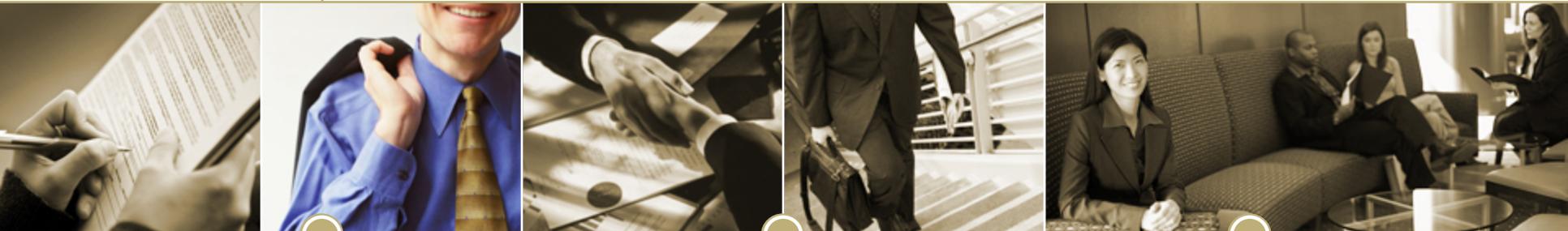


Don't Be A Headline!

Child Abuse Detection and Reporting for the Mandated Reporter



Presented by:
Gilbert A. Castro

These training materials are the copyrighted property of Atkinson, Andelson, Loya, Ruud & Romo. They may be used only by express written permission from AALRR.

aalrr
Atkinson, Andelson
Loya, Ruud & Romo
A Professional Law Corporation

Overview/Goals

- What is the Child Abuse and Neglect Reporting Act?
- What are the legal obligations of a mandated reporter?
- How do I make a Suspected Child Abuse Report?
- What are the consequences for failing to make a report?
- How do I detect possible child abuse?
- Test our knowledge
- Q/A session

Legal Disclaimer

- All stories related in this presentation are derived directly from news reports, articles, and other sources of information available in the public sphere.
- Any individuals mentioned in this presentation to whom possible criminal conduct is attributed are considered innocent until and unless proven guilty in a court of law.

Headlines...

Brentwood School District to pay \$8 million in child abuse settlement

- January 23, 2014 – Contra Costa Times



Why Care About Child Abuse?

- Each day in the United States, more than three children die as a result of child abuse in the home.
- Most of the children who die are younger than six years of age.
- More children (age four and younger) die from child abuse and neglect than any other single, leading cause of injury death for infants and young children.

Why Care About Child Abuse? (cont.)

- More than 2.67 million reports of possible maltreatment involving three million children were made to child protective service agencies in calendar year 2001.
- The actual incidence of abuse and neglect is estimated to be three times greater than the number reported to authorities.
- An estimated 903,000 children were victims of abuse and neglect in 2001 (cases substantiated by child protective service agencies).
- Nine in ten Americans polled regard child abuse as a serious problem, yet only one in three reported abuse when confronted with an actual situation.

Why Care About Child Abuse? (cont.)

- 66% of all women in alcoholism treatment programs reported they were abused as a child.
- 60% of all women in homeless shelters were abused as children.
- Individuals who were abused as a child are 5-10 times more likely to abuse their own children.
- One of 18 molested children is arrested for a violent offense.
- 67% of all youths in a run-away shelter were abused at home.
- Children who are abused have a 40% greater risk of being arrested as a juvenile.

What is the Child Abuse and Neglect Reporting Act?

- The Child Abuse and Neglect Reporting Act (Penal Code §11164 et seq.)
 - Identifies individuals whose jobs take them into regular contact with children as “mandated reporters.”
 - Requires that “mandated reporters” report all suspected child abuse to the proper authorities.
 - Creates protections for reporters who make reports and penalties for those who don’t.

Why You?

