sexual Exploitation – Refers to the following:

1. The sexual trafficking of a child, as described in subdivision (c) of Section 236.1.
2. The provision of food, shelter, or payment to a child in exchange for the performance of any sexual act described in this section or subdivision (c) of Section 236.1.

Dependent Adult – a person, regardless of whether the person lives independently, between the ages of 18 and 64 years who resides in this state and who has physical or mental limitations that restrict his or her ability to carry out normal activities or to protect his or her rights, including, but not limited to, persons who have physical or developmental disabilities, or whose physical or mental abilities have diminished because of age. This also includes any person between the ages of 18 and 64 years who is admitted as an inpatient to a 24-hour health facility, as defined by state law. (Welfare and Institutions Code § 15610.23)

Elder – any person residing in this state, 65 years of age or older. (Welfare and Institutions Code § 15610.27).

General Neglect – means 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 but the child is at substantial risk of suffering serious physical harm or illness. "General neglect" does not include a parent's economic disadvantage. The term includes both acts and omissions on the part of the responsible person (Penal Code § 11165.2).

Severe Neglect - means 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. "Severe neglect" also means those situations of neglect where any person having the care or

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custody of a child willfully causes or permits the person or health of the child to be placed in a situation such that their person or health is endangered as proscribed by Section 11165.3, including the intentional failure to provide adequate food, clothing, shelter, or medical care.

Sexual Assault –conduct in violation of one or more of the following sections: Section 261 (rape), subdivision (d) of Section 261.5 (statutory rape), Section 264.1 (rape in concert), Section 285 (incest), Section 286 (sodomy), Section 287 or former Section 288a (oral copulation), subdivision (a) or (b) of, or paragraph (1) of subdivision (c) of, Section 288 (lewd or lascivious acts upon a child), Section 289 (sexual penetration), or Section 647.6 (child molestation). "Sexual assault" for the purposes of this article does not include voluntary conduct in violation of Section 286, 287, or 289, or former Section 288a, if there are no indicators of abuse, unless the conduct is between a person 21 years of age or older and a minor who is under 16 years of age (Penal Code § 11165.1(a)). Conduct described as "sexual assault" is defined in Penal Code § 11165.1(b).

For purposes of notification, "abuse of an elder or a dependent adult" means any of the following:

1. Physical abuse, neglect, abandonment, isolation, abduction, or other treatment with resulting physical harm or pain or mental suffering.
2. The deprivation by a care custodian of goods or services that are necessary to avoid physical harm or mental suffering.
3. Financial abuse, as defined in Section 15610.30. (Welfare and Institutions Code § 15610.07)

309.3 POLICY

It is the policy of the San Diego County Probation Department to ensure documentation and notification to the proper entity, as may be required by law, in the case of encountered, reported, or suspected abuse.

309.4 CHILD ABUSE

Members of this department who are mandated reporters of suspected child abuse as detailed in Penal Code §§ 11164, 11165, and 11166, shall notify the county welfare department and/or local law enforcement of suspected child abuse when the member has knowledge of or observes a child who the member knows or reasonably suspects has been the victim of child abuse or neglect. Mandated reporters are protected by law and will not be held civilly or criminally liable as a result of any authorized report required by the provision of the Child Abuse and Neglect Reporting Act (CANRA). Abuse may fall into one or more of four categories: physical, sexual, severe neglect, or mental/emotional.

309.4.1 RECEIVING A REPORT OF KNOWN OR REASONABLY SUSPECTED CHILD ABUSE

Members receiving a report from a nonmandated reporter must ask the reporter to provide their name, telephone number, and the information that gave rise to the knowledge or reasonable suspicion of child abuse or neglect (Penal Code § 11167(f)(1)). If the reporter refuses to provide

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their name or telephone number, the member must attempt to determine the basis for the refusal and advise the reporter that the identifying information would remain confidential (Penal Code § 11167(f)(2)).

309.4.2 ABUSE AT A LICENSED FACILITY OR FOSTER HOME PLACEMENT

When the abuse or neglect occurs at a licensed facility or is alleged to have resulted from the actions of a person who is required to have a state license (e.g., foster homes, group homes, day care), notification shall also be made to the California Department of Social Services or other applicable licensing authority within 24 hours. When the alleged abuse or neglect involves a child of a youth or a dependent adult, notification must also be made to the attorney who represents the youth in dependency court or the dependent adult within 36 hours (Penal Code §§ 11166.1 and 11166.2).

