

CHIEF OF DETECTIVES

NOTICE
8.3

February 19, 2019

TO: All Department Personnel

FROM: Chief of Detectives

SUBJECT: PROCEDURES FOR CONDUCTING ON-SCHOOL CAMPUS INTERVIEWS
RELATED TO SUSPECTED CHILD ABUSE OR NEGLECT - REVISED

Effective immediately, all personnel seeking to conduct an on-school campus interview related to suspected child abuse or neglect (*excluding* interviews of juvenile suspects) shall adhere to the following procedures, which are necessary to ensure that such interviews are conducted in a manner which upholds the constitutional rights of both children and their parents/legal guardians.

PROCEDURES:

In response to recent judicial decisions, *parental/guardian consent or exigent circumstances is required prior to conducting on-school campus interviews related to suspected child abuse or neglect. In the absence of parental/guardian consent or exigent circumstances, personnel must obtain a Court Order to conduct an on-school campus interview of a minor related to a Suspected Child Abuse Report (SCAR).*

OFFICER'S RESPONSIBILITIES when exigent circumstances exist. All sworn personnel responding to a radio call or assigned to conduct on-school campus interviews of a minor related to a SCAR where **exigent circumstances exist** shall immediately contact a supervisor and consider the following:

- Whether the information gathered in the preliminary investigation indicates that the child is at immediate risk of physical harm, sexual abuse, or in need of medical care as a result of abuse;
- Whether the information gathered indicates that the risk is immediate and the child is likely to experience serious bodily harm within the time that would be required to both, obtain a Court Order and conduct the on-school campus interview; or,
- Whether articulable exigent circumstances exist that will justify an on-school campus interview of a suspected child abuse or neglect victim without first obtaining parental consent or a Court Order.

EXIGENT CIRCUMSTANCES. Exigent circumstances exist when sworn personnel must act immediately to stop or prevent an actual or perceived danger to an individual(s). The mere allegation of abuse or neglect, without additional information, does not establish exigency.

After careful consideration of the above bullet points and with supervisor approval, officers shall respond to the school campus and take the following steps:

- First, check in with a school administrator and provide identification, upon request;
- Advise every child prior to the commencement of an interview that s(he) may decline to be interviewed;
- Advise any child agreeing to be interviewed that s(he) has the choice to be interviewed in private or may select a member of the school staff, including any employee or volunteer aide, to be present during the interview;
- Select a location for interviews which is comfortable to the child, such as private office space;
- Advise any child agreeing to be interviewed that s(he) may stop the interview at any time. Where the child verbalizes in any way that s(he) no longer wants to be interviewed, personnel shall immediately terminate the interview;
- Absent unusual circumstances, personnel shall complete any such interview within developmentally-appropriate time limits (for assistance or questions, contact your Juvenile Coordinator or Juvenile Division);
- Consider the availability of plain clothes sworn members for conducting on-school campus interviews of potential child abuse/neglect victims or witnesses; and,
- Upon completion of the interview, document the exigent circumstances for the on-school campus interview without parent/guardian consent or Court Order, name of the approving supervisor and the findings from the child's interview on the appropriate forms such as Investigative Report, Injury Report, Arrest Report or Follow-up Investigation Report form 3.14.

OFFICER'S RESPONSIBILITIES when exigent circumstances do not exist. All sworn personnel assigned to conduct an on-school campus interview of a minor related to a Suspected Child Abuse Report (SCAR), or who respond to a radio call where **exigent circumstances do not exist**, shall either seek consent from the non-suspected parental/guardian or obtain a Court Order.

1. Parental/Guardian Consent. When seeking consent, officers shall ensure the following steps are taken:

- Contact the Department of Children and Family Services (DCFS) Command Post telephonically at (213) 639-4500 and obtain any available DCFS information;
 - Document the information along with the name of the case worker from whom the information was obtained and the date/time that contact was made in the introductory paragraph of the Narrative portion of the Investigative Report, Injury Report, Arrest Report or Follow-up Investigation Report.
- Query Department resources for prior family-related history (i.e. Detective Case Tracking System, NECS, ESCARS, etc.);

- Document or where feasible attach the information obtained to the Investigative Report (IR), Injury Report or Follow-up Report.

Note: Additional factors to consider during the preliminary investigation include, but are not limited to: Age of the child; child's mental development; whether firearms or domestic violence is part of the allegation reported; existence of violent criminal history of perpetrator; existence of prior family history of abuse; the identity of the alleged perpetrator and relation to the child; any allegation of or facts indicating complicity by the non-offending parent/guardian; any other facts personnel reasonably believe could jeopardize the investigation or place the child at risk of imminent harm.

- Personnel shall obtain consent prior to conducting an on-school campus interview from a parent/guardian not identified as the suspect, and further advise them where consent is being sought for the following:
 - Photographing visible injuries, or evidence that could be lost if not recorded via photograph;
 - Possibly transporting the child for medical evaluation, when necessary.
- Document the name and relationship to the child of the parent/guardian from whom consent was obtained, the telephone number used to contact that individual, and the date/time that contact was made in the introductory paragraph of the Narrative portion of the Investigative Report, Injury Report, Arrest Report or Follow-up Investigation Report.

Note: If at any time the consent is revoked and/or the officers are unable to obtain consent from a non-suspected parent/guardian, document the facts within the body of the Investigative Report, Injury Report, Arrest Report or Follow-up Investigation Report. Advise a supervisor and obtain a Court Order.

2. Court Order. When seeking a Court Order, officers shall advise a supervisor and ensure the following steps are taken:

- Contact the Department of Children and Family Services (DCFS) Command Post telephonically at (213) 639-4500 and obtain any available information from a caseworker regarding the victim and their family;
 - Document the information, as well as the name of the case worker from whom the information was obtained and the date/time that contact was made in the introductory paragraph of the Narrative portion of the Investigative Report, Injury Report, Arrest Report or Follow-up Investigation Report.
- Query Department resources for prior family-related history (i.e. Detective Case Tracking System, NECS, ESCARS, etc.);

- Document or where feasible attach the information obtained to the Investigative Report, Injury Report, Arrest Report or Follow-up Investigation Report;
- Complete an Application and Declaration in Support of Interview of Child at School Order and present the Application and all supporting documents to a supervisor for approval (for assistance or questions with completing a Court Order Application, contact your Supervisor, Juvenile Coordinator or Juvenile Division);

Note: Where a Court Order for an interview is sought, personnel should consider also seeking judicial authorization in the Application for a sexual assault rape treatment (SART) examination, and/or the taking of photographs, when appropriate. This information will be written in the narrative of the Declaration.

- Review the Application and supporting documents with a supervisor;
- Present the Application and supporting documents to a judicial officer;
- Once a signed Order is obtained, proceed to the school campus;
- Check in with a school administrator and provide identification, upon request;
- Advise every child prior to the commencement of an interview that s(he) may decline to be interviewed;
- Advise any child agreeing to be interviewed that s(he) has the choice to be interviewed in private or may select a member of the school staff, including any employee or volunteer aide, to be present during the interview;
- Select a location for interviews which is comfortable to the child, such as private office space;
- Advise any child agreeing to be interviewed that s(he) may stop the interview at any time. Where the child verbalizes in any way that s(he) no longer wants to be interviewed, personnel shall immediately terminate the interview;
- Absent unusual circumstances, personnel shall complete any such interview within the child's developmentally-appropriate time limits (for assistance or questions, contact your Juvenile Coordinator or Juvenile Division); and,
- Consider the availability of plain clothes sworn members for conducting on-campus interviews of potential child abuse/neglect victims or witnesses.

The original Court Order will be attached to the original report that generated the Declaration and submitted to the Juvenile Table Coordinators or their designees upon completion of the campus interview of a minor related to a Suspected Child Abuse Report (SCAR).