- Teachers and classified employees are the first two professions designated as Mandated Reporters. Why?
 - School employees have most contact with children outside of the home.
 - School employees are in the best position to observe signs of abuse and neglect.
 - School employees are most often viewed by children as a “safe adult” they can talk to.

Types of Child Abuse

- **Physical Abuse:** A physical injury inflicted on a child by another person that is not an accident.
- **Emotional abuse:** Failure to provide the child with the normal experience which will make the child feel loved, wanted and secure.
- **Neglect:** The negligent failure to meet the child's basic physical and medical needs. This can include: lack of proper supervision, food, clothing, shelter, medical attention, sanitation.
- **Willful harm or endangerment:** Any situation where a person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or causes the child to be placed in a situation where the child is endangered.
- **Unlawful corporal punishment or injury:** A situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.
- **Sexual Abuse:** Sexual assault or exploitation of a child for the sexual gratification of an adult. This can include verbalization, exposure, improper touching and sexual intercourse.

Types of Child Sexual Abuse

- **Sexual Assault**

- Rape
- Statutory rape (Penal Code 261.5(d) only)
- Any sexual contact with the genitals or anal opening
- Child molestation (Penal Code 647.6)
- Any intentional touching of the genitals or intimate parts or the clothing covering them
 - Intimate parts includes breasts, genital area, groin, inner thighs, and buttocks
 - Excludes normal caretaker responsibilities (changing a diaper) and valid medical care
- Masturbation in the presence of a child

- **Sexual Exploitation**

- Promoting, aiding, persuading, coercing a child to engage in obscene sexual conduct
- Depicting, developing, duplicating, printing, or exchanging images of a child engaging in obscene sexual conduct (child pornography)

What is NOT Child Abuse?

- Age-appropriate physical discipline, including spanking.
- Injuries caused by mutual fighting between children. (Penal Code § 11165.6.)
- Injuries, physical pain or discomfort caused by athletic competition or other such recreational activity voluntarily engaged in by the student. (Ed. Code § 49001.)
- The fact that a child is homeless or is classified as “an unaccompanied minor” is not, in and of itself, a sufficient basis for reporting child abuse or neglect. (Per AB 652, effective January 1, 2014.)

What is NOT Child Abuse? (cont.)

- Reasonable and necessary force for a peace officer or for a person employed by or engaged in a public school to quell a disturbance threatening physical injury to person or damage to property, for purposes of self-defense, or to obtain possession of weapons or other dangerous objects within the control of the student. (Ed. Code § 49001, Penal Code § 11165.4)
- Reasonable and necessary physical control over a student to maintain order, protect property, protect health and safety of students, or to maintain proper learning conditions. (Teachers and administrators only) (Ed. Code § 44807, Penal Code § 11165.4)
- Reasonable and necessary force used in an “emergency intervention” for a special education student for behavior which “poses clear and present danger of serious harm.” (Ed. Code 56521.1)

Statutory Rape/Consensual Sex of Minors

- In California, it is “illegal” for minors to have sex. (Penal Code 261.5.)
- HOWEVER – The Child Abuse and Neglect Reporting Act does NOT require a report for all instances of sexual conduct or pregnancy involving minors.

Why not?

- Intent of CANRA was to protect minors from “criminal acts of child abuse causing trauma to the victim.”
- Requiring a report of all incidents of consensual sex of minors would deter minors from seeking much needed reproductive health care. (*Planned Parenthood Affiliates v. Van de Kamp* (1986) 181 Cal.App.3d 245.)

Statutory Rape/Consensual Sex of Minors

- REPORT IS AUTOMATICALLY REQUIRED:

- Non-consensual sexual conduct between children of any age.
- Any sexual conduct where child is under 16 and partner is 21 or older. (Penal Code sections 261.5(d); 11165.1(a).)
- Any sexual conduct where child is under 14 and partner is 14 or older.

(People ex rel. Eichenberger v. Stockton Pregnancy Control Medical Clinic, Inc. (1988) 203 Cal.App.3d 225.)

