

Basic Course Workbook Series Student Materials

**Learning Domain 9
Crimes Against Children
Version 6.12**

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Student Materials
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Version 6.12**

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THE ACADEMY TRAINING MISSION

The primary mission of basic training is to prepare students mentally, morally, and physically to advance into a field training program, assume the responsibilities, and execute the duties of a peace officer in society.

FOREWORD

The California Commission on Peace Officer Standards and Training sincerely appreciates the efforts of the many curriculum consultants, academy instructors, directors and coordinators who contributed to the development of this workbook. We must also thank the California law enforcement agency executives who allowed their personnel to participate in the development of these training materials.

This student workbook is part of the POST Basic Course Training System. The workbook component of this system provides a self-study document for every learning domain in the Basic Course. Each workbook is intended to be a supplement to, not a substitute for, classroom instruction. The objective of the system is to improve academy student learning and information retention and ultimately contribute to you becoming a peace officer committed to safety, and to the communities you will serve.

The content of each workbook is organized into sequenced learning modules to meet requirements as prescribed both by California law and the POST Training and Testing Specifications for the Basic Course.

It is our hope that the collective wisdom and experience of all who contributed to this workbook will help you, the student, to successfully complete the Basic Course and to enjoy a safe and rewarding career as a peace officer.

MANUEL ALVAREZ, Jr.
Executive Director

LD 9: Crimes Against Children

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Preface

Introduction

Student workbooks

The student workbooks are part of the POST Basic Course Instructional System. This system is designed to provide students with a self-study document to be used in preparation for classroom training.

Regular Basic Course training requirement

Completion of the Regular Basic Course is required, prior to exercising peace officer powers, as recognized in the California Penal Code and where the POST-required standard is the POST Regular Basic Course.

Student workbook elements

The following elements are included in each workbook:

- chapter contents, including a synopsis of key points,
 - supplementary material, and
 - a glossary of terms used in this workbook.
-

How to Use the Student Workbook

Introduction

This workbook provides an introduction to the training requirements for this Learning Domain. It is intended to be used in several ways: for initial learning prior to classroom attendance, for test preparation, and for remedial training.

Workbook format

To use the workbook most effectively, follow the steps listed below.

Step	Action
1	Begin by reading the: Preface and How to Use the Workbook, which provide an overview of how the workbook fits into the POST Instructional System and how it should be used.
2	Refer to the Chapter Synopsis section at the end of each chapter to review the key points that support the chapter objectives.
3	Read the text.
4	Complete the Workbook Learning Activities at the end of each chapter. These activities reinforce the material taught in the chapter.
5	Refer to the Glossary section for a definition of important terms. The terms appear throughout the text and are bolded and underlined the first time they appear (e.g., <u>term</u>).

Chapter 1

Identifying and Classifying Crimes Against Children

Overview

Learning need To effectively carry out their responsibilities for the protection of children as some of the most vulnerable members of society, peace officers need knowledge of the crimes that may be committed against children. The ability to arrest and successfully prosecute depends on the development of probable cause. Peace officers must know the elements required to prove these crimes and to correctly categorize them as misdemeanors or felonies.

Learning objectives The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
<ul style="list-style-type: none">recognize the crime elements required to arrest for:<ul style="list-style-type: none">child harm, injury, or endangerment,corporal punishment or injury of child,lewd or lascivious acts with a child,annoying or molesting children,possession of child pornography, orunlawful sexual intercourse.	9.01.1 9.01.2 9.01.3 9.01.4 9.01.5 9.01.6
<ul style="list-style-type: none">recognize the crime classification as a misdemeanor or felony.	9.01.8

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Overview, Continued

In this chapter This chapter focuses on recognizing, naming, and categorizing crimes against children. Refer to the following chart for specific topics.

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Child Harm, Injury or Endangerment

Introduction

Physical abuse of a child is an act in which a person willfully causes or permits a child to suffer, inflicts unjustifiable pain or mental suffering, or allows a child in his or her care or custody to be placed in a dangerous situation.

Policing in the community

Children who witness violence in the home are at great risk of being the victims of violence themselves or of resorting to violence in defense of an abusive parent. There are a variety of community resources and social service workers who can help in the attempt to break the cycle of violence. Every effort to intervene in high-risk cases is worth making. A partnership including law enforcement, schools, public social service agencies, and non-profit organizations is often the best way to attempt to save children from harm.

Leadership

Many laws have been enacted to protect children from strangers and caregivers. Children suffer from neglect in a number of basic areas including food, clothing, and medical care, and they sometimes lack the emotional care and love they need. Suspects and witnesses in these investigations can be highly emotional and peace officers must be sensitive to the situation.

Some officers may feel rage and the desire for revenge. These feelings cannot be brushed away, nor can they be acted upon. They have to be managed and the officer must act within the confines of reason and the law.

Penal code section

Child harm, injury or endangerment is covered under *Penal Code Section 273a*.

Continued on next page

Child Harm, Injury or Endangerment, Continued

Crime elements

To arrest a subject for the crime of child harm, injury or endangerment, the necessary crime elements include:

- any person
- willfully causing or permitting any child to suffer, *or*
- inflicting unjustifiable physical pain or **mental suffering**, *or*
- having the care or custody of any child, and
- willfully causing or permitting that child to be placed in such a situation that his or her person or health is endangered.

NOTE: This is a general intent crime. Even though willfulness is an element, specific intent to harm, injure, endanger, or cause suffering is not a required element of this crime. It may be sufficient to prove criminal negligence.

Classification

The crime of child harm, injury, or endangerment is either a felony or misdemeanor, depending upon the circumstances or conditions in which the child was placed. The table below shows the distinction between felony and misdemeanor offenses.

Description	Crime Classification	Penal Code Section
Circumstances or conditions likely to produce great bodily harm or death to the child.	felony	273a(a)
Circumstances or conditions other than those likely to produce great bodily harm or death to the child.	misdemeanor	273a(b)
Assault on a child under the age of 8 which results in death.	felony	273ab

Continued on next page

Child Harm, Injury or Endangerment, Continued

Related terms

To understand the crime of child harm, injury, or endangerment, peace officers need to become familiar with the following terms:

Permit means to allow a situation to happen.

A **child** is defined to be any person under 18 years of age.

Criminal negligence is flagrant and reckless disregard for the safety of others or willful indifference to any injury that might occur. Such acts are punishable as crimes themselves if injury or death occurs.

Great bodily injury is significant or substantial injury.

Examples

Example: A mother left her infant in an unventilated vehicle on a 90-degree day while she ran into the supermarket. She has committed the crime of child harm, injury, or endangerment.

Example: A father left dangerous drugs in an area accessible to a child. He has committed the crime of child harm, injury, or endangerment.

Example: An adult babysitter was angry at the 7-year-old for whom she was caring. She punished him by making him stand in a closed closet knowing he was afraid of the dark. She has committed the crime of child harm, injury, or endangerment.

Corporal Punishment or Injury of Child

Introduction	<u>Physical abuse of a child</u> is any willful act of physical force that causes <u>corporal injury</u> to a child.
Penal code section	Corporal punishment or injury of child is covered under <i>Penal Code Section 273d(a)</i> .
Crime elements	<p>To arrest a subject for the crime of corporal punishment or injury of child, the necessary crime elements include:</p> <ul style="list-style-type: none">• any person who,• willfully inflicts upon any child,• any cruel or inhuman, corporal punishment or an injury,• resulting in a traumatic condition. <p>NOTE: This is a general intent crime. Even though willfulness is an element, specific intent to cause injury is not a required element of this crime. It may be sufficient to prove criminal negligence.</p>
Classification	Corporal punishment or injury of child is a felony.
Parental discipline	It is not the intent of the criminal justice system to prevent parents from engaging in reasonable physical discipline of their children. It is considered to be lawful for parents to reasonably discipline their children, including reasonable use of corporal punishment.
Related terms	<p>To understand the crime of physical abuse of a child, peace officers need to become familiar with the following terms:</p> <p><u>Corporal punishment</u> is any kind of punishment inflicted on the body.</p>

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Corporal Punishment or Injury of Child, Continued

Related terms (continued)

A **traumatic condition** is defined in *Penal Code Section 273.5* to be a condition of the body, such as a wound or external or internal injury, whether of a minor or a serious nature, caused by physical force. Several court cases have upheld that this definition does apply to crimes committed under *Penal Code Section 273d(a)*.

Cruel or inhuman punishment is any punishment that is considered to be torture or barbaric, or any punishment that is so disproportionate that it shocks the moral sense of the community.

NOTE: There is no list of crimes that constitute cruel and unusual punishment. Willful injury alone is sufficient to fulfill this element of child abuse.

Examples

Example: A father whipped his son with a belt with such force that the next day the school nurse saw redness and the outline of a belt on the son's back. The father has committed the crime of physical abuse of a child.

Example: An adult babysitter attempted to teach a child not to play with matches. She held a match to a child's hand until a welt was raised. She has committed the crime of corporal punishment or injury of child.

Lewd or Lascivious Acts with a Child

Introduction **Lewd or lascivious acts** with a child means any act upon or with a child committed with the intent of arousing, appealing to, or gratifying sexual desire of the perpetrator or the child.

Penal code section Lewd or lascivious acts with a child is covered under *Penal Code Section 288*.

Crime elements To arrest a subject for the crime of lewd or lascivious acts with a child, the necessary crime elements must include:

- any person
- willfully committing any lewd or lascivious act
- upon or with the body of a child, with
- the intent of arousing, appealing to, or gratifying one's sexual desires or those of the child, when
- the child is under 14 (*Penal Code Section 288(a)*)
 or
- the child is 14 or 15 and the suspect is 10 or more years older than the victim. (*Penal Code Section 288(c)(1)*)

NOTE: A sexual part need not be touched to complete the crime. The act must simply be sexual in nature with intent to arouse either the subject or the child.

NOTE: It need not be bare skin that is touched. Touching through clothing can complete the crime.

NOTE: It also includes victims being compelled to touch themselves.

Continued on next page

Lewd or Lascivious Acts with a Child, Continued

Crime elements (continued)

Crime	Age of Victim		
	13 or under	14 or 15	16 or 17
Lewd or lascivious acts with a child (<i>Penal Code Section 288</i>) Touching required	- sexual touching by anyone	- sexual touching when suspect is 10 or more years older than the victim	- other crimes may apply

Classification

The crime of lewd or lascivious acts with a child is a felony.

Related terms

To understand the crime of lewd or lascivious acts with a child, peace officers need to become familiar with the following terms.

A **lascivious act** is any act which has a tendency to excite lust.

A **lewd act** is one which is committed with a disregard of social constraints.

Upon or with the body of a child means that a child's body or clothing is touched.

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Lewd or Lascivious Acts with a Child, Continued

Related statutes

The table below shows the additional Penal Code sections related to lewd or lascivious acts with a child.

Description	Crime Classification	Penal Code Section
Act committed by use of force, violence, <u>duress</u> , <u>menace</u> , or fear of immediate and unlawful injury of the child or another person.	felony	288(b)(1)
Continual sexual abuse: When an offender has recurring access to a child under the age of 14 and commits three or more felonies over a period of at least three months.	felony	288.5

Continued on next page

Lewd or Lascivious Acts with a Child, Continued

**Related
statutes
(continued)**

Description	Crime Classification	<i>Penal Code Section</i>
Every person who knows, should have known, or believes that another person is a minor, and who knowingly distributes, sends, causes to be sent, exhibits, or offers to distribute or exhibit by any means, including by physical delivery, telephone, electronic communication, or in person, any harmful matter that depicts a minor or minors engaging in sexual conduct, to the other person with the intent of arousing, appealing to, or gratifying the lust or passions or sexual desires of that person or of the minor, and with the intent that either person touch an intimate body part of the other, is guilty of a misdemeanor, punishable by imprisonment in a county jail not exceeding one year, or is guilty of a felony, punishable by imprisonment in the state prison for two, three, or five years..	felony/ misdemeanor	288.2(a)(1)

Continued on next page

Lewd or Lascivious Acts with a Child, Continued

**Related
statutes
(continued)**

Description	Crime Classification	<i>Penal Code Section</i>
If the matter used by the person is harmful matter but does not include a depiction or depictions of a minor or minors engaged in sexual conduct, the offense is punishable by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison for 16 months, two or three years.	felony/ misdemeanor	288.2(a)(2)

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Lewd or Lascivious Acts with a Child, Continued

Related statutes (continued)

Description	Crime Classification	Penal Code Section
Any person 18 years of age or older who engages in sexual intercourse or sodomy with a child who is 10 years of age or younger.	felony	288.7(a)
Any person 18 years of age or older who engages in oral copulation or sexual penetration, as defined in Section 289 with a child who is 10 years of age or younger.	felony	288.7(b)

Examples

- Example: An adult female talked a 13-year-old boy into kissing her and then placed his hand on her breast. The woman has committed the crime of lewd or lascivious acts with a child.
- Example: A 35-year-old woman began to rub the penis of her daughter's 15-year-old boyfriend through his pants. She has committed the crime of lewd or lascivious acts with a child.
-

Annoying or Molesting Children

Introduction **Annoying or molesting children** is any act committed against a person under the age of 18 which would annoy any reasonable person.

Penal code section Annoying or molesting children is covered under *Penal Code Section 647.6*.

Crime elements To arrest a subject for the crime of annoying or molesting children, the necessary crime elements include:

- any person
- annoying or molesting
- any child under the age of 18.

NOTE: This is a general intent crime. It is not necessary to prove that subjects intended to annoy or molest, merely that they intended to commit the annoying act.

NOTE: Touching is not a required element of this crime. The offense can be words alone.

Classification Annoying or molesting children is a misdemeanor.

It can also be classified as a felony under specific subsections of *Penal Code Section 647.6*.

It can also be classified as a misdemeanor under *Penal Code Section 647.6(a)(2)*.

Continued on next page

Annoying or Molesting Children, Continued

Related terms

To understand the crime of annoying or molesting children, peace officers need to become familiar with the following terms:

Annoy means to harass, disturb, or irritate, especially by repeated acts.

Molest means to make annoying sexual advances.

Additional penal code sections

The table below shows the subsections of *Penal Code Section 647.6* which are related to annoying or molesting children.

Description	Crime Classification	Penal Code Section
Subject commits an act after entering an inhabited house or dwelling without consent.	felony	647.6(b)
Arrest with prior conviction <i>Penal Code Section 647.6</i> .	felony	647.6(c)(1)
The subject commits an act and has a prior felony conviction under <ul style="list-style-type: none">- <i>Penal Code Section 288</i>, lewd or lascivious acts upon a child; or- <i>Penal Code Section 311.4</i>, use of a child for pornography.	felony	647.6(c)(2)

Continued on next page

Annoying or Molesting Children, Continued

Examples

Example:	An adult female made sexually explicit remarks to a 17-year-old boy about his body. She committed the crime of annoying or molesting children.
Example:	An adult male unlawfully entered a home and began to masturbate in front of a 4-year-old child. He committed the crime of annoying or molesting children. This is classified as a felony.
Example:	A teacher wrote nine sexually explicit love letters to a 13-year-old student saying she loved him and dreamed about him. She committed the crime of annoying or molesting children. Felony or misdemeanor classification will depend on prior convictions.

Continued on next page

Annoying or Molesting Children, Continued

Comparing lewd acts with annoying and molesting

The following chart provides a quick guide for distinguishing between *Penal Code Sections 288 and 647.6*.

Crime	Age of Victim		
	13 or under	14 or 15	16 or 17
Lewd or lascivious acts with a child <i>(Penal Code Section 288)</i> Touching required	- sexual touching by anyone	- sexual touching when suspect is 10 or more years older than the victim	- other crimes may apply
Annoying or molesting children <i>(Penal Code Section 647.6)</i> Touching <i>not</i> required, although it can be	- verbal annoying with sexual intent	- verbal annoying with sexual intent, or - sexual touching when suspect is not 10 years older than the victim	- verbal annoying with sexual intent, or - sexual touching by anyone

Possession of Child Pornography

Introduction

Possession of child pornography is an act in which a person knowingly possesses or controls material showing a person under the age of 18 years engaging in or simulating sexual conduct.

Penal code section

The possession of child pornography is covered under *Penal Code Section 311.11*.

Crime elements

To arrest a subject for the crime of possession of child pornography the necessary crime elements include:

- knowingly possesses, or
- controls any matter,
- showing a child under the age of 18 years,
- engaging in or simulating sexual conduct.

NOTE: Peace officers must remember that nudity is not necessarily lewd, and they should pay close attention to what is defined as sexual conduct by *Penal Code Section 311.4(d)*. In the same way, nudity is not required for an act to be considered lewd or pornographic.

NOTE: *Penal Code Section 311.11(c)* establishes that it is not necessary to prove that the matter is obscene in order to establish a violation.

Classification

The crime of possession of child pornography *Penal Code Section 311.11(a)* is classified as a felony.

Violation of *Penal Code Section 311.11(a)* with a previous conviction falls under *Penal Code Section 311.11(b)* and is a felony.

Continued on next page

Possession of Child Pornography, Continued

Related terms

To understand the crime of possession of child pornography, peace officers need to become familiar with the following terms:

Possession means having domain, control, and knowledge of the object.

Controlling means having power or authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee.

Simulated means giving the appearance of something. Simulated sexual conduct means any act or pose that gives the appearance of being sexual conduct.

Materials included as child pornography

Any matter, in the case of child pornography, may include the following items:

- Developed or undeveloped film
 - Negatives
 - Photocopies
 - Filmstrips
 - Slides
 - Videotapes or laser discs
 - Books, magazines, newspapers, or written material photographic in nature
 - Computer hardware or software including:
 - floppy discs,
 - data storage media,
 - CD-ROM players,
 - computer generated images, or
 - computer imaging equipment.
-

Continued on next page

Possession of Child Pornography, Continued

Materials NOT included as child pornography

Any matter, in the case of child pornography, does NOT include the following items:

- Drawings,
 - Figurines,
 - Statues,
 - Any film rated by the Motion Picture Association of America,
 - Live or recorded telephone messages when transmitted, disseminated, or distributed as part of a commercial transaction,
 - Nudity alone may not constitute child pornography.
-

Sexual conduct

Sexual conduct is defined by *Penal Code Section 311.4(d)* as any of the following acts, whether they are committed alone, between members of the same sex, members of the opposite sex, or between humans and animals.

Examples of sexual conduct include:

- sexual intercourse,
 - oral copulation,
 - anal intercourse,
 - anal-oral intercourse,
 - masturbation,
 - bestiality,
 - sexual sadism,
 - sexual masochism,
 - penetration of the vagina or rectum by any object in a lewd or lascivious manner,
 - exhibition of the genitals, pubic, or rectal area for the purpose of sexual stimulation of the viewer,
 - any lewd or lascivious act as defined in *Penal Code Section 288*, or
 - excretory functions performed in a lewd or lascivious manner.
-

Continued on next page

Possession of Child Pornography, Continued

Related statutes

The table below shows the additional penal code sections which deal with particular instances of the crime.

Description	Crime Classification	<i>Penal Code Section</i>
Manufacturing or distributing child pornography	felony	<i>311.1(a)</i>

Examples

Example: An adult female was in possession of a videotape showing her 12-year-old daughter engaging in sexual intercourse. She has committed the crime of possession of child pornography.

Example: An adult male is discovered, during a routine traffic stop, to have photographs of a young child orally copulating a man. He has committed the crime of possession of child pornography.

Unlawful Sexual Intercourse

Introduction

Unlawful sexual intercourse is sexual intercourse with a minor who is not married to the perpetrator.

Penal code section

Unlawful sexual intercourse is covered under *Penal Code Section 261.5*.

Crime elements

To arrest a subject for the crime of unlawful sexual intercourse, the necessary crime elements include:

- sexual intercourse,
 - with a minor under the age of 18,
 - who is not the spouse of the perpetrator.
-

Classification

The crime of unlawful sexual intercourse is dependent upon the age difference between the perpetrator and the victim.

If the age difference between perpetrator and victim is...	the crime is classified as a...
three years or less	misdemeanor
greater than three years	felony

Continued on next page

Unlawful Sexual Intercourse, Continued

Related terms

To understand the crime of unlawful sexual intercourse, peace officers need to become familiar with the following terms:

Sexual intercourse is any penile-vaginal penetration, however slight.

Spouse is a person's legal husband or wife.

Examples

Example: A 25-year-old male had consensual sexual intercourse with his family's 16-year-old babysitter. He has committed the crime of unlawful sexual intercourse.

Example: Two 16-year-olds were dating. They willingly engaged in sexual intercourse. They have committed the crime of unlawful sexual intercourse.

Commercial Sexual Exploitation of Children

Introduction	Peace officers must be trained to recognize the commercial sexual exploitation of children and identify victims of human trafficking.
Penal code section	The human trafficking of a minor/commercial sexual exploitation of children is covered under <i>Penal Code Section 236.1(c)</i> .
Crime elements	<p>Crime elements to arrest a subject for the crime of human trafficking of a minor/commercial sexual exploitation of children, the necessary crime elements include:</p> <p>Any person who causes, induces, or persuades a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to effect or maintain a violation of <i>Penal Code Section 266, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518</i>.</p>
Classification	The crime of human trafficking of a minor/commercial sexual exploitation of children is a felony.
Statutory changes	<p>Changes in legislation made the laws that criminalized soliciting or engaging in prostitution inapplicable to CSE youth. This changed the foundation of how child sex trafficking cases are investigated and how minor victims are identified and engaged. The changes include that:</p> <ul style="list-style-type: none">• CSE minors may no longer be prosecuted for soliciting or engaging in prostitution and may not be detained in a county juvenile justice center on suspicion of that crime;• A child abuse and neglect report be made to the local county child welfare agency should officers encounter a minor involved in a commercial sex act; and• A minor be taken into temporary protective custody pursuant to <i>Welfare and Institutions Code Section 300 (b)</i>, for either release to placement to a legal parent or guardian. <p>Peace officers must take an approach that is welfare and safety oriented, including the use of trauma- informed rapport building and collaboration with community providers to begin their initial interviews with a victim.</p>

Continued on next page

Commercial Sexual Exploitation of Children, Continued

Initial Interview Peace officers are the first people with whom CSE youth come into contact. This encounter sets the tone and framework for that youth's experience, as well as how receptive they may be to all adults from that point forward. It is essential, for both the case and the youth's well-being, that this interaction be positive, mindful, and rooted in harm reduction strategies.

Action/Behavior	Strategies
Angry, defiant, combative, shut down, "I choose to do this, nobody makes me."	<ul style="list-style-type: none">• Offer food, clothing, a nap, or to meet any other basic needs• Allow time for decompression, and for the youth to use the restroom and to freshen up if desired• Create a "soft space" for interviewing. Refrain from interviewing in any holding areas or interrogation rooms.• Allow the youth to make a phone call to a verifiable support person such as their social worker, a close adult friend or relative.
Nervous, Evasive, Preoccupied	<ul style="list-style-type: none">• Remind youth they are not in trouble or under arrest. You are there to help and to ensure they are safe.• If a phone is seized, attempt to process it as soon as possible so that it can be returned to the youth. If the youth is anxious and angry about their phone this may be indicative that the youth is controlled and fearful that the exploiter will be angry if unable to reach them.
Disoriented	<ul style="list-style-type: none">• Trauma impacts a youth's ability to recall information. There may be gaps in their story, and it may be presented in a non-linear fashion. Additional information will likely be recalled over time.• Exploiters may use chemical substances to control their victims; be mindful a youth may be under the influence or coming down.• Exploiters also use food and sleep deprivation as a means for control-ensure youth have access to these necessities.

Continued on next page

Commercial Sexual Exploitation of Children, Continue

Related terms

To understand the crime of human trafficking of a minor/commercial sexual exploitation of children, peace officers need to become familiar with the following terms:

Coercion includes a scheme, plan, or pattern intended to cause a person to believe that failure to perform an act would result in serious harm to or physical restraint against any person; the abuse or threatened abuse of the legal process; debt bondage; or providing and facilitating the possession of a controlled substance to a person with the intent to impair the person's judgment.

Commercial sex act means sexual conduct on account of which anything of value is given or received by a person.

Deprivation or violation of the personal liberty of another includes substantial and sustained restriction of another's liberty accomplished through force, fear, fraud, deceit, coercion, violence, duress, menace, or threat of unlawful injury to the victim or to another person, under circumstances where the person receiving or apprehending the threat reasonably believes that it is likely that the person making the threat would carry it out.

Duress includes a direct or implied threat of force, violence, danger, hardship, or retribution sufficient to cause a reasonable person to acquiesce in or perform an act which he or she would otherwise not have submitted to or performed; a direct or implied threat to destroy, conceal, remove, confiscate, or possess an actual or purported passport or immigration document of the victim; or knowingly destroying, concealing, removing, confiscating, or possessing an actual or purported passport or immigration document of the victim.

NOTE: Coercion, deprivation of personal liberty, and/or duress are not required crime elements of *Penal Code Section 236.1(c)*, but may be considered for enhancements pursuant to *Penal Code Section 236.1(c)(2)*.

Continued on next page

Commercial Sexual Exploitation of Children, Continued

Identification of victims Peace officers need to be aware of the indicators when a child is engaged in the commercial sexual exploitation of children. When a peace officer comes into contact with a child who has been deprived of his or her personal liberty. They should consider the following indicators:

- Signs of trauma, fatigue, injury, or other evidence of poor care.
 - The person is withdrawn, afraid to talk, or his or her communication is censored by another person.
 - The person does not have freedom of movement.
 - The person lives and works in one place.
 - The person owes a debt to his or her employer.
 - Security measures are used to control who has contact with the person.
 - The person does not have control over his or her own government-issued identification or over his or her worker immigration documents (*Penal Code Section 236.2*).
-

Penal code section 647(b)(5) A child under 18 years of age who is alleged to have engaged in conduct to receive money or other consideration that would, if committed by an adult, is not in violation. A commercially exploited child under this paragraph may be adjudged a dependent child of the court pursuant to *Welfare and Institutions Code Section 300(b)(2)* and may be taken into temporary custody pursuant to *Welfare and Institutions Code Section 305(a)*, if the conditions allowing temporary custody without warrant are met.

Welfare and Institutions code section 305(a) Any peace officer may, without a warrant, take into temporary custody a minor when the officer has reasonable cause for believing that the minor is a person described in *Welfare and Institutions Code Section 300*, and, in addition, that the minor has an immediate need for medical care, or the minor 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. 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. If the parent or guardian cannot be contacted, the peace officer shall notify a social worker in the county welfare department to assume custody of the child.

Continued on next page

Commercial Sexual Exploitation of Children, Continued

Defense to a charge of a crime

In addition to any other affirmative defense, it is a defense to a charge of a crime that the person was coerced to commit the offense as a direct result of being a human trafficking victim at the time of the offense and had a reasonable fear of harm. This defense does not apply to a serious felony, as defined in *Penal Code Section 1192.7(c)*, or a violent felony, as defined in *Penal Code Section 667.5(c)*, or a violation of *Penal Code Section 236.1* (*Penal Code Section 236.23(a)*).

Consent by a victim of human trafficking who is a minor at the time of the commission of the offense is not a defense to a criminal prosecution under this section. (*Penal Code 236.1(e)*).

Declaration of law enforcement officer for a victim of trafficking in persons

Within 15 business days of the first encounter with a victim of human trafficking, as defined by *Penal Code Section 236.1*, law enforcement agencies shall provide brief letters that satisfy the following Law Enforcement Agency (LEA) endorsement regulations as found in the *Code of Federal Regulations Title 8 Section 214.11(f)(1)* (*Penal Code Section 236.5*).

Chapter Synopsis

Learning need	To effectively carry out their responsibilities for the protection of children as some of the most vulnerable members of society, peace officers need knowledge of the crimes that may be committed against children. The ability to arrest and successfully prosecute depends on the development of probable cause. Peace officers must know the elements required to prove these crimes and to correctly categorize them as misdemeanors or felonies.
Child harm, injury, or endangerment [9.01.1, 9.01.8]	<p>An act in which a person willfully causes or permits a child to suffer, inflicts unjustifiable pain or mental suffering, or allows a child in his or her care or custody to be placed in a dangerous situation.</p> <p>The crime of child harm, injury, or endangerment is covered under <i>Penal Code Section 273a</i>.</p>
Physical abuse of a child [9.01.2, 9.01.8]	<p>Any willful act of physical force that causes corporal injury to a child.</p> <p>The crime of physical abuse of a child is covered under <i>Penal Code Section 273d</i>.</p>
Lewd or lascivious acts with a child [9.01.3, 9.01.8]	<p>Any act upon or with the body of a child committed with the intent of arousing, appealing to, or gratifying sexual desires of the perpetrator or the child.</p> <p>The crime of lewd or lascivious acts with a child is covered under <i>Penal Code Section 288</i>.</p>
Annoying or molesting children [9.01.4, 9.01.8]	<p>Any act committed against a person under the age of 18 which would annoy any reasonable person.</p> <p>The crime of annoying or molesting children is covered under <i>Penal Code Section 647.6</i>.</p>

Continued on next page

Chapter Synopsis, Continued

**Possession
of child
pornography
[9.01.5,
9.01.8]**

An act in which a person knowingly possesses or controls material showing a person under the age of 18 years engaging in or simulating sexual conduct.

The crime of possession of child pornography is covered under *Penal Code Section 311.11*.

**Unlawful
sexual
intercourse
[9.01.6,
9.01.8]**

Sexual intercourse with a minor who is not married to the perpetrator.

The crime of unlawful sexual intercourse is covered under *Penal Code Section 261.5*.

**Commercial
sexual
exploitation of
children**

Any person who causes, induces, or persuades a person who is a minor at the time of commission of the offense to engage in a commercial sex act, with the intent to effect or maintain a violation of *Penal Code Section 266, 266i, 266j, 267, 311.1, 311.2, 311.3, 311.4, 311.5, 311.6, or 518*.

The crime of the commercial sexual exploitation of children is covered under *Penal Code Section 236.1(c)*.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. A peace officer is directed by a concerned parent to a woman handing out pamphlets on the street. The pamphlets show a graphic depiction of a male and a female, who appear to be teenagers, demonstrating how to use a condom. The topic of the pamphlet is safe sex. Can the woman be arrested for possession of child pornography? Why or why not? If she is passing out the pamphlets specifically to young teens, is she committing any other crime against children?

2. What crime elements distinguish the crime of physical abuse of a child from the crime of annoying or molesting children? Under what circumstances is each crime a felony?

Continued on next page

Workbook Learning Activities, Continued

Activity questions (continued)

3. A 30-year-old male flees in his vehicle during a routine traffic stop. When the vehicle is stopped after a high-speed chase, the officers discover an unrestrained 2-year-old toddler crying in the back seat. In addition to any other crimes associated with the traffic stop and his flight, what, if any, crimes against children may have taken place?

4. A 35-year-old woman masturbates in her bedroom in front of her son's 13-year-old male friend. The friend states that he likes the experience and asks if he can watch again sometime. Given the attitude of the young man, has any crime against children been committed? Why or why not?

Continued on next page

Activity questions (continued)

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Workbook Learning Activities, Continued

Activity questions (continued)

7. A peace officer is dispatched to a large protest at a local bookstore. The protest leader shows the peace officer a book that is offered for sale in the store. The book contains photographs of nude male and female children, alone and together, sometimes hugging. Some of the boys are depicted with erections. The protest leader wants the store owner arrested and the book removed from the store. Is the book child pornography? Should the officer arrest the store owner and remove the books? If so, what is the charge?

Chapter 2

Reporting Requirements of Suspected Child Abuse

Overview

Learning need The California Penal Code mandates that certain professional occupations follow specific requirements for reporting suspected child abuse cases to the proper authority. Failure to do so is a crime.

Learning objectives The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
• identify by category the professional occupations required to report suspected child abuse.	9.02.1
• recognize the specific law enforcement reporting requirements.	9.02.2
• recognize the required documentation when investigating crimes against children.	9.02.3
• recognize a peace officer's responsibility for maintaining the confidentiality of the reporting party.	9.02.4

Continued on next page

Overview, Continue

In this chapter This chapter focuses on the reporting requirements in cases of suspected child abuse. Refer to the following chart for specific topics.

Topic	See Page
Reporting Requirements	2-3
Confidentiality for Reporting Party	2-8
Chapter Synopsis	2-10
Workbook Learning Activities	2-12

Reporting Requirements

Introduction

Penal Code Section 11166 **mandates** that certain professional occupations are required to report suspected child abuse to the proper authority. There are certain requirements for how and when reporting must be completed.

Professionals responsible for reporting suspected child abuse

Several professionals are required by law (*Penal Code Section 11166*) to report any incident of which they have direct knowledge, or if they have observed a child that they know or reasonably suspect has been a victim of **child abuse**. These professionals include:

- child care custodians (including teachers and peace officers),
- health practitioners (medical and non-medical),
- employees of child protective agencies,
- child visitation monitors,
- firefighters,
- clergy (except when in confessional),
- animal control officers,
- humane society officers, and
- commercial film processors.

NOTE: Throughout this section, the professional who reports the child abuse incident will be referred to as “the reporter.”

Continued on next page

Reporting Requirements, Continued

Related terms

To understand reporting requirements, peace officers need to become familiar with the following terms.

Child care custodian is an employee who has direct contact and supervision of children including, but not limited to:

- those working in public and private schools, youth centers, youth recreation programs or organizations, child care facilities, foster homes, group homes, residential care facilities,
- social workers,
- probation officers,
- parole officers,
- peace officers,
- including peace officers at schools. (*Penal Code Section 11165.7*)

Health practitioner is a physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, or any other person who is licensed under the *Business and Professions Code Division 2*.

Reasonable suspicion means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse. (*Penal Code Section 11166(a)*)

Contacting child protective agency

Once a reporter knows or has reasonable suspicion a child is a victim of child abuse, he or she shall immediately, or as soon as possible, contact a child protective agency by telephone.

A **child protective agency** means a county welfare department (e.g., Department of Social Services, Department of Child Services, Child Welfare Services), a county probation department, or a police or sheriff's department. It does not include school district police or a security department.

Continued on next page

Reporting Requirements, Continued

Conducting the investigation	Depending on the relationship of the suspected abuser to the child, different child protective agencies may also conduct a separate investigation of the case.
-------------------------------------	--

Follow-up reporting	A report shall be prepared, written, and sent to the child protective agency <i>within 36 hours</i> of the initial contact.
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A report shall be sent even if the child has died; even though the suspected abuse may not have been a contributing factor to the death.

Reporting responsibilities	In the interest of cross reporting, a county probation or welfare agency shall immediately, or as soon as practical, report by telephone suspected incidents of child abuse. It shall contact the:
-----------------------------------	--

- child protective agency having jurisdiction over the case and/or
 - district attorney's office.
-

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Reporting Requirements, Continued

Content of report

When initially reporting a suspected child abuse incident and submitting the follow-up written report, the following information **shall** be included. Further details of the content of the written report will vary with the circumstances.

For the telephone report	For the written report
<ul style="list-style-type: none">- Name and age of child- Name of the reporter- Location of child- Nature and extent of injuries- Current condition of child- Facts which lead to reasonable suspicion that abuse has occurred.	Fact-sensitive information including: <ul style="list-style-type: none">- name and age of child,- name of the reporter,- location of child,- nature and extent of injuries,- condition of child when abuse was reported,- facts which lead to the suspicion of abuse,- relationship to suspected abuser,- nature of suspected abuse (i.e., sexual, physical, etc.), and- history of previous abuse.

NOTE: For an example of forms that may be used for taking a report of suspected child abuse, see the Supplement Materials section in this workbook.

Penal code section

Failure to report a suspected child abuse is covered in *Penal Code Section 11166(b)*.

Crime elements

A professional required to report a child abuse who does not report a suspected child abuse which they know to exist, or reasonably should know to exist.

Continued on next page

Reporting Requirements, Continued

Classifications

Failure to report suspected child abuse is a misdemeanor.

Immunity from liability

Penal Code Section 11172 states that anyone who reports a suspected child abuse incident shall not incur civil or criminal liability for any report required or authorized. This means that if a reporter files a report in good faith, he or she cannot be sued or arrested for the report's contents (even if the contents turn out to be wrong).

However, if one knowingly files a false report, he or she can incur civil or criminal liability for damages caused as a result.

Confidentiality for Reporting Party

Introduction The general public is often reluctant to get involved in reporting suspected child abuse because of the possible angry reaction of the suspected abuser. To encourage reporting and as a means to protect the reporter from any publicity or from negative attention by the suspected abuser, the identity of the person making the report shall remain confidential.

Confidentiality *Penal Code Section 11167* ensures that the identity of the person reporting a suspected child abuse incident shall be confidential (this includes the reporter's employer).

Only the following will have access to the reporter's identity:

- Child protective agency investigating the case
 - Counsel representing a child protective agency
 - District attorney in a criminal prosecution
 - Licensing agency when abuse in out-of-home care is suspected
 - Others pursuant to a court order
-

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Confidentiality for Reporting Party, Continued

Confidentiality of reports	<p><i>Penal Code Section 11167.5</i> mandates that the reports shall be confidential and may be disclosed only to the following organizations:</p> <ul style="list-style-type: none">• investigating agency• Department of Justice when working with child protective agencies• multi-disciplinary personnel• persons responsible for licensing of facilities that care for children• State Department of Social Services• hospital scan teams• coroners and medical examiners when conducting a postmortem examination on a child• Board of Prison Terms• personnel from an agency responsible for making a placement of a child• persons identified by the Department of Justice as listed in the Child Abuse Central Index (<i>Penal Code Section 11170(c)</i>)• out-of-state law enforcement agencies conducting an investigation of child abuse or neglect• persons who have verified with the Department of Justice that they are listed in the Child Abuse Central Index (<i>Penal Code Section 11170(e)</i>)• each chairperson of a county child death review team
Penal code section	Failure to maintain confidentiality is covered in <i>Penal Code Section 11167.5</i> .
Crime elements	Any violation of the confidentiality of the identity of the reporter and/or the report itself shall be considered a misdemeanor.
Classification	Failure to keep the identity of the reporter confidential is a misdemeanor.

Chapter Synopsis

Learning need	The California Penal Code mandates that certain professional occupations follow specific requirements for reporting suspected child abuse cases to the proper authority. Failure to do so is a crime.
Professional occupations required to report suspected child abuse [9.02.1]	Several professional occupations are required to report suspected child abuse they are listed in <i>Penal Code Section 11166</i> .
Law enforcement reporting requirements [9.02.2]	Law enforcement agencies have specific requirements for reporting child abuse which are stated in <i>Penal Code Sections 11166 and 11167</i> .
Investigating report documentation [9.02.3]	When initially reporting a suspected child abuse incident and submitting the follow-up written report, the following information shall be included. Further details of the content of the written report will vary with the circumstances.
Confidentiality for reporting party [9.02.4]	Confidentiality for reporting party is covered under <i>Penal Code Section 11167</i> .

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Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. A woman looks out of a window when she hears a child scream. She sees her male neighbor in his backyard whipping his 7-year-old son on the bottom and back of his legs with a doubled up belt. Is this woman committing a crime if she chooses not to become involved and does not report the crime? If so, is the crime a felony or a misdemeanor?

2. Ten-year-old Lori arrives at school appearing to be annoyed and angry. When her teacher asks her about it, Lori says that her mother spanked her for telling a lie and she wishes her mother wouldn't do that. No marks are visible, but Lori is wearing pants. Is the teacher required to report this incident to a child protective agency? If you were giving a seminar on child abuse reporting to teachers at this school, what types of additional information would you encourage teachers to try to get from children in these types of situations?

Continued on next page

Activity questions (continued)

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Workbook Learning Activities, Continued

Activity questions (continued)

5. A day care worker filed a report of suspected child abuse when one of the children under her care arrived with several prominent bruises on her arms and legs. When the charge was investigated, it was determined that, as the parents alleged, the youngster had fallen down a steep embankment while playing. The parents suspect that the report came from the day care provider and have informed her that they intend to sue for civil damages. If the day care provider calls the local law enforcement agency, how might the officer answer her concerns?

 6. A peace officer enters a home to take a report on a burglary. While there, she notices a toddler wearing only a diaper. It is the middle of winter and the apartment is cold. The toddler's parents are clad in wool sweaters. As the toddler enters the room, the father abruptly takes him to his bedroom. The officer notices, however, that the toddler has several bruises and what seem to be new welts. What, if any, additional action should the officer take?
-

Workbook Learning Activities, Continued

Student notes

Chapter 3

Warrantless Entry to Protect Minors

Overview

Learning need Peace officers have the authority to make a warrantless entry into a home whenever they reasonably believe a minor is in immediate danger of being physically abused, neglected, or sexually exploited.

Learning objectives The chart below identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to:	Objective ID
<ul style="list-style-type: none">recognize the legal basis for entry without a warrant to protect a minor.	9.03.1
<ul style="list-style-type: none">recognize the exigent circumstances that could lead an officer to reasonably believe that there is an immediate threat to a minor.	9.03.2

In this chapter This chapter focuses on the legality of entering and intervening without a warrant. Refer to the following chart for specific topics.

Topic	See Page
Warrant vs. Warrantless Entry	3-2
Chapter Synopsis	3-9
Workbook Learning Activities	3-10

Warrant vs Warrantless Entry

Introduction When peace officers receive information that a minor needs to be removed from the premises because the minor is endangered, but not in IMMEDIATE danger, the officers need to obtain a warrant. The warrant allows the officers to legally enter the premises.

- NOTE: Before peace officers enter, they need to comply with *Penal Code Section 1531* (knock and notice).
-

Conditions restricting entry A peace officer is not permitted inside a residence without:

- a warrant, or
 - exigent circumstances, or
 - valid consent from the occupant.
-

Warrantless entry requirements Without a warrant or valid consent, peace officers may enter the premises ONLY when there are exigent circumstances. A reasonable suspicion that a minor is presently endangered is ONE TYPE of exigent circumstance.

Exigent circumstances Exigent circumstance means an emergency situation requiring swift action to prevent:

- imminent danger to a person's life or safety,
- serious damage to property,
- imminent escape of a suspect, or
- evidence is about to be destroyed or removed.

NOTE: Endangerment can encompass a great variety of meanings for children depending on the circumstances of events (i.e., age, neglect, abuse, abandonment, unsafe environment)

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Warrant vs Warrantless Entry, Continued

Warrantless entry

Peace officers must consider the quality of information relied upon to reach the conclusion that there is an exigent circumstance.

In **People v. Brown** (1970) 12 Cal.App.3d 600, the peace officer intervened based upon a reasonable suspicion of sexual abuse upon an incapacitated victim.

The Facts	The Court Ruling
<p>A police detective received an urgent phone call from a minor male that his severely disabled sister was being sexually molested, right then by their father, at their home. The detective, who had been to the home on at least five occasions and knew the caller personally, then met with him to hear more details before proceeding to the house.</p> <p>In addition, the detective had previously been informed by a probation officer, who was working with the family, about prior acts of sexuality in the household between the father and this same daughter.</p> <p>Based on the totality of the circumstances known to the officer, it was reasonable for him to believe that a helpless female victim was being assaulted. Therefore, it was reasonable for him to enter the house without a warrant or consent to prevent or interrupt a serious felony.</p>	<p>The right of privacy and domestic security extends no impenetrable protective cloak against the prevention of a felonious assault upon a helpless victim.</p> <p>The victim's right to physical and mental integrity outweighs the right of the aggressor to remain secure in his domestic sanctuary.</p>

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Warrant vs Warrantless Entry, Continued

Warrantless entry (continued)

Peace officers must consider the safety of the juvenile when deciding to enter the premises without a warrant.

In re **Dawn O.** (1976) 58 Cal.App.3d 160, the courts decided the facts reasonably indicated that an unattended child (neglect) constitutes a substantial threat to his or her safety. The details of the case are described below.

The Case	The Court Ruling
<p>The police officer took a 5-year-old child back home at 10:30 pm. The officer knocked on the door but got no response.</p> <p>The police officer entered the residence in an attempt to determine whether there was another child alone in the house not for the purpose of securing the residence.</p>	<p>The court ruled that, under the circumstance, it was reasonable to determine if a child had been left home in a dangerous circumstance.</p>

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Warrant vs Warrantless Entry, Continued

Warrantless entry (continued)

In **People v. Sutton** (1976) 65 Cal.App.3d 341, a peace officer had to determine whether the child was under the care of a responsible adult (endangerment of a minor in a private dwelling).

The Facts	The Court Ruling
<p>At 2:00 am., a peace officer received reliable information from a citizen-informant that two small children had been left alone in a named apartment unit. At the apartment, in which lights and the TV were on, no one responded to the officer's repeated knocking.</p> <p>Over 10 minutes later, a female drove up and started to enter the apartment with a key. The officer observed that she was very intoxicated, and that there was considerable trash and dirty clothes strewn about the kitchen area, and a baby bottle in the living room.</p> <p>Concluding that the woman's condition made her unable to care for small children, the peace officer entered the apartment and found two infants, 6 and 16 months old, alone in the bedroom.</p>	<p>The court held that there is no special or different rule regarding warrantless entries to the purpose of protecting infant children.</p> <p>Rather, the definition of exigencies is always the same; there must be "an imminent and substantial threat to life, health, or property."</p> <p>The information known to this peace officer justified his warrantless entry to prevent or interrupt apparent child-neglect and/or child-endangerment.</p>

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Warrant vs Warrantless Entry, Continued

Warrantless entry (continued)

In **People v. Payne** (1977) 65 Cal.App.3d 679, the court ruled that the officers' warrantless entry into a private dwelling was justified by exigent circumstances, which included prior reliable information about the suspect.

The Facts	The Court Ruling
<p>Following reports from a reliable informant that the defendant molested children in a bedroom in his garage, police set up surveillance in which the defendant was seen picking up a male juvenile and driving him to the garage.</p> <p>The peace officers repeatedly knocked and announced they were conducting a child molestation investigation.</p> <p>When the defendant did not respond, the peace officers reasonably believed, despite the absence of any call for help by the juvenile, that an emergency situation had arisen in which a particularly heinous crime was being committed.</p>	<p>The court ruled that police officers, in forcing open a door in the defendant's bedroom, acted lawfully under the doctrine of exigent circumstances. Therefore, they did not violate the defendant's right to privacy or domestic security.</p>

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Warrant vs Warrantless Entry, Continued

Warrantless entry (continued)

In **People v. Miller** (1999) 69 Cal.App.4th 190, the peace officer made a warrantless entry into a home to determine if a 2-year-old wandering in the neighborhood could be safely reunited with his parents and siblings.

The Case	The Court Ruling
<p>A 2-year-old boy was found wandering in a neighborhood.</p> <p>A couple took custody of the boy and was also told by another woman that she had seen the boy wandering on a previous occasion.</p> <p>A peace officer responded to the boy's home and found the front door ajar. The peace officer pushed open the door and announced himself several times but got no answer.</p> <p>He then entered the residence and found the boy's father inside. The father said he had been asleep and didn't know where his wife and kids were.</p> <p>The peace officer searched the residence with the father's consent and located explosives and other contraband.</p>	<p>The father moved to suppress evidence located in the house that was found by the peace officer because he believed the warrantless search was illegal.</p> <p>The court ruled that the exigency was clear. It was proper for the peace officer to enter the residence "to determine if the parents and siblings were home, if they were in need of assistance, and whether the child could be safely reunited with them."</p>

Continued on next page

Warrant vs Warrantless Entry, Continued

Examples

- Example: A peace officer received a reliable report from a citizen that an infant was being left in an apartment unattended. The peace officer knocked on the apartment door and received no response, but he heard an infant crying. The peace officer could lawfully force entry without a warrant or consent to determine the welfare and safety of the child.
- Example: A peace officer walked past an apartment and heard a child screaming “Daddy stop hitting me.” The officer heard sounds consistent with a person being assaulted. The officer believed the child was in immediate danger. He had the authority to enter and determine the welfare and safety of the child.
-

Violation of constitution

It is the intrusion into the dwelling that offends the constitution. Therefore, it is essential that peace officers make sure that they enter *only under exigent circumstances*, or when they have a warrant or valid consent.

NOTE: For additional information regarding exigent circumstances refer to LD 16: *Search and Seizure*.

Chapter Synopsis

Learning need	Peace officers have the authority to make a warrantless entry into a home whenever they reasonably believe a minor is in immediate danger of being physically abused, neglected, or sexually exploited.
Warrantless entry [9.03.1]	Without a warrant or valid consent, peace officers may enter the premises ONLY when there are exigent circumstances. A reasonable suspicion that a minor is presently endangered is ONE TYPE of exigent circumstance.
Exigent circumstances [9.03.2]	<p>Exigent circumstances means an emergency situation requiring swift action to prevent:</p> <ul style="list-style-type: none">• imminent danger to a person's life or safety,• serious damage to property,• imminent escape of a suspect, or• evidence is about to be destroyed or removed.

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. A 12-year-old girl tells a teacher at her school, a peace officer who teaches drug education, she is sexually abused by her father. She tells him that she is afraid to go home because her father has returned from a trip. She mentions that her 14-year-old sister is home alone with him now. Based on this information, if there is no answer at the door, what action should a peace officer take? What other actions might the officer take to build reasonable suspicion of an emergency situation?
2. List three situations in which you believe an emergency situation exists that would allow a peace officer to enter a home without a warrant to protect a child.

Continued on next page

Activity questions (continued)

- LD 9: Chapter 3 – Warrantless Entry to Protect Minors

Workbook Learning Activities, Continued

Student notes

Chapter 4

Child Abuse Investigations

Overview

Learning need Ensuring the safety of a child victim is a peace officers' primary responsibility when responding to a case of suspected child abuse. To do this effectively, officers must be able to recognize indicators of abuse, conduct a preliminary investigation into abuse, and take the appropriate action.

Learning objectives The following table identifies the student learning objectives for this chapter.

After completing study of this chapter, the student will be able to...	Objective ID
<ul style="list-style-type: none">recall the statutory definition of child abuse.	9.04.1
<ul style="list-style-type: none">discuss physical and behavioral indicators of:<ul style="list-style-type: none">physical child abuse,physical neglect of a child,mental suffering, andsexual child abuse.	9.04.2
<ul style="list-style-type: none">demonstrate effective officer actions for conducting an interview with a child victim of abuse.	9.04.3

Continued on next page

Overview, Continued

In this chapter This chapter focuses on the recognition and investigation of incidents involving child abuse. Refer to the table below for a specific topic.

Topic	See Page
Statutory Definitions of Child Abuse	4-3
Physical and Behavioral Indicators	4-6
Conducting an Interview With a Child Victim	4-18
Chapter Synopsis	4-26
Workbook Learning Activities	4-27

Statutory Definitions of Child Abuse

Introduction

It is generally accepted that child abuse is the leading cause of childhood deaths in the United States. Many children do not know that what is happening to them is wrong, or they may be too frightened to say anything. Recognition of possible abuse and a thorough investigation leading to the identification and conviction of the abuser may be the only thing that frees children from their abuse.

Statutory definition

Penal Code Section 11165.6 defines child abuse as:

- a physical injury,
- which is inflicted by other than accidental means,
- on a child,
- by another person.

The statute further expands this definition to include other acts, such as:

- sexual abuse of a child,
 - neglect,
 - willful cruelty or unjustifiable punishment of a child,
 - unlawful corporal punishment or injury, or
 - neglect or abuse in out-of-home care.
-

Extent of child abuse

The number of reported cases of child abuse and neglect has been increasing steadily in the past several years. This trend may be due to:

- an actual increase in the number of children being abused,
 - the increase in public awareness regarding child abuse,
 - a greater number of individuals who are willing to report suspected child abuse, *or*
 - **a combination of all three.**
-

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Statutory Definitions of Child Abuse, Continued

Extent of child abuse (continued)

NOTE: Surveys consistently give reason to believe that the actual number of incidents involving child abuse and neglect is much greater than the number of cases that are reported and investigated.

Victim age levels

Statistical data indicates that many of the victims of reported abuse and neglect are under the age of four years.

It is likely, however, that those statistics may not accurately reflect the extent of adolescent abuse. Abuse of adolescents may be overlooked or bypassed because an adolescent may be considered to be less “at risk” or not as helpless as a younger child. It may be falsely presumed that adolescents have more options (e.g., leave until a parent or care giver “calms down”) or that they are more capable of defending themselves by “fighting back.”

Investigating officers must recognize that adolescent abuse is just as serious as the abuse of a younger child and deserves the same attention.

Abusers

Peace officers must guard against bias or a preconceived idea of a “typical” child abuser. Child abuse occurs in all cultural, ethnic, occupational, and socioeconomic groups. An abuser could be anyone from any walk of life.

Abuse by a total stranger is probably the lowest percentage of all abuses. Some of the most serious cases of abuse occurs in families that may appear to be well adjusted, normal, everyday people. If the abuser is someone perceived to be of high standing in the community, the children may endure prolonged abuse before anyone is willing to believe.

Continued on next page

Statutory Definitions of Child Abuse, Continued

Abusers (continued)

Children can become victims of abuse by:

- a single parent's boy/girlfriend,
 - parents,
 - family members,
 - neighbors,
 - family friends,
 - care givers (e.g., baby sitters, day care workers, etc.),
 - someone the child has a nonparental relationship with (e.g., scout leader, coach, teacher, etc.),
 - men or women,
 - adults, adolescents, or
 - even other children.
-

Physical and Behavioral Indicators

Introduction

Statistics have shown that abusers of children typically **repeat the abuse and increase its frequency**. Early identification, reporting, and intervention are essential to protect the child from future permanent injury or death.

Categories of child abuse

In the past, the decision to intervene was based solely on the degree of physical injury while subtle, less visible injuries were overlooked. Peace officers must recognize that all categories of abuse can endanger or impair a child's physical or emotional health and development.

The following table identifies the primary categories of child abuse of which officers should be aware.

Category	Definition/Description
Physical child abuse	<ul style="list-style-type: none">• Any action which results in a nonaccidental physical injury• Intentional, deliberate assaults such as, but not limited to:<ul style="list-style-type: none">- excessive spanking- punching, slapping, or kicking- twisting limbs- burning- biting- cutting- poking

Continued on next page

Physical and Behavioral Indicators, Continued

Categories
of child
abuse
(continued)

Category	Definition/Description	
<u>Physical neglect of a child</u>	<ul style="list-style-type: none"> Negligent treatment or mistreatment of a child by another person is covered in <i>Penal Code Section 273a</i> 	
	Felony Neglect (<i>Penal Code Section 273a(a)</i>)	<ul style="list-style-type: none"> Any person whom, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered.
	Misdemeanor Neglect (<i>Penal Code Section 273a(b)</i>)	<ul style="list-style-type: none"> Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered.

Continued on next page

Physical and Behavioral Indicators, Continued

Categories
of child
abuse
(continued)

Category	Definition/Description	
Mental suffering	<ul style="list-style-type: none"> • Deprivation suffered when parent or person legally responsible does not provide emotional experiences necessary for the child to feel loved, wanted, secure, and worthy. • Willfully cause or permit unjustifiable mental suffering • Mental suffering can be based on the responsible adult(s)'s <ul style="list-style-type: none"> - verbal assaults (e.g., belittling, screaming, threats, blaming, sarcasm) - unpredictable or inconsistent responses or double messages - continual negative attitudes - constant family discord - domestic violence/domestic dispute situations • Ignore a child's emotional needs because of drug or alcohol use, psychiatric disturbances, personal problems, outside activities, or other preoccupying situations 	
<u>Sexual child abuse</u>	Sexual assault	<ul style="list-style-type: none"> • Sexual assault or sexual exploitation of a minor • Covers a broad spectrum of behavior such as: <ul style="list-style-type: none"> - rape, - rape in concert, - incest, - sodomy, - oral copulation, - penetration with a foreign object, - child molestation • May consist of one incident or many acts over a prolonged period of time

Continued on next page

Physical and Behavioral Indicators, Continued

Categories of child abuse (continued)

Category	Definition/Description	
Sexual child abuse (continued)	Incestuous	<ul style="list-style-type: none"> Sexual activity between an adult and a minor who are blood-related (<u>incestuous sexual abuse</u>) (e.g., parent, sibling, grandparent, etc.)
	Intrafamilial sexual abuse	<ul style="list-style-type: none"> Sexual activity between an adult and a minor who are <i>not</i> blood-related (<u>intrafamilial sexual abuse</u>) (e.g., uncle by marriage, stepparent, step-sibling, etc.)
	Extrafamilial sexual abuse	<ul style="list-style-type: none"> Sexual abuse by someone outside the family Individual is likely to be known to the child (although abuser may be a stranger in some cases)
	Exploitation/ child pornography	<ul style="list-style-type: none"> Involvement of minors in the production of pornographic material or prostitution

NOTE: For additional information regarding sexual assaults or criminal acts against children, refer to LD 10: *Sex Crimes*.

Continued on next page

Physical and Behavioral Indicators, Continued

Indicators of abuse

The abuse of a child may surface through a broad range of physical, behavioral, and/or social indicators. Some of these indicators, taken separately, may not be symptomatic of abuse. All indicators should be examined in the context of other behaviors and situational factors.

Indicators of physical child abuse

The presence of unexplained, inconsistent, and/or incompatible injuries may initiate questioning, observing, or examining a child for further indications of physical abuse. The primary target zone of infliction of injuries is the back surface of the body from the neck to the knees. Such injuries constitute the largest percentage of identified physical abuse.

The following table identifies possible indicators of suspected physical child abuse.

Physical Child Abuse	
Behavioral indicators	<ul style="list-style-type: none">• Easily frightened or fearful• Wary of adult contacts• Fear of parent/care giver, etc.• Fear of going home• Excessively passive or withdrawn• Vacant or frozen stare; monosyllable responses• Aggressive behavior toward other children, animals, toys, etc.• Frequently absent from school, physical education classes, etc.• Inappropriate or excessive clothing to cover bruises

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Physical and Behavioral Indicators, Continued

Indicators of physical child abuse (continued)

Physical Child Abuse		
Physical indicators	Unexplained injuries	<ul style="list-style-type: none"> • Bruises, welts, abrasions, or lacerations on surfaces such as: <ul style="list-style-type: none"> - face - lips/mouth - back - thighs - genitals • May appear as a pattern matching the shape of the object used (e.g., outline of hand, impression of jewelry)
	Unexplained burns	<ul style="list-style-type: none"> • Caused by cigars, cigarettes, iron, or some other hot object • Appear on surfaces such as: <ul style="list-style-type: none"> - soles of feet, - palms or back of hands - back or buttocks • Immersion burns (from a portion of the child's body being immersed in scalding water) • In the shape of recognizable object (e.g., cigarette, iron, etc.) • Absence of any visual indications that the child instinctively attempted to withdraw from the pain of being burned (e.g., splash marks, uneven burn, etc.)

Continued on next page

Physical and Behavioral Indicators, Continued

Indicators of physical child abuse (continued)

Physical Child Abuse		
Physical indicators (continued)	Unexplained fractures	<ul style="list-style-type: none">• Rib fractures (most common)• Spiral fractures of long bones (as a result of pulling or twisting)• Multiple fractures• Fractures at different stages of healing• Skull or clavicle (collar bone) fractures
	Head injuries	<ul style="list-style-type: none">• May lead to permanent neurologic deficits, learning problems, or death• Frequently reported by physicians
	Internal injuries	<ul style="list-style-type: none">• Damage to liver, spleen, pancreas, kidneys, or other vital organs• May be caused by blunt force or blows to the body• Second leading cause of death for victims of child abuse

NOTE: **The actual act of willfully inflicting an injury on a child** should be the basis for law enforcement intervention, rather than the degree of injury.

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Physical and Behavioral Indicators, Continued

Indicators of physical neglect of a child

If a parent or other individual who is legally responsible for a child fails to provide a minimum level of physical support for that child, government must then take responsibility for the welfare of the child.

The following table identifies a number of indicators that may be present in chronic cases of physical neglect of a child.

Physical Neglect of a Child	
Behavioral indicators	<ul style="list-style-type: none">• Depression, withdrawal, or apathy• Antisocial or destructive behavior• Constant fatigue• Exaggerated fearfulness• Sleep, speech, eating, or habit disorders (e.g., biting, rocking)• Seeks excessive attention and/or affection• Delayed emotional or mental development
Physical indicators	<ul style="list-style-type: none">• Hunger/malnutrition• Poor personal hygiene or inadequate dress for weather conditions• Chronic fatigue or listlessness• Poor or slowed growth• Unattended physical/medical problems• Chronic tardiness or absence from school• Delinquency• Delayed physical development

Continued on next page

Physical and Behavioral Indicators, Continued

**Indicators
of physical
neglect of
a child**
(continued)

Physical Neglect of a Child	
Other indicators	<ul style="list-style-type: none">• Absence of adequate or appropriate food• Evidence of poor or no supervision (e.g., frequent injuries such as falls, burns, etc.)• Being left alone or unsupervised at home, in a vehicle, etc.• Unsanitary living conditions• Home lacks heat, plumbing, etc.• Cold, dirty, or otherwise inadequate sleeping conditions• Accessible, unprotected weapons• Presence of dangerous persons

NOTE: Disarray or an untidy home does not necessarily mean the home is unfit. It is the extreme or persistent presence of factors that indicate some general or severe neglect.

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Physical and Behavioral Indicators, Continued

Indicators of mental suffering

Mental suffering can be seen as a self-fulfilling prophecy. If a child is degraded enough, the child will begin to live up to the image communicated by the abusing parent or care giver. Mental suffering cases can be extremely difficult to prove and require documentation by witnesses over an extended period of time.

The following table presents a number of indicators that may help peace officers identify cases involving mental suffering.

Mental Suffering	
Behavioral indicators	<ul style="list-style-type: none">• Poor self-esteem• Antisocial behavior (e.g., aggression, disruption)• Depression, withdrawal, or apathy• Abnormally unresponsive, sad, or withdrawn• Constantly seeking out or “pestering” other adults for attention and affection• Exaggerated fears• Acting inappropriately adult or infantile• Obvious “delinquent” behavior (e.g., drug abuse, vandalism)
Physical indicators	<ul style="list-style-type: none">• Frail appearance, shallow, empty facial expressions• Refusal to eat adequate amounts of food• Inability to perform normal learned functions for the given age (e.g., walking, talking, etc.)• Eating disorders

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Physical and Behavioral Indicators, Continued

Indicators of sexual child abuse

A **pedophile** is an individual who prefers sexual contact with children and whose sexual fantasies and erotic imagery focus on children. Sexual abuse of children is believed to be more common than physical abuse. Although there are indicators, a number of child victims will repress the effects of child abuse and carry them into adulthood.

The following table identifies a number of behavioral and physical indicators that may be exhibited by a child who has been sexually abused.

Sexual Child Abuse		
Behavioral indicators	<ul style="list-style-type: none">• Age-inappropriate understanding of sexual behavior• Inappropriate, unusual, or aggressive sexual behavior• Compulsive indiscreet masturbation• Excessive curiosity about sexual matters or genitalia• Unusually seductive with classmates, teachers, or other adults• Frightened of parents, care giver, or of going home	
	Younger children	<ul style="list-style-type: none">• Bed wetting, fecal soiling• Unusual fears or phobias• Overly compulsive behavior• Overrating/underrating• Significant change in academic performance• Drastic behavior changes in and out of parent's/care giver's presence• Sleep or speech disorders

Continued on next page

Physical and Behavioral Indicators, Continued

Indicators of sexual child abuse (continued)

Sexual Child Abuse		
Behavioral indicators (continued)	Older children and adolescents	<ul style="list-style-type: none"> • Withdrawal, clinical depression, apathy • Chronic fatigue • Overly compliant behavior • Poor hygiene or excessive cleanliness • Poor peer relations and social skills • Aggressive, antisocial, or delinquent behavior • Frequent absences or dropping out of school • Self-consciousness about one's body
Physical indicators	<ul style="list-style-type: none"> • Torn, stained, bloody underclothing • Scars, injuries, or irritations in vaginal, anal, or external genitalia areas (i.e., pain, itching, swelling, bruising, bleeding, lacerations, etc.) • Pain upon urination or defecation • Difficulty in walking or standing due to genital or anal pain • General discharge or infection • Bite marks on genitalia • Pregnancy • Sexually transmitted diseases 	

NOTE: Violence may not be the goal of a pedophile, so physical indicators may not be present.

Conducting an Interview with a Child Victim

Introduction

The actions taken by peace officers during a preliminary investigation coupled with the quality of the investigative report will have a crucial bearing on the safety and protection of the child and the successful prosecution of the abuser.

Temporary protective custody

If the safety and welfare of a minor is threatened in any way because the minor is a potential victim of abuse, **peace officers have the authority to take the minor into temporary protective custody.** (*Welfare and Institutions Code Section 305*)

The following table identifies the situations under which a peace officer may take such action.

Peace officers may take a minor into protective custody if...	<i>Welfare and Institutions Code Section</i>
<ul style="list-style-type: none">• the minor has suffered or• is at a substantial risk of suffering,• nonaccidental serious physical harm,• by the minor's parent or guardian.	300(a)
<ul style="list-style-type: none">• the minor has suffered or• is at a substantial risk of suffering,• serious physical harm or illness,• due to a parent or guardian's inability to provide appropriate:<ul style="list-style-type: none">- supervision,- protection- food, clothing, shelter,- medical treatment, or- to protect the minor from the conduct of another person.	300(b)

Continued on next page

Conducting an Interview with a Child Victim, Continued

Temporary protective custody (continued)

Peace officers may take a minor into protective custody if...	<i>Welfare and Institutions Code Section</i>
<ul style="list-style-type: none">• the minor has suffered, or• is at a substantial risk of suffering, serious emotional damage,• due to the conduct of the parent or guardian, or• due to the parent or guardian's inability to provide adequate care.	300(c)
<ul style="list-style-type: none">• the minor has been sexually abused, or• is at a substantial risk of being sexually abused, by a parent, guardian, or other member of the household, or• if the parent or guardian knew or reasonably should have known,• the minor was being sexually abused or at risk of sexual abuse.	300(d)
<ul style="list-style-type: none">• the minor is under the age of five years, and• has suffered severe physical abuse, by a parent, or• person known to the parent, or• the parent reasonably should have known that the child was being physically abused.	300(e)

NOTE: For additional information regarding taking temporary custody of a juvenile, refer to LD 11: *Juvenile Law and Procedure*.

Continued on next page

Conducting an Interview with a Child Victim, Continued

Victim interviews

Patience is very important when dealing with children, especially those who have been betrayed by adults. Whenever officers interview a victim of abuse, the primary objective should be to determine the truth of the allegation(s) without further traumatizing the child. Regardless of the age of the victim, effective interviewing requires that you remain neutral, give the child his or her voice, and show respect.

The following table describes each component of the victim interview process.

Action	Additional Information
Control the interview conditions/environment	<ul style="list-style-type: none">• Determine who will conduct the interview ahead of time.• Plan and prepare the interview carefully.• Be aware of the child's relationship with the suspect.• Interview each victim separately.• Select a quiet, comfortable setting that is private and away from distractions.• Have support persons available, if needed.• Consider use of audio or video recordings to minimize the number of times the victim is interviewed.
Build rapport	<ul style="list-style-type: none">• Take time to gain the child's confidence.• Provide emotional support and comfort.• Establish the child's developmental level and capabilities to be interviewed by considering the:<ul style="list-style-type: none">- child's age,- child's ability to evaluate and articulate,- child's ability to differentiate between the truth and a lie, and right from wrong, and- impact the interview may have on the child.

Continued on next page

Conducting an Interview with a Child Victim, Continued

Victim interviews (continued)

Action	Additional Information
Use appropriate communication techniques	<ul style="list-style-type: none">• Use simple terminology.• Avoid legal jargon.• Use a calm understanding tone of voice.• Sit at eye-level with the child.• Make eye contact, but do not stare at the child.• Avoid wearing sunglasses.• Avoid over reactions or negative reactions to any of the child's statements.• Use the same terms the child uses when referring to genitalia or parts of the body.• <i>Listen patiently</i> and do not rush the child.• Remain neutral; show empathy and concern, but do not take sides.• Be sensitive to the fact that the child's attention span is dependent on the child's age and maturity.
Gather information	<ul style="list-style-type: none">• Explain why the interview is being conducted and why the questions are being asked.• Explain that the child is not responsible or at fault for what has happened.• Avoid leading questions that may plant ideas in the child's mind.• Limit questions to "who," "what," "where," "when", and "how many."• Avoid asking "why" questions that may imply that the child is at fault.

Continued on next page

Conducting an Interview with a Child Victim, Continued

Victim interviews (continued)

Action	Additional Information
Gather information (continued)	<ul style="list-style-type: none">• If the child pauses for an extended period of time, encourage the child to continue (e.g., “And then what happened?”).• Encourage the child to use dolls, drawings, and/or other visual props to communicate experiences.
Conclude the interview	<ul style="list-style-type: none">• Tell the child what will happen next (e.g., forensic medical exam).• Do not make false promises or create unrealistic expectations as to:<ul style="list-style-type: none">- apprehension of the suspect or- when the officer will get back to the victim or victim’s parents/care giver.

NOTE: When conducting the interview, officers should be aware that although children want the abuse to end, they may not be seeking to have an abuser punished.

Evidence consideration

The collection of physical evidence can be critically important to substantiating the alleged child abuse. Examples of potential evidence officers may consider are noted in the following table.

Evidence	Examples
Statements	<ul style="list-style-type: none">• Statements from victims, witnesses, reporting party, and/or suspect.
Injuries	<ul style="list-style-type: none">• Photographs of injuries• Past medical records indicating previous abuse• Biological evidence (e.g., blood, semen, etc.)

Continued on next page

Conducting an Interview with a Child Victim, Continued

Evidence consideration (continued)

Evidence	Examples
Instruments of the crime	<ul style="list-style-type: none">• Instruments used to cause injuries (e.g., belts, panels, etc.)• Otherwise harmless items that may inflict serious wounds (e.g., shoes, twisted towels, kitchen utensils, electrical cords, etc.)
Documents/ photographs	<ul style="list-style-type: none">• Crime scene photographs, videos, sketches, and diagrams• Documents (e.g., diaries, letters, etc.)• Pornographic material (print/video)• Erotica or sexual aids
Other	<ul style="list-style-type: none">• Clothing, bedding, towels, etc., belonging to the victim and suspect• Living conditions• Fingerprints• DNA

Continued on next page

Conducting an Interview with a Child Victim, Continued

Forensic medical examination

Welfare and Institutions Code Section 324.5 states when:

- a minor child is taken into protective custody,
- related to allegations of sexual abuse,
- the peace officer can authorize a forensic medical exam,
- if the parent or guardian refuses or is unable to authorize the exam.

In cases involving sexual child abuse, if it is known or suspected that penetration or an exchange of biological fluids occurred, officers should immediately arrange to have the child transported to a designated medical facility for a forensic medical examination. Peace officers have the same responsibility regarding this examination as they do with the medical examination related to adult sexual assault cases.

Victims of severe physical abuse or neglect may require a forensic medical examination in order to obtain critical evidence of the abuse.

Continued on next page

Conducting an Interview with a Child Victim, Continued

Arrest of a suspect

The responding officers must determine if a suspect should be arrested at the time of the preliminary investigation. This decision should be based on factors such as:

- probable cause,
- the nature of the offense (e.g., felony, misdemeanor),
- safety of the victim or witnesses,
- potential ramifications of the arrest,
- imminent danger to the community,
- likelihood the suspect will attempt to flee,
- the possible destruction of evidence (on the suspect or the suspect's belongings), and/or
- prior instances of abuse.

Even if the suspect is arrested, the responding officers must evaluate the safety of the victim or the victim's sibling(s) and determine if temporary protective custody is warranted. Officers should keep in mind that the suspect may be released on bail and return to the home or area.

NOTE: For additional information regarding obtaining criminal histories and previous incidents of child abuse, refer to LD 36: *Information Systems*.

Chapter Synopsis

Learning need Ensuring the safety of a child victim is a peace officer's primary responsibility when responding to a case of suspected child abuse. To do this effectively, officers must be able to recognize indicators of abuse, conduct a preliminary investigation into abuse, and take the appropriate action.

Statutory definitions *Penal Code Section 11165.6* defines child abuse as:

[9.04.1]

- a physical injury,
 - which is inflicted by other than accidental means,
 - on a child,
 - by another person.
-

Physical and behavioral indicators All types of abuse and neglect inflicted on a child have specific physical and behavioral indicators.

[9.04.2]

Conducting an interview with a child victim When interviewing a child victim of abuse, officers should:

[9.04.3]

- maintain control of the interview conditions/environment.
 - take the time to build rapport and gain the child's confidence.
 - use communication techniques that are appropriate for the child's age and maturity.
 - gather information regarding "who", "what", "where", "when", and "how many".
 - conclude the interview by explaining what will happen next.
-

Workbook Learning Activities

Introduction

To help you review and apply the material covered in this chapter, a selection of learning activities has been included. No answers are provided. However, by referring to the appropriate text, you should be able to prepare a response.

Activity questions

1. While officers are on patrol and going through a local shopping center parking lot, they discover a 3-year-old girl strapped in her car seat and left alone in a locked car. A shopper returning to the adjacent car tells officers that the child has been there at least 20 minutes. What actions should officers take? What further actions should take place when the mother arrives 10 minutes later? Should officers take the child into protective custody? Why or why not? How would any of this differ, if at all, if this incident occurred on an 85-degree summer day?

2. What types of evidence would help prove that a 10-year-old child is a victim of mental suffering? Physical child abuse?

Continued on next page

Workbook Learning Activities, Continued

Activity questions (continued)

3. What factors do you think might contribute to cases of adolescent abuse being “missed” by the law enforcement/justice system? As a peace officer, what actions could you take to prevent such oversight?
4. Under what circumstances does a child need to have a forensic medical exam? What role does a peace officer play, if such an exam is necessary? What should an officer do if one or both parents say they refuse to consent to their child being examined?

Continued on next page

Workbook Learning Activities, Continued

Activity questions (continued)

5. A woman reported that her daughter's 8-year-old friend, Tiffany, may have been sexually abused. She says the child told her that her uncle took pictures of her without her clothes on. How should officers respond? Should an officer interview the girl without contacting her parents first? Why or why not? If you were the officer interviewing the child, what strategies might you use to build rapport and gain accurate information? List five specific questions you would ask, being careful to phrase the questions for an 8-year-old.

Continued on next page

Workbook Learning Activities, Continued

Student notes

Supplemental Material

SUSPECTED CHILD ABUSE REPORT To Be Completed by Mandated Child Abuse Reporters Pursuant to Penal Code Section 11166

CASE NAME: _____

PLEASE PRINT OR TYPE

CASE NUMBER: _____

A. REPORTING PARTY	NAME OF MANDATED REPORTER		TITLE		MANDATED REPORTER CATEGORY	
	REPORTER'S BUSINESS/AGENCY NAME AND ADDRESS		Street	City	Zip	DID MANDATED REPORTER WITNESS THE INCIDENT? <input type="checkbox"/> YES <input type="checkbox"/> NO
	REPORTER'S TELEPHONE (DAYTIME) ()		SIGNATURE		TODAY'S DATE	
B. REPORT NOTIFICATION	<input type="checkbox"/> LAW ENFORCEMENT <input type="checkbox"/> COUNTY PROBATION		AGENCY			
	<input type="checkbox"/> COUNTY WELFARE / CPS (Child Protective Services)					
	ADDRESS		Street	City	Zip	DATE/TIME OF PHONE CALL
C. VICTIM One report per victim	NAME (LAST, FIRST, MIDDLE)				BIRTHDATE OR APPROX. AGE	SEX
	ADDRESS				Street	City
	PRESENT LOCATION OF VICTIM				SCHOOL	CLASS
	PHYSICALLY DISABLED? <input type="checkbox"/> YES <input type="checkbox"/> NO				DEVELOPMENTALLY DISABLED? <input type="checkbox"/> YES <input type="checkbox"/> NO	
	OTHER DISABILITY (SPECIFY)				PRIMARY LANGUAGE SPOKEN IN HOME	
	IN FOSTER CARE? <input type="checkbox"/> YES <input type="checkbox"/> NO				IF VICTIM WAS IN OUT-OF-HOME CARE AT TIME OF INCIDENT, CHECK TYPE OF CARE: <input type="checkbox"/> DAY CARE <input type="checkbox"/> CHILD CARE CENTER <input type="checkbox"/> FOSTER FAMILY HOME <input type="checkbox"/> FAMILY FRIEND <input type="checkbox"/> GROUP HOME OR INSTITUTION <input type="checkbox"/> RELATIVE'S HOME	
	RELATIONSHIP TO SUSPECT				PHOTOS TAKEN? <input type="checkbox"/> YES <input type="checkbox"/> NO	
D. INVOLVED PARTIES	VICTIMS					
	NAME BIRTHDATE SEX ETHNICITY					
	1. _____ 3. _____					
	2. _____ 4. _____					
	VICTIM'S GUARDIAN					
	NAME (LAST, FIRST, MIDDLE)				BIRTHDATE OR APPROX. AGE	SEX
	ADDRESS				Street	City
	HOME PHONE				BUSINESS PHONE	
	NAME (LAST, FIRST, MIDDLE)				BIRTHDATE OR APPROX. AGE	SEX
	ADDRESS				Street	City
HOME PHONE				BUSINESS PHONE		
SUSPECT	SUSPECT'S NAME (LAST, FIRST, MIDDLE)				BIRTHDATE OR APPROX. AGE	SEX
	ADDRESS				Street	City
	TELEPHONE				()	
E. INCIDENT INFORMATION	IF NECESSARY, ATTACH EXTRA SHEET(S) OR OTHER FORM(S) AND CHECK THIS BOX <input type="checkbox"/> IF MULTIPLE VICTIMS, INDICATE NUMBER: _____					
	DATE / TIME OF INCIDENT		PLACE OF INCIDENT			
	NARRATIVE DESCRIPTION (What victim(s) said/what the mandated reporter observed/what person accompanying the victim(s) said/similar or past incidents involving the victim(s) or suspect)					

SS 8572 (Rev. 12/02)

DEFINITIONS AND INSTRUCTIONS ON REVERSE

DO NOT submit a copy of this form to the Department of Justice (DOJ). The investigating agency is required under Penal Code Section 11169 to submit to DOJ a Child Abuse Investigation Report Form SS 8583 if (1) an active investigation was conducted and (2) the incident was determined not to be unfounded.

