

Child Victim-Witness Protocol

Developed and Updated
by the
San Diego County
Child Victim-Witness
Protocol Committee

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— **Table of Contents** —

1 Policy Statement 3
1.1 Our Mission 3
1.2 Goals 3

2 Community Partners 3

3 Initial Contacts3
3.1 Law Enforcement..... 4
3.2 HHSA: Child Welfare Services 5

4 Investigations7
4.1 Minimizing Multi-Discipline Conflicts 7
4.2 HHSA: Child Welfare Services7

5 Forensic Interview Process8
5.1 Goals of the Forensic Interview Process..... 9
5.2 Who is Present 9
5.3 Who Needs Forensic Interviews 9
5.4 Documenting the Forensic Interview9

6 Medical Intervention10
6.1 Sexual Abuse10
6.2 Physical Abuse..... 12

7 Legal Intervention 12

8 Therapeutic Interventions13
8.1 Trauma Assessment 14
8.2 Evidence-Based Therapy Services 14
8.3 Supporting the Child Victim Through the Legal Process14

Appendices

APPENDIX 1: Signature Pages15

1. Policy Statement

1.1 Our Mission

The County of San Diego and all of its incorporated cities will assist and protect all children, both victims and witnesses, who are exposed to any kind of abuse through a multi-disciplinary collaborative effort by those in law enforcement, child protection, mental and medical health, and the justice system.

1.2 Goals

- Minimize further trauma to child victims/witnesses through a cooperative multidisciplinary effort which will limit the number of times children are interviewed and treat children with dignity and respect.
- Increase the effectiveness of the investigative and protective process.
- Prevent abuse to other children.
- Facilitate the child’s access to needed services such as medical treatment and trauma counseling.

2. Community Partners

The following community partners must work together to fulfill the goals of this protocol: schools, Health and Human Services Agency: Child Welfare Services (CWS), law enforcement, District Attorney, City Attorney, County Counsel, medical, hospital based Children’s Advocacy Centers, Kids in Court, and trauma mental health treatment community.

3. Initial Contacts

Good investigation includes a joint response and a single interview conducted by law enforcement and CWS whenever practical. Together they determine an interview strategy and direction. While both parties need to know the circumstances of the abuse, Protective Service Workers (PSW) need additional information to determine the proper placement for the child’s safety.

<p>Lack of staff and large case volume should not prevent a multi-disciplinary initial response.</p>

3.1 Law Enforcement

The majority of initial law enforcement contacts with victims of child abuse are made by patrol officers. Agency specific departmental policies and procedures dictate how different types of investigations are conducted. The execution of this protocol is not intended to supersede these policies; however, each law enforcement agency shall make every effort to follow this protocol.

- **Mandated Reporting and Cross Reporting Requirements**

The State of California has mandated reporting requirements for child abuse cases in California Penal Code sections 11164 through 11174.3. If law enforcement receives the child abuse report first, they **MUST** cross-report to the Child Abuse Hotline. A report must be made by phone, immediately or as soon as practically possible, when child abuse is suspected. A fax report is allowed (8:00 a.m. to 5 p.m. Monday – Friday) after making reasonable efforts to submit an initial report by telephone. **AND** a written follow-up report must be made within 36 hours using form SS-8572 or a department’s equivalent.

If the law enforcement agency received the report of child abuse from CWS, then the officer does not need to fill out State Form SS-8572, nor cross report the allegation to CWS.

- **Obtaining Information**

A PSW, parent, or teacher may have already obtained some of the required information from the child. If the officer can determine that a crime has occurred by speaking to others, then he or she should do so and avoid the necessity for a field interview of the child. This information should be obtained and documented.

- **Follow-up by Detectives and/or Protective Service Workers**

If the case will be investigated by a detective, much of the required information should be obtained without re-interviewing the child. Basics such as names, addresses, and phone numbers are needed; but only three other facts are necessary for the report. These are:

- Jurisdiction
- Statute of limitations
- The basic elements of the crime

The child will be asked for details at a later time by a PSW, a detective, or during a forensic interview.