- REPORT IS NOT AUTOMATICALLY REQUIRED:

- Consensual sexual conduct between two children both under 14.
(Planned Parenthood Affiliates v. Van de Kamp (1986) 181 Cal.App.3d 245.)
- Consensual sexual conduct where both partners between ages of 14 and 20.
- Consensual sexual conduct where both partners are 16 or older.

Statutory Rape/Consensual Sex of Minors

- HOWEVER....A report may still be warranted where:
 - Reasonable suspicion that sex is not voluntary or consensual.
 - Very young children engaging in sophisticated sex play (possible evidence of sexual abuse at home).
 - Other reasons to believe possible abuse occurring – use your professional judgment.

REMEMBER – WHEN IN DOUBT, REPORT IT OUT!

REPORTING CHILD ABUSE

Who is a Mandated Reporter?

- The Child Abuse Prevention Act imposes mandated reporting obligations on individuals employed in particular fields, including education. This includes the following:
 - Teachers
 - Instructional aides
 - Classified employees
 - Administrators
 - School resource/police officers and security officers
 - Licensed nurse or health care providers
 - Athletic coaches, athletic administrators, and athletic directors
 - Basically...anyone with regular contact with children
- **IF YOU'RE HERE – YOU'RE A MANDATED REPORTER.**

When to Make a Report

- You must make a report whenever, in your professional capacity or **within the scope of your employment**, you have knowledge of or observe a child whom you know or **reasonably suspect** has been the victim of child abuse or neglect. (Penal Code § 11166.)

“Scope of Employment”

- Report is only required when the information learned is connected to your employment.
- Does not have to occur on campus.
- Requires some nexus between information/victim and school employment.
- Mandated reporters may voluntarily report suspected child abuse outside of scope of employment.
 - Legal protections still apply! (Penal Code 11172(a).)

“Reasonable Suspicion”

- “Reasonable suspicion” means that a reasonable person, drawing when appropriate on their training and experience, would simply entertain a suspicion that abuse has occurred.
- “Reasonable suspicion” does NOT require certainty or proof.
- The duty is to REPORT, not to investigate.

Headline...

Moraga School District secret: Principal failed to report student abuse letter

- May 25, 2012 – Contra Costa Times



PITFALL #1

“Reasonable Suspicion” vs. “Beyond a Reasonable Doubt”

- All that is required to trigger reporting obligations is a “reasonable suspicion.”
- Does **NOT** require proof or certainty.
- Does **NOT** require “more likely than not.”
- Question is whether a reasonable person would suspect abuse has occurred.

What If I Don't Know?

- What to do if you are not sure whether you should have reasonable suspicion of abuse:
 - Consult with your Principal/Supervisor
 - Call Child Protective Services and ask
- BUT – no one can veto your assessment of reasonable suspicion!

REMEMBER – WHEN IN DOUBT, REPORT IT OUT!

Timelines for Making a Report

YOU MUST MAKE TWO REPORTS:

- **Initial Telephone Report** – Immediately, or as soon as practicably possible after observing or learning facts which lead you to a reasonable suspicion of child abuse, you must make an initial telephone report.
- **Follow-up Written Report** - Within 36 hours of your telephone report, you must file a written report.
 - The Written Report must include the Department of Justice “Suspected Child Abuse Report” form.
 - This form can be picked up at your school site or district office.

What to Report?

- Be prepared to give the following information:
 - Your name.
 - Name of the child.
 - Present location of the child.
 - Nature and extent of the injury.
 - Any other information, including that which led the person to suspect child abuse, requested by the child protective agency.

NOTE – You must make a report even if some of this information is not known or is uncertain. (Penal Code § 11167.)

Where to Report?