WHITE COPY-Police or Sheriff's Department; BLUE COPY-County Welfare or Probation Department; GREEN COPY-District Attorney's Office; YELLOW COPY-Reporting Party

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Supplemental Material, Continued

State of California Child Abuse Summary Report		TO BE TYPED OR PRINTED - PRESS FIRMLY - DO NOT USE FELT PEN		Department of Justice	
SS2583 (Rev 5/05)		CHILD ABUSE SUMMARY REPORT To be Completed by Investigating Child Protective Agency Pursuant to Penal Code Section 11169 (SHADED AREAS MUST BE COMPLETED)		R C N A G Y FOR DOJ USE ONLY	
A. INVESTIGATING AGENCY	1. INVESTIGATING AGENCY (Enter complete name and check type):			2. AGENCY REPORT NO./CASE NAME:	
	<input type="checkbox"/> POLICE <input type="checkbox"/> WELFARE <input type="checkbox"/> SHERIFF <input type="checkbox"/> PROBATION				
	3. AGENCY ADDRESS: Street City Zip Code			4. AGENCY TELEPHONE: EXT: ()	
	5. NAME OF INVESTIGATING PARTY: TITLE			6. DATE REPORT COMPLETED: MO DA YR	
	7. AGENCY CROSS-REPORTED TO:			8. DATE CROSS-REPORTED: MO DA YR	
	8. PERSON CROSS-REPORTED TO:				
	10. ACTION TAKEN (check only one box):			10A. SUPPLEMENTAL INFORMATION (Attach copy of original report)	
	<input type="checkbox"/> (1) SUBSTANTIATED (Abuse more likely than not to have occurred) <input type="checkbox"/> (2) INCONCLUSIVE (Insufficient evidence of abuse, not unfounded)			<input type="checkbox"/> (a) INCONCLUSIVE <input type="checkbox"/> (c) ADDITIONAL INFORMATION <input type="checkbox"/> (b) UNFOUNDED (false report, accidental, improbable)	
	11. Active investigation conducted per PC 11169(a)? <input type="checkbox"/> Yes <input type="checkbox"/> No* Victim(s) contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No* Suspect(s) contacted? <input type="checkbox"/> Yes <input type="checkbox"/> No* <input type="checkbox"/> No Suspects				
	12. COMMENTS:				
B. INCIDENT INFORMATION	1. DATE OF INCIDENT: MO DA YR		2. TIME OF INCIDENT:		3. LOCATION OF INCIDENT:
	4. NAME OF PARTY REPORTING INCIDENT: TITLE		5. EMPLOYER:		6. TELEPHONE: ()
	7. TYPE OF ABUSE (check one or more): <input type="checkbox"/> (1) PHYSICAL <input type="checkbox"/> (2) MENTAL <input type="checkbox"/> (3) SEXUAL <input type="checkbox"/> (4) SEVERE NEGLECT <input type="checkbox"/> (5) GENERAL NEGLECT				
	8. IF ABUSE OCCURRED IN OUT-OF-HOME CARE, CHECK TYPE <input type="checkbox"/> (1) FAMILY DAY CARE <input type="checkbox"/> (2) CHILD CARE CENTER <input type="checkbox"/> (3) FOSTER FAMILY HOME <input type="checkbox"/> (4) SMALL FAMILY HOME <input type="checkbox"/> (5) GROUP HOME OR INSTITUTION-Enter name and address:				
C. INVOLVED PARTIES	VICTIM(S)	1. NAME: Last First Middle AKA		D O B MO DA YR APPROX. AGE: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE R A C E *	
		ADDRESS: Street City Zip Code		DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO	
		PRESENT LOCATION OF VICTIM: TELEPHONE NUMBER:		NATURE OF INJURIES: IS VICTIM DEVELOPMENTALLY DISABLED (4512)(a) V&J? <input type="checkbox"/> YES <input type="checkbox"/> NO	
		2. NAME: Last First Middle AKA		D O B MO DA YR APPROX. AGE: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE R A C E *	
	SUSPECT(S)	ADDRESS: Street City Zip Code		DID VICTIM'S INJURIES RESULT IN DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO	
		PRESENT LOCATION OF VICTIM: TELEPHONE NUMBER:		NATURE OF INJURIES: IS VICTIM DEVELOPMENTALLY DISABLED (4512)(a) V&J? <input type="checkbox"/> YES <input type="checkbox"/> NO	
		1. NAME: Last First Middle AKA		D O B MO DA YR APPROX. AGE: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE R A C E *	
		ADDRESS: Street City Zip Code		HGT WGT EYES HAIR SOCIAL SECURITY NUMBER: DRIVER'S LICENSE NUMBER:	
		RELATIONSHIP TO VICTIM: <input type="checkbox"/> (1) PARENT/STEPARENT <input type="checkbox"/> (2) SIBLING <input type="checkbox"/> (3) OTHER RELATIVE <input type="checkbox"/> (4) FRIEND/ACQUAINTANCE <input type="checkbox"/> (5) STRANGER			
		Suspect given written notice per PC 11169(b) MO DA YR Date notice given: If notice not given, explain in comments field A.12.			
		2. NAME: Last First Middle AKA		D O B MO DA YR APPROX. AGE: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE R A C E *	
		ADDRESS: Street City Zip Code		HGT WGT EYES HAIR SOCIAL SECURITY NUMBER: DRIVER'S LICENSE NUMBER:	
OTHER	RELATIONSHIP TO VICTIM: <input type="checkbox"/> (1) PARENT/STEPARENT <input type="checkbox"/> (2) SIBLING <input type="checkbox"/> (3) OTHER RELATIVE <input type="checkbox"/> (4) FRIEND/ACQUAINTANCE <input type="checkbox"/> (5) STRANGER				
	Suspect given written notice per PC 11169(b) MO DA YR Date notice given: If notice not given, explain in comments field A.12.				
	1. NAME: Last First Middle AKA		D O B MO DA YR APPROX. AGE: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE R A C E *		
	2. NAME: Last First Middle AKA		D O B MO DA YR APPROX. AGE: <input type="checkbox"/> MALE <input type="checkbox"/> FEMALE R A C E *		

*RACE CODES: W-White, B-Black, H-Hispanic, I-American Indian, P-Pacific Islander, O-Chinese, J-Japanese, A-Other Asian, Z-Asian Indian, D-Cambodian, G-Guatemalan, U-Urbanian, L-Latvian, S-Samoa, V-Vietnamese, O-Other, X-Unknown

CHECK HERE IF ADDITIONAL SHEET(S) IS ATTACHED

PINK COPY-DOJ; WHITE COPY-Police or Sheriff; BLUE COPY-County Welfare or Probation; GREEN COPY- District Attorney's Office

Glossary

Introduction	The following glossary terms apply only to Learning Domain 9: Crimes Against Children.
annoy	To harass, disturb, or irritate, especially by repeated acts
annoying or molesting children	To commit any act against a person under the age of 18 which would annoy any reasonable person and is motivated by abnormal or unnatural sexual interest
child	Any person under 18 years of age
child abuse	A physical injury which is inflicted by other than accidental means on a child by any person (<i>Penal Code Section 11165.6</i>); it also includes sexual abuse of a child and child neglect
child care custodian	An employee who has direct contact and supervision of children including, but not limited to, those working in public and private schools, youth centers, youth recreation programs or organizations, child care facilities, foster homes, group homes, residential care facilities; social workers, probation officers, or parole officers, peace officers, including peace officers at schools (<i>Penal Code Section 11165.7</i>)
child harm, injury, or endangerment	An act in which a person willfully causes or permits a child to suffer, inflicts unjustifiable pain or mental suffering, or allows a child in his or her care or custody to be placed in a dangerous situation
child protective agency	A county welfare department (e.g., Department of Social Services, Department of Child Services, Child Welfare Services), a county probation department, or a police or sheriff's department; it does not include school district police or a security department

Continued on next page

Glossary, Continued

controlling	Power or authority to manage, direct, superintend, restrict, regulate, govern, administer, or oversee
corporal injury	Injury to a person's body
corporal punishment	Any kind of punishment inflicted on the body
criminal negligence	Flagrant and reckless disregard for the safety of others or willful indifference to any injury that may occur
cruel or inhuman punishment	Any punishment that is considered to be torture or barbaric, or any punishment that is so disproportionate that it shocks the moral sense of the community
duress	A direct or implied threat of force, violence, danger, hardship, or retribution sufficient to coerce a reasonable person of ordinary susceptibility to perform an act to which one would otherwise not have submitted
exigent circumstances	An emergency situation which requires swift action to prevent imminent danger to life or serious damage to property or to forestall the imminent escape of a suspect or destruction of evidence or property

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Glossary, Continued

**great
bodily
injury**

Significant or substantial injury

**health
practitioner**

A physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, or any other person who is licensed under the *Business and Professions Code Division 2*

**lascivious
act**

Any act which has a tendency to excite lust

**lewd
act**

An act which is committed with a disregard of social constraints

**lewd or
lascivious
acts**

Any act upon or with a child committed with the intent of arousing, appealing to, or gratifying sexual desire of the perpetrator or the child

mandates

Required by law that certain professional occupations report suspected child abuse

**mental
suffering**

A child who is degraded enough, begins to adopt the self image that has been communicated to them by the abuser

molest

To make annoying sexual advances

menace

Any threat, declaration, or act which shows an intention to inflict injury upon another person

Continued on next page

Glossary, Continued

pedophile	An individual who prefers sexual contact with children and whose sexual fantasies and exotic imagery focus on children
permit	To allow a situation to happen
corporal punishment or injury of child	Any willful act of physical force that causes even minor corporal injury to a child
physical neglect of a child	Negligent treatment or maltreatment of a child by another person
possession	Having domain, control, and knowledge of the object
possession of child pornography	An act in which a person knowingly possesses or controls material showing a person under 18 years of age engaging in or simulating sexual conduct
reasonable suspicion	It is objectively reasonable for a person to entertain a suspicion, based upon facts, that could cause a person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse (<i>Penal Code Section 11166</i>)
sexual child abuse	Sexual assault or sexual exploitation of a minor

Continued on next page

Glossary, Continued

**sexual
intercourse**

Penial-vaginal penetration, however slight

simulated

Giving the appearance of something

spouse

An individual partner in marriage, i.e., husband or wife

**traumatic
condition**

A wound, external or internal injury, whether of a minor or serious nature, caused by physical force

**unlawful
sexual
intercourse**

Sexual intercourse with a minor who is not married to the perpetrator

**upon or
with the
body of
a child**

Touching a child's body or clothing