- **Evaluating Protective Issues**

The officer, either alone or with a PSW, must also determine whether or not there is a protective issue for the victim and other children in the home. If leaving the children in their current situation would put them at risk, the officer **MUST** take them into protective custody per Welfare and Institutions Code section 300.

Children taken into protective custody should be taken to:

- **Polinsky Children’s Center**
- **Other designated receiving homes**
- **Released to a Protective Service Worker**

- **Evidence, Documentation, Instrumentalities of the Abuse**

It is important for the officer to be aware that evidence of the abuse may exist. In physical abuse or neglect cases handled by the patrol officer, immediate documentation of visible injuries or conditions including crime scenes (e.g., photographs, detailed descriptions) and collection of instrumentalities of the crime (e.g., belts, spoons, lubricating jelly, etc.) are necessary. Physical evidence from a sexual abuse victim will be collected by medical personnel only. See Sections 6.1 and 6.2 for guidelines regarding medical evaluations for physical and sexual abuse. Lawfully seized evidence is extremely important and can be used to corroborate the victim/witness’ statements.

3.2 HHSA: Child Welfare Services

PSWs make several assessments and decisions during the initial response to a child abuse referral. These decisions balance the protection of the child against the preservation of the family. Critical to the decision making process is the assessment of existing or potential future harm to the victim and siblings.

All attempts should be made to coordinate the first response interview with law enforcement in cases of physical abuse, sexual molest, and severe medical neglect.

- **Information to Determine Intervention or Services Needed**

The PSW must decide what, if any, medical attention, and/or intervention or services should be provided to a child and minimize the need for removal. The PSW will need to have certain information in order to make this decision. However, the PSW need not be the one to obtain the information. In a joint interview, some of the information may be obtained by law enforcement while the PSW obtains other information. Where it appears that a child may be going to a hospital, some of the information may be obtained by hospital personnel.

- **Determining the Level of Risk Present and the Degree/Method of Intervention**

Specific information is needed to determine the level of risk present. Who obtains it, and from whom, can be decided in a collaborative effort. Then, the degree and method of intervention must be determined.

The PSW should interview any other children and ascertain the non-perpetrating caretaker's willingness and capability of protecting any child from future harm.

The decision to remove a child from his/her own home should be based on future risk to the child. This decision should not be influenced by the temporary incarceration of the offender. Incarceration or the existence of a restraining order, in and of itself, does not guarantee child protection.

- **Additional Responsibilities of Protective Service Workers**

When another PSW is assigned to the case following the initial intervention, this worker should obtain and review all written narratives, view the recordings of the forensic interview, and/or review results of the medical examination and the hospital social work report prior to re-interviewing any child.

4. Investigations

4.1 Minimizing Multi-Discipline Conflicts

- **Procedural Conflicts**

The chief concern of both the law enforcement detective and PSW should be the welfare of the child(ren). However, each discipline’s investigative focus has its own set of time constraints and legal requirements. Procedural conflicts can result, impacting not only the investigation, but also the emotional well-being of the child(ren). Upon receiving a case for investigation, both the PSW and the detective share the responsibility to contact each other to determine their involvement. Timely communication will generally resolve most conflicts.

If a protective issue exists, the involvement of CWS should be confirmed and the extent of its involvement determined. The detective and the PSW should discuss the case, particularly areas where their respective investigations are likely to overlap. If the PSW must contact the suspect before the detective does so, the PSW should not disclose any information regarding evidence (e.g., videos, magazines, photographs, weapons, or other instrumentalities of the crime).

To avoid duplicating investigative efforts, the PSW should provide the detective with copies of notes and reports that might be valuable to the investigation. The detective should reciprocate in the sharing of information. A court order is not necessary if there is an active investigation.