- Child Abuse Reports may be made to any police department (excluding school resource officers); sheriff's department; county probation department (if designated to receive such reports); or the county welfare department. (Penal Code § 11166.)
- TYPICALLY –
 - Abuse by caregiver reported to County Welfare/Child Protective Services.
 - Abuse by non-caregiver (i.e., district employee) to police.
- **When in doubt – REPORT TO YOUR LOCAL POLICE DEPARTMENT.**

Written Report

- Filed within 36 hours
- Filed with same agency as telephone report
- Mandated Reporter should keep a copy!
 - Proof of report

SUSPECTED CHILD ABUSE REPORT
 To Be Completed by **Mandated Child Abuse Reporters**
 Pursuant to Penal Code Section 11166
 PLEASE PRINT OR TYPE

CASE NAME: _____
 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 / OPS (Child Protective Services)					
		ADDRESS _____ Street _____ City _____ Zip _____		DATETIME OF PHONE CALL _____			
		OFFICIAL CONTACTED - TITLE _____		TELEPHONE _____			
C.	ICTIM <small>One report per victim</small>	NAME (LAST, FIRST, MIDDLE) _____		BRTHDATE OR APPROX. AGE _____	SEX _____		
		ADDRESS _____ Street _____ City _____ Zip _____		TELEPHONE _____			
		PRESENT LOCATION OF VICTIM _____		SCHOOL _____	CLASS _____	GRADE _____	
		<input type="checkbox"/> PHYSICALLY DISABLED? <input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DEVELOPMENTALLY DISABLED? <input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> OTHER DISABILITY (SPECIFY) _____		PRIMARY LANGUAGE SPOKEN IN HOME _____	
		<input type="checkbox"/> IN FOSTER CARE? <input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> 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		<input type="checkbox"/> TYPE OF ABUSE (CHECK ONE OR MORE) <input type="checkbox"/> PHYSICAL <input type="checkbox"/> MENTAL <input type="checkbox"/> SEXUAL <input type="checkbox"/> NEGLECT <input type="checkbox"/> OTHER (SPECIFY) _____	
		RELATIONSHIP TO SUSPECT _____		<input type="checkbox"/> PHOTOS TAKEN? <input type="checkbox"/> YES <input type="checkbox"/> NO	<input type="checkbox"/> DID THE INCIDENT RESULT IN THE VICTIM'S DEATH? <input type="checkbox"/> YES <input type="checkbox"/> NO <input type="checkbox"/> UNK.		
D.	INVOLVED PARTIES <small>VICTIMS PARENTS/GUARDIANS</small>	1. NAME _____ BIRTHDATE _____ SEX _____ ETHNICITY _____		3. NAME _____ BIRTHDATE _____ SEX _____ ETHNICITY _____			
		2. NAME (LAST, FIRST, MIDDLE) _____		4. NAME (LAST, FIRST, MIDDLE) _____			
		ADDRESS _____ Street _____ City _____ Zip _____ HOME PHONE _____ BUSINESS PHONE _____		ADDRESS _____ Street _____ City _____ Zip _____ HOME PHONE _____ BUSINESS PHONE _____			
		NAME (LAST, FIRST, MIDDLE) _____ BIRTHDATE OR APPROX. AGE _____ SEX _____ ETHNICITY _____		NAME (LAST, FIRST, MIDDLE) _____ BIRTHDATE OR APPROX. AGE _____ SEX _____ ETHNICITY _____			
E.	INCIDENT INFORMATION	SUSPECT'S NAME (LAST, FIRST, MIDDLE) _____		BIRTHDATE OR APPROX. AGE _____	SEX _____ ETHNICITY _____		
		ADDRESS _____ Street _____ City _____ Zip _____		TELEPHONE _____			
		OTHER RELEVANT 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. 1/2002) **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

LEGAL ISSUES RELATED TO CHILD ABUSE REPORTING

No Employer Sanctions for Reporting

- No supervisor can impede or inhibit reporting duties. (Penal Code § 11166.)
- The reporting person cannot be subject to any employment-based sanctions.
 - EVEN IF THE REPORT IS INCORRECT OR UNSUBSTANTIATED.

Mandated Reporter's Identity is Confidential

- A mandated reporter must provide his/her name when reporting known or suspected child abuse.
- However a mandated reporter's identity shall remain confidential and shall be disclosed only among investigating agencies, absent (1) the employee's consent to disclosure or (2) a court order.
 - One exception to disclosure is that where the child abuse allegations go to trial. The identity of the reporter will often be revealed.

Civil and Criminal Immunity

- California Penal Code § 11172, subdivision (e), gives mandated reporters who report suspected cases of child abuse ***absolute immunity***, both civilly and criminally, for making such reports.
- While mandated reporters are immune to liability, it does not eliminate the possibility that actions may be filed against those persons as a result of fulfilling their statutory obligations to report.
 - SO - the law protects mandated reporters against financial hardship caused by legal action - will reimburse up to \$50,000 for legal expenses if the action is dismissed.

PITFALL #2

Reports Are Confidential

- Suspected Child Abuse Reports must be kept confidential. (Penal Code § 11167.5.)
- Copies of Reports should not be kept in regular student/personnel files.
- Suspected Child Abuse Reports may NOT be released to victims or victims' families absent a court order.
- The mandated reporters and/or district can be held liable for violating this confidentiality. (*Cuff v. Grossmont*)

The Duty to Report is An Individual Obligation

- The duty to report child abuse is an individual responsibility. One cannot delegate the reporting duties to another person. (Penal Code § 11166.)
- Employees will **NOT** be in compliance with the law by simply informing an administrator about a suspicion or allegation of child abuse.
 - NOTE – When two or more mandated reporters jointly have knowledge or reasonable suspicion of child abuse, the “team” may select a single member to make the report. (Penal Code § 11166.)

PITFALL #3

No “Gatekeepers”

- District administrators CANNOT require that employees report suspected child abuse to them first.
- Mandated reporters must be free to file reports without interference or delay.
- Administrators CANNOT veto/override reporter’s judgment on reasonable suspicion.
- BUT – mandated reporters are encouraged to report all suspected abuse or neglect to their Principals/Supervisors

Legal Consequences of Failing to Report

- **Criminal Liability** - Any person who fails to report an instance of child abuse as required by the Child Abuse and Reporting Act is guilty of a misdemeanor with a punishment not to exceed six months, or \$1,000, or both. (Penal Code 11166(c).)
- If death or great bodily injury happens to the child as a result of the abuse, the mandated reporter is guilty of a misdemeanor punishable by not more than one year in a county jail, by a fine not to exceed five thousand dollars (\$5,000), or by both. (Penal Code 11166.01(b).)

Failing to Report (cont.)

- **Civil Liability** - Failure to report child abuse may result in a civil action brought by the victims of abuse. A mandated reporter who willfully or negligently fails to report child abuse can be sued for injuries that occur after the time when the report should have been made. (*Landeros v. Flood* (1976) 17 Cal.3d 399; *Phyllis P. v. Claremont Unified School District* (1986) 183 Cal.App.3d 1193.)
 - Civil Liability will vary from case to case. Our survey of jury verdicts reveals significant awards to plaintiffs in instances where the district was on notice of the abuse and did nothing to prevent the harm.

Failing to Report (cont.)

- **Consequences to Employment**

- Failure to report suspected child abuse or neglect violates district policy.
- Failure to report child abuse may subject the employee to disciplinary action, up to and including termination.
- Failure to report can also result in suspension or revocation of a credential.

Headline...

San Jose: Principal convicted of failing to report suspected child abuse by teacher

- November 12, 2012 – Mercury News



PITFALL #4

Duty to Report vs. Duty to Investigate

- Under CANRA there is **ONLY** a duty to **REPORT**.
 - Investigation is left to law enforcement/child protective services
- DO NOT CONFRONT THE ALLEGED ABUSER
 - For your safety and the safety of the child.
- NOTE - You may ask the child questions to determine if there is a reasonable suspicion of abuse or neglect
- BUT – once you have a reasonable suspicion, you do not need to confirm your suspicions
 - YOU MUST IMMEDIATELY MAKE YOUR REPORT.

Results of the Report

After a report of suspected child abuse is made, local law enforcement may:

- Investigate and determine that no abuse exists.
- Refer the family to Social Services or counseling agencies.

Depending on the severity of the abuse, local law enforcement may determine that it is appropriate to:

- Take the child into protective custody.
- File criminal charges against alleged abusers.

NOTE – Reporters are often not informed of the outcome.

SPOTTING POSSIBLE CHILD ABUSE

Why Are Educators Mandated Reporters?

- Educators often viewed as a “safe adult” – trusted by children.
- Educators see/interact with children more than any other adult (with possible exception of parents.)
- Educators often in best position to observe tell-tale signs of abuse.
 - Biggest indicator of child abuse – change in behavior.
- NOTE – Educators are responsible for the largest number of child abuse reports (22%)

Spotting Child Abuse and Neglect

- Many times, children will not initially report abuse or neglect.
- Abusers are adept at convincing children to stay quiet
 - Threaten violence to child and child's family.
 - Warn child that the police will take them away if they tell.
 - Shame child and convince child it is his/her fault.
 - Tell child no one will believe them.
- It is therefore important to watch for physical and behavioral signs of abuse and neglect.

General Signs of Abuse/Neglect

- The following may be indicators of possible abuse/neglect – especially if it involves a sudden change in behavior:
 - Academic/behavioral problems
 - Abusive or aggressive conduct towards students/staff
 - Anxiety or fearful conduct
 - Fear of parents or fear of going home
 - Depression/withdrawal
 - Forms abnormal/intense attachments to adults
 - Delinquent behavior
 - Frequent absence from school
 - Alcohol/drug use
 - Self-abuse (cutting, suicidal ideations/attempts)

Signs of Physical Abuse

- Physical signs of injury - black eyes, split lips, swelling, etc.
- Unexplained or poorly explained burns, welts, bite marks, or broken bones
- Imprint of hand or object on the skin
- History of previous or recurrent injuries
- Child seems frightened of parents
- Child makes inconsistent statements about injuries
- Parent/caregiver delays or fails to obtain medical care for injuries
- Child reports abuse by parent or caregiver

Signs of Physical Abuse (cont.)

- BRUISING

- Any bruising on an infant is abnormal = possible sign of abuse
- Common locations of normal/accidental bruises:
 - Forehead, chin
 - Knees, elbows, shins
 - Other “bony” areas
- Abnormal or Suspicious Bruising:
 - Cheeks, Ears
 - Buttocks
 - Neck, Back
 - Genitals

Signs of Child Neglect

- Consistent hunger
- Beggars or steals money or food
- Underweight/malnourished
- Severe tooth decay/poor dental hygiene
- Constant fatigue or listlessness
- Consistently dirty, unkempt, or has severe body odor
- Lacks sufficient/appropriate clothing for the weather
- Unattended physical or medical needs
- Constant tardiness or absences
- Odor of alcohol
- States that there is no one at home to provide care

Emotional Abuse

- Not as clearly defined in the law
- Reportable if:
 - Child suffers or is at risk of suffering “serious emotional damage.” (Penal Code 11166.05.)
- May include the following:
 - Constant criticism, rejection
 - Threats, intimidation
 - Humiliation
 - Withholding of love and support, isolation
- Domestic violence in front of child=emotional abuse.

Signs of Emotional Abuse

- Emotional abuse is often difficult to identify
 - Indicators are often evident in non-abused children
 - Behaviors of emotionally abused and emotionally disturbed are often the same.
- Look at parental response to behavioral problems
 - Are parents concerned and/or actively seeking help for child?
 - OR, are parents unconcerned or overly focused on punishment?

