

Memorandum of Points and Authorities

I.

California law expressly authorizes officers to interview children in school if the interview pertains to child abuse.

Penal Code § 11174.3(a) states, in part:

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.

In addition to the above, the Ninth Circuit in *Greene v. Camreta* ruled that, in the absence of exigent circumstances, officers who seek to interview children in school must obtain a court order or parental consent if the interview pertains to suspected child abuse. For reasons set forth in the attached declaration, it would be impractical to seek parental consent in this case. (9th Cir. 2009) 588 F.3d 1011, 1030.

II.

The court has the authority to issue the requested order.

Superior Court judges in California may issue “all orders and writs that are usually granted in the first instance upon an ex parte application . . . ” Code Civ. Proc. § 166(a). Superior Court judges may also utilize “all the means necessary to carry [their orders] into effect.” Code Civ. Proc. § 187.

III.

Ex parte application and non-disclosure order is necessary.

The requested order pertains to an investigation into suspected child abuse as defined in Pen. Code § 11165.6. Reports of suspected child abuse are confidential. Pen. Code § 11167.5(b). Although there are exceptions to the confidentiality requirement (Pen. Code § 11167.5(b)(1)-(10)), none of them are applicable in this case.