- **Forensic Interviews**

If a recorded forensic interview is warranted, it should be coordinated so that both the detective and the PSW can observe it. The supervisor of the appropriate prosecuting agency should be notified of the interview time and location so that an assigned prosecutor may attend.

4.2 HHSA: Child Welfare Services

A child abuse investigation by a PSW is initiated by a report to the Child Abuse Hotline, or as a result of a child being taken into protective custody by law enforcement. This report may be cross-reported to law enforcement, community care licensing, and the District or City Attorney’s Offices depending on the circumstances.

The Hotline makes a safety assessment which determines the response priority of a referral. A referral will be assigned a response priority of:

- 2 hours – 10 days
- Evaluate Out (EO) (not assigned)

The assigned PSW is responsible for conducting an investigation and making a decision about what level of intervention is required. Child abuse investigation results may include the following outcomes:

- Close with no services
- Close with referrals to community resources
- Open with no custody and provide voluntary services through CWS
- File a petition with the juvenile court to seek protection of the child with or without removal from the home

If it is determined that a child must be removed from his/her home due to safety concerns, the PSW will take the child into protective custody. Often the PSW will request the assistance of law enforcement to preserve the peace and assure children are safely removed. The PSW will consider all available detention options including relatives, non-family relative homes, licensed foster homes, licensed group homes, Polinsky Children’s Center or other county shelter care facilities.

Once a child has been taken into custody, the law requires that a petition be filed or the child be released from custody within 48 judicial hours. A detention hearing must be held on the next judicial day following the filing of a petition.

5. Forensic Interview Process

A forensic interview is a component of either an initial response or a follow-up investigation by law enforcement or CWS.

No consent or court order is necessary for a forensic interview.

5.1 Goals of the Forensic Interview Process

- Facilitate the fact-finding process for relevant agencies.
- Reduce the trauma to the child victim by minimizing the number of interviews and interviewers.
- Provide a safe, supportive environment in which children can share information about their experience.
- If a disclosure is made, obtain as much information as possible in a manner that is legally and developmentally sensitive and conforms to evidence-based interviewing techniques.
- Provide recorded documentation and summary reports to authorized agencies.
- Provide crisis intervention services and mental health assessment to victim and family.
- Provide for ongoing treatment and community-based referrals as indicated by the assessment.

5.2 Who is present

- Child and interviewer in the interview room
- Law enforcement, child protection and/or prosecutor in observation room
- Approved trainees in observation role only
- The parent(s) and other attorneys are never allowed to remain in the room or observe the interview.
 - The alleged perpetrator should never be at the interview facility

5.3 Who Needs Forensic Interviews

Children up to age 13 or at the discretion of the requesting agency, adolescents between the ages of 14 and 17 that meet the following criteria can be interviewed:

- The child has the capacity to describe what his or her experience has been and
- The child has made some type of disclosure (as a victim or witness)

or

- There is evidence that abuse has occurred (credible witness, medical, pornography, other) but the child has not disclosed

or

- The forensic interviewer can gain more accurate or complete information from the child due to age, developmental level, speech or hearing problems, language barriers, or the child’s fear and anxiety when first contacted.

5.4 Documenting the Forensic Interview

After the forensic interview, the interviewer will provide a copy of the recording and written report to authorized agencies. The written report will normally be completed within 15 working days unless otherwise requested by the referring agency.

6. Medical Intervention

CWS or law enforcement can request a medical examination. Pursuant to Penal Code 13823.95, law enforcement will pay for the examination when it is performed for the purposes of gathering evidence for possible prosecution. If it is unclear where the incident occurred and evidence must be collected urgently, the law enforcement jurisdiction where the victim makes the report will be responsible for payment. The State of California, through the Office of Emergency Services, has developed a protocol for conducting medical examinations of sexual assault, child sexual abuse and child physical abuse.