Signs of Emotional Abuse

- Underdeveloped physically, emotionally, or intellectually
- Obesity or underweight, eating disorders
- Anxiety
- Depression/withdrawal
- Untoward aggressive behavior towards self or others
- Enuresis
- Hyperactivity/hypoactivity
- Nervous skin disorders
- Emotional abuse of other students

Signs of Sexual Abuse

- Difficulty walking or sitting
- Reports of nightmares or bedwetting
- Suddenly refuses to participate in or change for P.E.
- Pregnancy or STD, particularly if under the age of 14
- Sudden change in appetite
- Excessive fondling or masturbation

Signs of Sexual Abuse (cont.)

- Demonstrates bizarre, sophisticated, or unusual sexual knowledge or behavior for age
- Simulates sexual acts on objects or other students
- Reports exposure to pornography
- Creates sexually explicit pictures or drawings
- Molests other students
- Child reports abuse.
 - NOTE – children rarely fabricate reports of sexual abuse

Note About Signs of Child Abuse

- These indicators are only clues or warning signs of possible abuse; they are not an all-inclusive list.
- The presence of a combination of these indicators should serve as a warning that a child needs help and abuse may be the cause.
- However, the reporter must use his or her own judgment as to whether the facts as a whole cause them to suspect that a child is being abused.

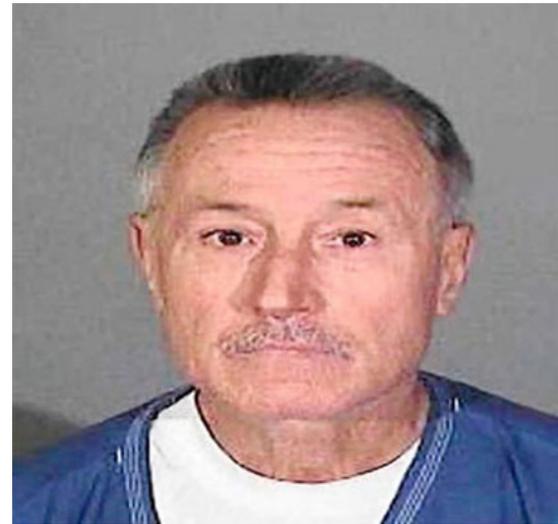
Review of Pitfalls

- “Reasonable Suspicion” vs. “Reasonable Doubt”
 - Only need reasonable suspicion, not proof.
- Reports are Confidential
 - Do not disseminate reports absent a court order.
- No Gatekeepers
 - Reporters must be free to report without interference or delay
 - Supervisors can give advice, but cannot override reporter’s reasonable suspicion.
- Duty to Report vs. Duty to Investigate
 - Do not investigate prior to filing the report.

Headline...

LAUSD to pay Miramonte sex abuse victims \$30 million

March 12, 2013 – Los Angeles Times



TEST YOUR KNOWLEDGE

Situation #1

A 16-year-old male student approaches you and tells you that 10 years ago, his first grade teacher made him remove his pants in the coat closet. The teacher in question retired three years ago and moved out of state.

What should you do?

Answer

There is no time limitation regarding the reporting of child abuse.

In this situation, you must make a report immediately.

Situation #2

It is the middle of January and temperatures are around freezing. One day you notice that Carol, a student in your 6th grade class, has come to school without a coat. She is shivering and her lips are turning blue. You quickly send her to the nurse to get her warmed up.

Do you need to file a child neglect report?

Answer

Probably not.

A single incidence of a child lacking appropriate clothing for the weather is probably not reasonable suspicion of neglect (the child may just have forgotten the coat).

HOWEVER – if a child regularly lacks clothing for the weather and/or displays other signs of neglect, a report may be warranted.

Situation #3

You notice that a 13-year-old female student is wearing a lot of baggy sweatshirts and sweaters, even though you're having hot weather. You ask her to stay after class one day, and ask her if everything is alright. She breaks down into tears and admits that she is pregnant. She tells you the father is her boyfriend, another student in your class, and that the sex was consensual.

Do you need to file a child abuse report?

Answer

It depends.

If the boyfriend is age 14 or over, then YES. California law prohibits all sexual contact with persons under the age of 14, regardless of consent, if the offender is over the age of 14. (*People ex rel. Eichenberger v. Stockton Pregnancy Control Medical Clinic, Inc.* (1988) 203 Cal.App.3d 225.)

If the boyfriend is under 14, then NO. California law holds that if, in the judgment of the professional, there are no indications of actual abuse, then voluntary and consensual sexual behavior between minors under the age of 14 of a similar age need not be reported. (*Planned Parenthood Affiliates v. Van De Kamp*, (1986) 181 Cal.App.3d 245.)

HOWEVER – **WHEN IN DOUBT, REPORT IT OUT!**

Situation #4

A former female student emails you and tells you that she recently accessed some “suppressed memories” during therapy. She now recalls being sexually abused by a high school swim coach 20 years ago. The coach in question no longer works for the district.

Do you need to make a report?

Answer

YES.

There is no statute of limitations on making a child abuse report. If the victim was a minor when the abuse occurred, you must report it, no matter how long ago it occurred.

ALSO - While this former student is no longer a minor, other minors may be in danger from this coach. Even though the coach no longer works at the district, he may still be coaching children elsewhere. A report should be filed.

Situation #5

While you are supervising lunch in the cafeteria, you overhear Jack, one of your fifth grade students, telling his friends that his parents leave him home alone everyday after school until they get home from work.

Do you need to make a report?

Answer

It depends.

There is no age prescribed in the law at which it is acceptable to leave a child home alone.

The reporter must look at the totality of circumstances:

- maturity-level and cognitive development of the child;
- length of time they are left home alone;
- are they left to care for younger siblings, etc.?

Situation #6

One of your third grade students approaches you and tells you that his mother burned his leg with an iron. He refuses to show you the burn. The mother is your room parent, and is vice-president of the PTA. You have been friends for a long time, and you know she would never do anything like that.

Do you need to make a report?

Answer

YES.

Remember, “reasonable suspicion” means what a “reasonable person” would do. A reasonable person, hearing a student say their mother burned them with an iron, would view that as reasonable suspicion of child abuse.

REMEMBER – WHEN IN DOUBT, REPORT IT OUT.

Situation #7

While administering a math test, you notice that a 15-year-old female student in your class has several horizontal cuts extending up her arm. They appear to have been caused by a razor blade. When she notices you looking, she quickly covers her arm with her sweatshirt.

After class you ask the student about the cuts on her arm. She admits to you that they are self-inflicted and that it's "no big deal." She says she does it when she feels stressed out and that it makes her feel better.

Is this physical abuse? Do you need to make a report?

Answer

It is probably NOT physical abuse. Penal Code § 11165.5 defines physical abuse to be abuse inflicted “upon a child *by another person.*” This does not appear to include self-inflicted injury or self-abuse.

HOWEVER – you may still need to make a report!

Depression, self-abuse, etc., can all be signs of abuse at home.

Additionally, neglect includes “failure of a person having care or custody of a child to provide adequate...medical care or supervision.” There is reason to believe the student is not receiving proper medical care.

Situation #8

The father of one of your first grade students approaches you after school and tells you that he is concerned about a report he received from his son, Billy. Billy told him that another student in class, Johnny, took him into the closet, pulled down Billy's pants, and "put his mouth on my privates."

Do you need to make a report?

Answer

YES.

While consensual sexual conduct between two minors under age 14 does not *de facto* require a report, there is a reasonable suspicion this was not consensual.

Furthermore, there are red flags of possible sexual abuse at home – sophisticated knowledge of sexual conduct for age; taking victim into the closet, etc.

A report should be filed for both children.

Question & Answer
Session

Thank You

For questions or comments, please contact:

{ Gilbert A. Castro, Esq.
(925) 227-9200
gcastro@aalrr.com }