

Child Abuse Reporting

REPORTING SUSPECTED CHILD ABUSE

We are all DESIGNATED CHILDCARE CUSTODIANS. Educators are required to report suspected child abuse.

Classified employees are also mandated reporters under the law (Penal Code 111640).

NEVER investigate child abuse. Our duty is to report.

When we receive information that causes us to suspect child abuse, we do the following:

1. Report the known or suspected instance of child abuse to a child protective agency (local police or sheriff) immediately or as soon as practicably possible by telephone (800-344-6000) and prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. Provide the following information for the intake worker:

- o Full name of the child
- o Child's birth date
- o Child's complete address
- o Parent/guardian's name, address and phone number
- o Date, time and place of incident
- o Have a brief narrative description of the incident for the worker

If there is an allegation of child abuse regarding an employee as the perpetrator, we call CWA immediately (800-344-6000). CWA and police will contact the appropriate law enforcement agency to handle the investigation.

In cases where the child is taken from the campus by law enforcement in regard to child abuse, the law enforcement agency assumes the responsibility to contact parents. The school is NOT to contact the parent.

A student has the right to have a staff member from the school present during any interview at the school. The staff member may not participate in the interview and is required under Penal Code 11174.3 to keep all information confidential.

[Suspected Child Abuse Report Form link](#)

THE CHILD ABUSE REPORTING ACT

While everyone should report suspected child abuse and neglect, the California Penal Code provides that it is a crime for certain professionals and laypersons who have a special working relationship or contact with children not to report suspected abuse to the proper authorities. The following are excerpts and summaries of sections from the Child Abuse and Neglect Reporting Act (see Appendix II for full text):

".....any child care custodian, health practitioner, employee of a child protective agency, child visitation monitor, firefighter, animal control officer, or humane society officer who has knowledge of or observes a child, in his or her professional capacity or within the scope of his or her employment, whom he or she knows or **reasonably suspects** has been the victim of child abuse, shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. A child protective agency shall be notified and a report shall be prepared and sent even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death, and even if suspected child abuse was discovered during an autopsy. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse. (Penal Code §11166, subd. (a), emphasis added).

"[Except when a clergy member acquires knowledge or reasonable suspicion of child abuse during a penitential communication], any clergy member who has knowledge of or observes a child, in his or her professional capacity or within the scope of his or her duties, whom he or she knows or reasonably suspects has been the victim of child abuse, shall report the known or suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. A child protective agency shall be notified and a report shall be prepared and sent even if the child has expired, regardless of whether or not the possible abuse was a factor contributing to the death. (Penal Code §11166, subd. (c).)

"Any commercial film and photographic print processor who has knowledge of or observes, within the scope of his or her professional capacity or employment, any film, photograph, videotape negative, or slide depicting a child under the age of 16 years engaged in an act of sexual conduct, shall report the instance of suspected child abuse to the law enforcement agency having jurisdiction over the case immediately, or as soon as practically possible, by telephone, and shall prepare and send a written report of it with a copy of the film, photograph, videotape, negative, or slide attached within 36 hours of receiving the information concerning the incident...." (Penal Code §11166 subd. (e)).

Failure to report by telephone immediately or as soon as practically possible and in writing within 36 hours is a misdemeanor "punishable by confinement in a county jail for a term not to exceed six months, by a fine of not more than one thousand dollars (\$1,000), or by both" imprisonment and fine. This penalty ensures that those required to do so will report all suspected incidents of child abuse immediately to a child protective agency. For those required to report who do not do so, there also may be civil liabilities. (See "Liability for Failing to Report").

Those required to report should be aware that reporting does not necessarily mean that a civil or criminal proceeding will be initiated against the suspected abuser.

A child protective agency shall forward to the Department of Justice, Child Abuse Central Index (CACI) a "report in writing of every case it investigates of known or suspected child abuse which is determined not the unfounded" except cases of general neglect. (Penal Code §11169). Reports must be made on Department of Justice form SS8583. (See Appendix I and "Making a Report").

The reporting duties of a mandated reporter are individual. Supervisors or administrators may not impede or inhibit reporting by a mandated reporter, nor may they take any actions against the reporter for making a report. However, it is permissible to establish internal procedures to facilitate reporting and apprise supervisors and administrators of reports, so long as these procedures are not inconsistent with the Reporting Act. The internal procedures shall not require any employee required to make suspected child abuse report to disclose his or her identity to the employer. (Penal Code §11166, subd. (h).)

When two or more mandated reporters are present in a situation, such as an emergency room, and jointly become aware of a known or suspected instance of child abuse, they may, by mutual agreement, designate one of themselves to make the required telephone and written reports. However, if a mandated reporter becomes aware that the designated individual failed to report, he or she must then report. (Penal Code §11166, subd. (g).)

WHO REPORTS?

Those persons required to report known or suspected child abuse are "child care custodians," "health practitioners," "employees of a child protective agency," "child visitation monitors," "firefighters," "animal control officers," "humane society officers," "commercial film and photographic print processors," and "clergy members." These are defined in the Penal Code.

(See Appendix II for definitions)

Volunteers of public or private organizations whose duties require direct contact and supervision of children are encouraged to obtain training in the identification and reporting of child abuse. (Penal Code §11165.7, subd. (d).) Volunteers, however, are not mandated reporters.

On or after January 1, 1985, any person who enters into employment as a child care custodian, health practitioner, firefighter, animal control officer, or humane society officer, or with a child protective agency, prior to commencing his or her employment, and as a prerequisite to that employment, shall sign a statement on a form provided by his or her employer to the effect that he or she knows of the provisions of Penal Code section 11166 (requiring him or her to report known or suspected child abuse) and will comply with its provisions. On or after January 1, 1993, any person who acts as a child visitation monitor, prior to engaging in monitoring the first visit in a case, shall sign a statement on a form provided to him or her by the court ordering monitoring to the effect that he or she has knowledge of the provisions of section 11166 and will comply with its provisions. The signed statement shall be retained by the employer or the court, as the case may be. (Penal Code §11166.5).

IMMUNITY FROM LIABILITY

Mandated reporters are provided immunity from civil and criminal liability for making required or authorized reports of known or suspected child abuse. Any other person who reports shall not incur civil or criminal liability unless it can be proven that a false report was made and the person knew the report was false or the report was made with reckless disregard of the truth or falsity of the report. Any such person who makes a report of child abuse known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused. (Penal Code §11172, subd. (a).)

In the event a civil action is brought against a mandated reporter as a result of a required or authorized report, he or she may present a claim to the State Board of Control for reasonable attorney's fees incurred in the action if he or she prevails in the action or the court dismisses the action upon a demurrer or motion for summary judgment made by that person. The maximum hourly rate for recovery of attorney's fees is that charged by the Attorney General at the time of the award and the maximum recovery is \$50,000. Public entities providing a defense pursuant to Government Code section 995 may not file a claim. (Penal Code §11172, subd. (c).)

LIABILITY FOR FAILING TO REPORT

Mandated reporters who report suspected cases of child abuse have absolute immunity, both civilly and criminally, for making such reports. However, 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 §11172, subd. (e).)

Medical professionals and other mandated reporters may be subject to civil damage suits if they fail to report. In the case of *Landeros v. Flood* (1976) 17 Cal.3d 399, an infant, Gina, was brought into a hospital with injuries, treated, and released back to her mother. Subsequently, she was treated for new and more serious injuries by a second doctor who reported the injuries as suspected child abuse. The child was made a dependent of the court and a guardian ad litem was appointed. The guardian ad litem then instituted a suit on behalf of the child against the first doctor for failure to report as required by law. The California Supreme Court reversed a lower court decision that dismissed the complaint, and it held that the complaint stated a cause of action based on a failure to report as required by statute. The court held that failure to perform the statutorily imposed duty to report raises a presumption that the defendant doctor failed to exercise due care. The Supreme Court sent the case back to the lower court for trial. The plaintiffs sued the doctor for \$2 million, plus costs. In spite of the ultimate outcome of this case (the charges could not be substantiated), it is clear that health practitioners and other persons who have a statutory duty to report may be held civilly, as well as criminally, liable if they fail to report suspected cases as required by law.

PURPOSE OF REPORTING

It is important to remember that the primary purpose of the reporting law is to protect the child. Protecting the identified child also may provide the opportunity to protect other children in the home or out-of-home care facility. It is equally important to provide help for the parents. Parents may be unable to ask for help directly, and child abuse may be their way of calling attention to family problems. The report of abuse may be a catalyst for bringing about change in the home environment or in the out-of-home care facility, which in turn may help to lower the risk of abuse.

MAKE A REPORT

The mandated reporter must give his or her name when reporting known or suspected child abuse to a child protective agency. The reporter's name is confidential however, and it may be disclosed only in certain very limited situations, as provided by law. The following information also is required when making the telephone report of suspected child abuse to the child protective agency:

- Name of 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. (Penal Code §11167, subd. (a).)

Within 36 hours of making the telephone report, a written report must also be filed by the mandated reporter to the child protective agency. (Penal Code §11166, subd. (a).) The written report must also be filed on Department of Justice form SS8572.

The Department of Justice form SS8583 is to be used only by the child protective agencies for reporting substantiated and inconclusive cases to the Department of Justice, Child Abuse Central Index (CACI). Unfounded cases are not reported to the CACI.

In addition to the standard Department of Justice forms, medical personnel may complete, even without the consent of the child's parent or caretaker, Department of Justice form 900, "Medical Report - Suspected Child Abuse" (DOJ 900).

The medical reporting form elicits essential data concerning suspected child abuse, but, at the same time, it is not unduly burdensome to reporting medical personnel. It also is designed to be educational, as well as instructive, for medical personnel who come in contact with possible child abuse.

If the suspected abuse is sexual, medical personnel who conduct the examination also must complete either Office of Criminal Justice Planning (OCJP) form 925 "Medical Report - Suspected Child Sexual Abuse", or OCJP form 923, "Suspected Sexual Assault." In cases of chronic child sexual abuse, the OCJP form 925 should be used. If the victim is post-pubertal and the sexual abuse is acute, the OCJP form 923 should be used.

Upon completion of the investigation or after there has been a final disposition in the matter, the investigating agency shall inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family. (Penal Code §11170, subd. (b) (2).)

WHAT HAPPENS TO THE REPORTS?

The primary purpose of the reporting forms is to make all agencies aware of possible abuse, which will lead to a thorough investigation and protection of the child.

REPORTS OF ABUSE

Reports are investigated either by the local law enforcement agency and/or by the county child welfare services (child protective services) agency.

Reports received by county probation or child welfare agencies, except for reports involving general neglect, shall be cross-reported immediately, or as soon as possible, to the local law enforcement agency and district attorney's office having jurisdiction. Law enforcement also is required to cross-report immediately, or as soon as possible, to child welfare agencies and the district attorney's office. The reporting law is designed to ensure that the law enforcement and child welfare agencies and district attorneys receive and review all reports, whether initially reported to them or to another child protective agency. (Penal Code §11166, subd. (i).) When a child protective agency receives a report of abuse alleged to have occurred in facilities licensed to care for children by the State Department of Social Services or the county licensing agency authorized by the State, it shall, within 24 hours, notify the licensing office with jurisdiction over the facility. The child protective agency shall send the licensing agency a copy of its investigation and any other pertinent materials. (Penal Code §11166.1.)

A child protective agency also shall immediately, or as soon as practically possible, report by telephone to the appropriate licensing agency every known or suspected instance of child abuse when the abuse occurs while the child is being cared for in a child day care facility involves a child day care licensed staff person, or occurs while the child is under the supervision of a community care facility or involves a community care facility licensee or staff person. A child protective agency must send a written report thereof within 36 hours of receiving the information concerning the incident to any agency to which it is required to make a telephone report. A child protective agency is also required to send the licensing agency a copy of its investigation report and any other pertinent materials. (Penal Code §11166.2.)

REPORTS OF GENERAL NEGLECT

General neglect (Penal Code §11165.2, subd. (b).) must be reported, but only to the county welfare department.

[THE CALIFORNIA DEPARTMENT OF JUSTICE, CHILD ABUSE CENTRAL INDEX](#) (external link)

The Division of Criminal Justice Information Services within the Department of Justice maintains the Child Abuse Central Index (CACI), which contains summary information from investigation reports submitted by child protective agencies on child abuse victims and suspected abusers. This information includes the suspect's(s') and victim's(s') names and personal characteristics, reporting agency, type of abuse, local agency file number, and date of report.

The CACI provides the following services to child protective agencies:

- Searches, indexes, and files child abuse reports received from investigating child protective agencies (law enforcement, welfare, and probation).
- Searches the names of applicants for child care service licenses and employment to determine if they have a prior history of child abuse that may result in disqualification.
- Notifies child protective agencies of current victims and suspects with prior histories of child abuse.
- Provides assistance to appropriate persons and agencies concerning reporting and identification of child abuse.
- Conducts statewide training sessions on child abuse reporting for investigating agencies and persons required to make reports.

Penal Code section 11165.12 defines the type of reports that must be submitted to the CACI by child protective agencies.

Child Protective Services 800-344-6000

858-694-5191

1320 Union Plaza Ct.
Oceanside, CA 92054

Child Abuse Reporting Form:

http://www.sdcounty.ca.gov/hhsa/programs/phs/documents/EMS-FormSS8572_SuspectedChildAbuse.pdf