<p>THE CONSENT of a parent must be obtained prior to a forensic medical examination UNLESS the minor is at least 12 years old and consents, OR there is a need to preserve evidence, OR there is a medical emergency, OR there is a court order with proper notice.</p>
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6.1 Sexual Abuse

A. An examination should be requested if:

- An injury is suspected.
- It is likely forensic evidence will be recovered.
- If there is a history of recent sexual contact.

B. Timing of forensic examinations for sexual assault victims

- The need for an acute examination should be based on the child’s history, symptoms and post-assault behavior and not solely on time from assault.
- Evidence may be collected after the traditional 72-hour window.
- Medical providers (e.g., Children’s and Palomar Hospitals) should be consulted to determine urgency and timing of the examination.
- Acute or urgent examinations:
 - It is imperative that children not wash, bathe, or change clothes once the decision to perform the examination has been made in order to avoid eliminating evidence.
 - If a child needs to urinate, it is important to save the urine.
 - Eating and drinking should be reasonably avoided until after the collection of specimens from the mouth.
- When a child presents weeks or more after an assault, it is likely that injuries will be healed and there will be no trace evidence. One may still find healed hymen tears, STDs, and pregnancy. If a child presents within two weeks of an assault, injuries may sometimes be seen that have not yet completely healed.
 - In adolescent victims, sperm may sometimes be found up to two weeks in cervical mucus. In order to preserve any residual evidence that may still remain a medical evidentiary examination should be conducted.

C. Location of examinations

- Children’s Hospital
- Palomar Hospital
- Polinsky Children’s Center:
 - Children taken into protective custody will receive a thorough physical exam. They may undergo a non-magnified, non-colposcopic genital exam. This in no way suffices for a forensic examination. Any child entering into Polinsky who discloses molest should be referred for a colposcopic evaluation by a qualified medical provider at either Children’s Hospital or Palomar Hospital.

6.2 Physical Abuse

A. An examination should be requested if

- A child is injured and little or no history is available to explain the injury.
- The injury is not consistent with the history.
- Multiple injuries and/or head trauma is suspected or present.
- Evaluation by a medical expert is necessary to:
 - Document inflicted trauma
 - Offer an opinion as to whether the described mechanism of injury is consistent with the findings
 - Confirm long-term/chronic abuse or neglect if future legal proceedings are anticipated.

B. Timing of forensic examinations for physical abuse victims

- If there is no immediate medical danger to the child and the nature of the abuse requires a medical evaluation the child should be taken to a facility with qualified medical providers.
- If the seriousness of the injuries necessitates immediate medical care call 911 or transport the child to the nearest emergency department.

C. Those who may conduct medical examinations

- The medical examination must be performed by a physician or nurse practitioner working with a qualified physician who:
 - Has expertise in the medical conditions caused by physical abuse or those mimicking physical abuse
 - Is willing to provide a statement for evidence
 - Is able to testify in court as an expert witness

7. Legal Intervention

District Attorney

All felony child abuse cases involving victims currently under the age of 14 are prosecutable through the District Attorney’s Family Protection Division. Misdemeanor child abuse cases occurring outside the City of San Diego are vertically prosecuted by the Family Protection Division’s branch units. Felony sexual abuse cases involving victims presently 14 years old or older are referred to

the Sex Crimes and Stalking Division-San Diego or to the branch offices, while juvenile perpetrator abuse cases are handled by the Juvenile Division. In both felony and misdemeanor cases, the prosecutors must strive to minimize further trauma to the child victim / witness while promoting public safety. Specialized training is a key ingredient to that end.

County Counsel

County Counsel represents CWS in all juvenile dependency matters beginning with the filing of the petition to bring the case before the court pursuant to Section 300 of the Welfare and Institutions Code. This representation includes negotiating settlements and appearing in all juvenile dependency hearings, both at the trial and appellate courts, on behalf of the PSWs. As the attorney for the petitioner, County Counsel is responsible for the preparation and examination of witnesses, including experts and victims, in juvenile dependency trials. County Counsel also provides ongoing legal advice and training on juvenile dependency issues for PSWs.