309.4.3 NOTIFICATION

San Diego Probation Department members and contracted staff of this department who are mandated reporters of child abuse pursuant to Penal Code § 11165.7 shall notify law enforcement or the county welfare department, Child and Family Well-Being (CFWB), formerly known as Child Welfare Services (CWS), when the member has knowledge of or observes a child who the member knows or reasonably suspects has been the victim of child abuse or neglect (Penal Code § 11165.9; Penal Code § 11166).

When the San Diego County Probation Department receives a report of abuse or neglect, notification shall be made to the law enforcement agency having jurisdiction and CFWB (see Notification Procedures for required timelines).

The District Attorney's office shall also be notified in all instances of known or suspected child abuse or neglect reported to the San Diego County Probation Department (Penal Code § 11166), except the following that shall only be reported to CFWB ((Penal Code § 11166)(j)(1));:

- (a) A report of general neglect by a person who has the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision, and where there is no physical injury to the child. (Penal Code § 11165.2);
- (b) A report of a positive toxicology screen at the time of the delivery of an infant, unless there is an indication of maternal substance abuse (Penal Code § 11165.13).

For purposes of notification, abuse or neglect includes physical injury or death inflicted by other than accidental means upon a child by another person (Penal Code § 11165.6); sexual abuse which includes sexual assault and sexual exploitation (Penal Code § 11165.1); neglect (Penal Code § 11165.2); willful harm or injury to a child or endangering the person or health of a child (Penal Code § 11165.3); and unlawful corporal punishment or injury (Penal Code § 11165.4). Child abuse or neglect does not include a mutual affray between minors, nor does it include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of employment as a peace officer (Penal Code 11165.6).

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309.4.4 NOTIFICATION PROCEDURE

Notification should occur as follows (Penal Code § 11166):

When two or more persons, who are required to report, jointly have knowledge of a known or reasonably 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 must thereafter make the report (Penal Code § 11166(h)).

A. When the member is making an initial notification:

1. Notification shall be made immediately, or as soon as practicable, by telephone.
2. A written follow-up mandated Suspected Child Abuse Report shall be forwarded by fax or electronic transmission within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident. (Penal Code § 11166(a)).

B. When the San Diego County Probation Department is making notification:

1. Notification shall be made immediately, or as soon as practicable, by telephone, fax, or electronic transmission.
2. A written report shall be forwarded by fax or electronic transmission within 36 hours of receiving the information concerning the incident. The mandated reporter may include with the report any nonprivileged documentary evidence the mandated reporter possesses relating to the incident. (Penal Code § 11166(a)).
3. For instances involving severe neglect, as defined under Penal Code § 11165.2(a), or child abuse or neglect, as defined under Penal Code § 11165.6, members shall immediately, or as soon as practicably possible notify CFWB, local law enforcement, and the District Attorney's office.
4. For cases involving the commercial sexual exploitation of a child who is receiving child welfare services, notification shall be made immediately, and in no case later than 24 hours, to a law enforcement agency that has jurisdiction over a case. (Penal Code § 11166(j)(2)).
5. For cases involving a child who is receiving CFWB services who is reasonably believed to be the victim of, or at risk of being the victim of, commercial sexual exploitation and is missing or has been abducted, notification shall be made to the appropriate law enforcement authority immediately, or in no case within 24 hours from receipt of the information, for entry into the National Crime Information Center (NCIC) and National Center for Missing and Exploited Children (NCMEC) (Penal Code § 11666(j)(3)). The San Diego County Probation Department shall maintain regular communication with law enforcement agencies and NCMEC in efforts to provide safe recovery of the missing or abducted youth, including sharing information pertaining to the youth's recovery and circumstances related to the recovery.

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Initial notification to law enforcement agencies must include the following, when reasonably possible:

- (a) Photo of the missing or abducted youth
- (b) Description of the youth's physical features (e.g., height, weight, sex, ethnicity, race, hair/eye color)
- (c) Endangerment information (e.g., pregnancy status, prescription medications, suicide risk, sex trafficking vulnerability, other health/risk factors)
- (d) Information about whether the youth is or may be an Indian child (as defined in Welfare and Institutions Code § 224.1), including the name of the youth's tribe

309.4.5 EMERGENCY REMOVAL

An officer may, without a warrant, take into temporary custody a minor (Welfare and Institutions Code §§ 300 and 305)

A. When the officer has reasonable cause for believing that the minor is a person described in Section 300, and, in addition, that the minor has:

1. an immediate need for medical care, or
2. the minor is in immediate danger of physical or sexual abuse, or
3. the physical environment or the fact that the child is left unattended poses an immediate threat to the child's health or safety.
 - a. In cases in which the child is left unattended, the peace officer shall first attempt to contact the child's parent or guardian to determine if the parent or guardian is able to assume custody of the child.
 - b. If the parent or guardian cannot be contacted, the peace officer shall notify a social worker in the CFWB department to assume custody of the child.

B. Who is in a hospital and release of the minor to a parent poses an immediate danger to the child's health or safety

C. Who is a dependent child of the juvenile court, or concerning whom an order has been made under Section 319, when the officer has reasonable cause for believing that the minor has violated an order of the juvenile court or has left any placement ordered by the juvenile court.

1. the minor has violated an order of the juvenile court or
2. has left any placement ordered by the juvenile court.

D. Who is found in any street or public place suffering from any sickness or injury which requires care, medical treatment, hospitalization, or other remedial care.

309.5 ELDER AND ADULT DEPENDENT ABUSE

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309.5.1 NOTIFICATION

Members and contract staff who are mandated reporters of elder or dependent adult abuse pursuant to Welfare and Institutions Code § 15630(a) shall notify the county adult protective services agency of known, suspected, or alleged instances of abuse when the member reasonably suspects, has observed, or has knowledge of an incident that reasonably appears to be abuse of an elder or dependent adult, or are told by an elder or dependent adult that the person has experienced abuse. (Welfare and Institutions Code § 15610). For purposes of notification, see definitions for: Dependent Adult and Elder.

Physical abuse includes any assault or sex crime (Welfare and Institutions Code § 15610.63). Financial abuse includes taking personal or real property by undue influence or intent to defraud (Welfare and Institutions Code § 15610.30).

Because additional notifications may also be required, depending on where the alleged abuse occurred, the member is responsible for notifying a supervisor. The supervisor is responsible for ensuring that proper notifications are made to the District Attorney's Office and any other regulatory agency that may be applicable (e.g., care facility, hospital) (Welfare and Institutions Code § 15630).

309.5.2 NOTIFICATION PROCEDURE

Notification should occur as follows (Welfare and Institutions Code § 15630 (b)):

- (a) Notification shall be made immediately, or as soon as practicable, by telephone, fax, or electronic transmission.
- (b) A written report of Suspected Abuse of Dependent Adults and Elder Form shall be forwarded within two working days.

A telephone or internet report, of a known or suspected instance of elder or dependent adult abuse shall include, if known, the name of the person making the report, the name and age of the elder or dependent adult, the present location of the elder or dependent adult, the names and addresses of family members or any other adult responsible for the elder's or dependent adult's care, the nature and extent of the elder's or dependent adult's condition, the date of the incident, and any other information, including information that led that person to suspect elder or dependent adult abuse, as requested by the agency receiving the report. Welfare and Institutions Code § 15630 (e).

309.6 DOCUMENTATION

In all encountered, reported, or suspected cases of abuse, officers must, after making the notifications above, document the notification and the circumstances surrounding discovery of the abuse. Supervisors must review to ensure thorough documentation, and that reporting was completed in compliance with the law and departmental policy. After supervisor review, this review will be forwarded to the Division Chief and Division Secretary.

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309.7 CONFIDENTIALITY OF REPORTS

Information related to incidents of abuse shall be confidential and may only be disclosed pursuant to state law and the Records Maintenance and Release Policy (Penal Code § 11167.5; Welfare and Institutions Code § 15633).

309.8 REFERENCE

Date Last Reviewed	8/15/2025
Date(s) Revised	8/15/2025
Policy and Procedure References	<ul style="list-style-type: none">▪ Records Maintenance and Release
Attachments/Links	<ul style="list-style-type: none">▪ Welfare and Institutions Code § 15610.27▪ Penal Code § 11167.5▪ Welfare and Institutions Code § 15633▪ Welfare and Institutions Code § 15630 (e)▪ Welfare and Institutions Code § 15610.30▪ Penal Code § 11165.9▪ Penal Code § 11166▪ Penal Code § 11166.1▪ Penal Code § 11166.2▪ Welfare and Institutions Code § 300▪ Welfare and Institutions Code § 305▪ Penal Code § 11167(f)(2)