SUPERVISOR'S RESPONSIBILITIES. All supervisors presented with information for on-school campus interviews shall discuss, review and evaluate all material presented to them to determine if the interview should be conducted with or without parental/guardian consent or a Court Order. The supervisor or their designee shall also approve all Applications for Court Orders prior to them being presented to a judicial officer.

JUVENILE TABLE COORDINATOR RESPONSIBILITIES. All Juvenile Table Coordinators or their designees are responsible for ensuring that methods and systems are put in

All Department Personnel

Page 5

8.3

place to effectively train, guide and monitor the procedures for conducting on-school campus interviews. Juvenile Table Coordinators or their designees are also responsible for collecting and maintaining the records for all Court Orders obtained.

DETECTIVE COMMANDING OFFICER'S RESPONSIBILITIES. Shall ensure that a Juvenile Table Coordinator or their designee adhere to this Notice.

COMMANDING OFFICERS RESPONSIBILITIES. Commanding Officers shall ensure all personnel within their commands adhere to this Notice.

The above procedures will be supplemented with training and additional information.

If you have any issues or questions regarding these new procedures, please feel free to contact Juvenile Division, at (213) 486-0531. During off hours, please contact Department Operations Center at (213)-484-6700.

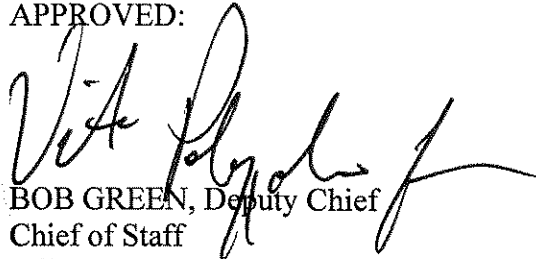


SEAN W. MALINOWSKI, Deputy Chief
Chief of Detectives

Attachments

DISTRIBUTION "D"

APPROVED:



BOB GREEN, Deputy Chief
Chief of Staff
Office of the Chief of Police

PETITIONER LOS ANGELES POLICE DEPARTMENT	PHONE:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES		
CHILD'S NAME and DATE OF BIRTH		
APPLICATION AND DECLARATION IN SUPPORT OF INTERVIEW OF CHILD AT SCHOOL		PETITION NO.: DEPT. NO.:

Petitioner, _____ declares as follows:
 (Print Name)

1. PETITIONER'S PROFESSIONAL QUALIFICATIONS

My name is _____. I am the declarant before the court. I have been a Los Angeles Police Officer for _____ years. I have received training in the investigation of child abuse and neglect. Since becoming a Los Angeles Police Officer, I have investigated approximately _____ allegations of child abuse and neglect. By virtue of my training and experience, I am qualified and authorized to conduct child abuse and neglect investigations, and conduct such investigations as part of my professional duties and assignment. I am currently assigned to investigate the case involving the child(ren) named above. I make this declaration in support of an application for:

- An order permitting the child to be interviewed by Los Angeles Police Department personnel while on school grounds.
- An order permitting the child to be interviewed by law enforcement personnel and a DCFS Social Worker while on school grounds.

2. REQUEST FOR ORDER PERMITTING INTERVIEW OF CHILD AT SCHOOL

Law Enforcement received a child abuse referral indicating the subject of the interview may be a victim of, or at risk of child abuse. Based on the facts alleged in the attached declaration, it is my professional opinion that an in-person investigative response is required pursuant to Welfare and Institutions Code §300 and California Penal Code § 11174.3(a), and that an investigative response entails an interview of the subject child(ren) at his or her school.

Furthermore, this officer states that he/she has reasonable cause to believe that evidence of child abuse and neglect will be found at the time of the interview.

An interview in a neutral location is essential to ensure child safety and to ensure a complete investigation of the allegations stated in the referral. In my professional opinion, asking the subject child(ren)'s parent, guardian, or caregiver for permission to interview the child may alert the parent, guardian, or caregiver to

(INCLUDE REQUEST FOR PHOTOGRAPHS AND/OR SEXUAL ASSAULT EXAMINATION, AND SUPPORTING RATIONALE, WHERE APPLICABLE)

4. ADDITIONAL INFORMATION

Additional information which supports this application is contained in the attached declaration; attached DCFS records; Additional Information Sheet.

5.

I declare under penalty of perjury that the foregoing, including any attachment, is true and correct to the best of my knowledge and belief. Signed on (date) _____ at (city) _____, California.

Law Enforcement Officer Name (Print)

Law Enforcement Officer's Signature

Date

ADDITIONAL INFORMATION SHEET

MEMORANDUM OF POINTS AND AUTHORITIES

1. The Superior Court may issue the requested order ex parte, in chambers.

Code of Civil Procedure, section 166(a), provides that a superior court judge may grant, in chambers, “all orders and writs that are usually granted in the first instance upon an ex parte application...” “In determining the meaning of 'good cause' in a particular context, the courts utilize common sense based upon the totality of the circumstances, [which] include the purpose of the underlying statutory scheme.” *Laraway v. Sutro* (2002) 96 Cal.App.4th 266, 274.

Code of Civil Procedure, section 187, provides that in issuing an order within its jurisdiction, a superior court has “all the means necessary to carry it into effect,” and may adopt “any suitable process or mode of proceeding” to accomplish this aim.

Because reports and investigations regarding suspected child abuse are required to be kept confidential (PC §§ 11167, 11167.5), this application must necessarily be submitted ex parte and granted in chambers, to preserve confidentiality.

2. The requested interview is authorized by California law.

“Whenever a representative of a government agency investigating suspected child abuse or neglect or the State Department of Social Services deems it necessary, a suspected victim of child abuse or neglect may be interviewed during school hours, on school premises, concerning a report of suspected child abuse or neglect that occurred within the child’s home or out-of-home care facility...” PC § 11174.3(a).

3. A court order to accomplish the interview authorized by PC § 11174.3 has been necessitated in this case by federal court decisional law.

In *Greene v. Camreta* (2011) 131 S. Ct. 2020, United States Supreme Court failed to rule on the merits of a decision of the Ninth Circuit Court of Appeal (*Greene v. Camreta*, (2009) 588 F.3d 1011) that held that Fourth Amendment principles are applicable to a police interview of a suspected child-abuse victim at school regarding allegations of in-home abuse. The appellate court said that police would violate the student’s rights against unreasonable seizure unless the interview was justified by “a [search] warrant, a court order, exigent circumstances, or parental consent.” *Greene v. Camreta*, 588 F.3d 1011, 1030.

The Supreme Court merely vacated the decision of the appellate court.

PETITIONER LOS ANGELES POLICE DEPARTMENT	PHONE:	
SUPERIOR COURT OF CALIFORNIA, COUNTY OF LOS ANGELES		
CHILD'S NAME and DATE OF BIRTH		
ORDER FOR SCHOOL INTERVIEW		PETITION NO.: DEPT. NO.:

FINDINGS AND ORDERS

Based on this application and the supporting declaration attached hereto, presented to the Court by the Law Enforcement Officer in this matter, the Court makes the following findings and orders:

FINDINGS:

There is probable cause to believe that evidence of child abuse and neglect will be found.

IT IS HEREBY ORDERED THAT:

(1) In order to conduct an interview of the above-mentioned child while that child is at school, including any afterschool program, access to that child shall be given to:

- DCFS social workers
- Members of law enforcement.

The above-mentioned child shall be interviewed at his or her school, including any afterschool program, without prior notice to, and without the consent of, the parent, guardian, custodian, or other care giver.

Moreover, said interview shall be conducted separately from, and outside the presence of, the parent, guardian, custodian, person designated by the parent to be present, or other care giver.

Judge of the Superior Court

Date