City Attorney, San Diego

The City Attorney is responsible for the prosecution of all misdemeanor crimes occurring within the City of San Diego (excluding South Bay) and the city of Poway. All misdemeanor child abuse and child molest cases are vertically prosecuted by the Domestic Violence and Special Victims Unit. The assigned Deputy City Attorney, along with a Victim Advocate, will keep the victim and supporting adult/family member informed of the legal process throughout the criminal proceedings.

8. Therapeutic Interventions

All children who have been abused should be referred for counseling services. Non-offending family members, including siblings of the victim should also receive referrals for counseling. If a child lacks symptoms, he or she may not need immediate treatment services. However, referrals should be the standard procedure rather than risking that some children who are in need of referrals do not receive them.

8.1 Trauma Assessment

- All children who have been abused should be assessed to determine if they are in need of trauma informed therapeutic services. The assessment protocol should use multiple informants, including the following elements:
 - Standardized assessments
 - A clinical interview of the child
 - Interview of parents and other caretakers
- Children who display posttraumatic symptoms should be referred for trauma-specific treatments, such as Trauma-Focused Cognitive Behavioral Therapy.

8.2 Evidence-Based Therapy Services

- Therapy services should promote healing and not be forensic in nature. Children should receive the most effective therapy available to treat their specific symptoms.
- These services include:
 - Trauma-Focused Cognitive Behavioral Therapy
 - Parent-Child Interaction Therapy
- The therapist should be specially trained in Evidence Based Treatment for child abuse victims.
- Support from parents and/or caretakers is the most important predictor of the child’s ability to make a successful recovery from the trauma.

8.3 Supporting the Child Victim Through the Legal Process

- The Kids and Teens in Court Programs are available to child and teen victims and witnesses who may need to testify in criminal or juvenile court. The program provides:
 - Psychoeducation to caretakers
 - Desensitization to the courtroom for children and adolescents
 - Relaxation and other techniques for reducing anxiety in the courtroom for children and adolescents
 - Information regarding the roles of courtroom personnel
- The support a child victim receives through the legal process can have a positive impact on the child’s recovery.

Appendix 1: Signature Pages (Original signatures on file at Chadwick Center for Children and Families)

“Our attached signatures signify our commitment to the goals of the Child Victim-Witness Protocol.”

Bonnie Dumanis, District Attorney
County of San Diego

Date

Michael Aguirre, City Attorney
City of San Diego

Date

Mary Harris, Director
Child Welfare Services, County of San Diego

Date

John Philips, Chief Deputy
County Counsel, County of San Diego

Date

Charles Wilson, Executive Director
Chadwick Center for Children and Families

Date

Gerald Bracht, Chief Administrative Officer
Palomar Pomerado Health

Date

**Addendum to San Diego Child Victim Witness Protocol
Addendum Number 1**

Case Review: San Diego County has established two regularly scheduled case review teams under the rubric of the Child Protection Team (CPT), one at the Chadwick Center at Rady Children's Hospital and the other at Palomar Hospital. The purpose of the CPT meeting is to discuss and share information regarding the investigation, case status and services needed by the child and family. The CPT problem solves cases that present unique challenges to one or more of the Child Protection Team agencies and serves as an educational forum for multi-disciplinary team learning and best practices.

Chief, Family Protection Division
District Attorney's Office

Chief Deputy County Counsel
County of San Diego

Lieutenant, CID - Family Protection
San Diego Sheriff Department

Chadwick Center for Children and
Families, Rady Children's Hospital

Lieutenant -Child Abuse Unit
San Diego Police Department

Associate Chief Nursing Officer
Palomar Pomerado Hospital

Child Welfare Services
San Diego Health and Human Services
Agency

Pediatrician, Naval Medical Center
San Diego

Dated: