

Oregon Child Abuse and Neglect Laws

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A Social Overview

Child abuse and neglect is recognized as a problem of epidemic proportions. In 1997 and 1998, 19,889 Oregon children were identified as victims of child abuse and neglect. In the same two years, 66 Oregon children died as a result of abuse or neglect. National studies continue to indicate that only a small percent of maltreated children are reported to child protection agencies. Significant numbers of victims remain unidentified, without protection and treatment. Child abuse has serious consequences which may remain as indelible pain throughout the victim's lifetime. The violence and negligence of parents and caretakers serve as a model for children as they grow up. The child victims of today, without protection and treatment, may become the child abusers of tomorrow.

As with any social issue, child abuse and neglect is a problem for the whole community. Achieving the goals of protective services requires the coordination of many resources. Each professional group and agency involved with a family assumes responsibility for specific elements of the Child Protective Services (CPS) process. The State Office for Services to Children and Families (SCF) works closely with physicians, nurses, education providers, mental health practitioners, law enforcement agencies, and the judiciary. These parties are involved in the identification, reporting, investigation, assessment, and treatment of cases of child abuse.

Application of the Law

The Child Abuse Reporting Law, ORS 419B.005 to 419B.045, was enacted in 1971. The intent of the law is to identify children who are victims of abuse or neglect and to provide services needed to assist caretakers in resolving problems it underlying child maltreatment. The term child abuse and neglect includes the physical or mental injury, sexual abuse or exploitation, negligent treatment or maltreatment of a child.

The Child Abuse Reporting Law is only one type of Oregon statute designed to deal with child abuse. Juvenile court laws authorize the court to provide protection for children through supervision in their own homes or in substitute care. Criminal laws are separate from the reporting and juvenile court laws. Harmful acts perpetrated against children by strangers or persons not in an ongoing caretaker role are handled directly by law enforcement, who will determine whether a criminal act has occurred. Criminal laws provide for prosecution of perpetrators of the more serious types of child abuse, including sexual assault, serious physical abuse, and homicide.

Purpose of Child Abuse Reporting law

The purpose of the Oregon law (ORS 419B.005-419B.045) is to facilitate “the use of protective social services to prevent further abuse, safe-guard and enhance the welfare of abused children, and preserve family life when consistent with the protection of the child by stabilizing the family and improving parental capacity.” The state values the bond between parent/ guardian and child. However, the state has the obligation to intervene for the general welfare of the child when there is a clear and present danger to the child’s health, welfare, and safety. The state does not intend to interfere with reasonable parental discipline and child raising practices that are not injurious to the child.

Certain persons or groups of persons having frequent contact with children are required by Oregon state law to report suspected cases of child abuse and neglect to the local SCF office or law enforcement agency. These designated persons are in a position to identify children who are at risk from abuse and neglect. Consequently, they are required to report such cases.

It is the intent of the law that professional investigation of reports of suspected abuse be initiated and that comprehensive protective services provided for abused, neglected, exploited, and abandoned children found in Oregon.

Victims and Perpetrators

The victim of child abuse is an unmarried person, under the age of 18, who has been non-accidentally physically or mentally injured, negligently treated or maltreated, sexually abused or exploited, or who dies as a result of abuse or neglect. Abuse in Oregon is “actual” as well as “threatened harm” to a child. According to the Reporting Law, threatened harm means substantial risk of harm to a child’s health or welfare. Reports of suspected child abuse must be made when an incident of child abuse has caused or could have caused any physical injury, mental injury, illness, disability, or death to a child.

Perpetrators of child abuse come from all walks of life, races, religions, and nationalities. They come from all professions and represent all levels of intelligence. They reflect all standards of living, from the very filthy to the impeccably clean. No single social strata is free from incidents of child abuse.

People who have abused a child represent a cross-section of social, emotional, and psychiatric disturbances. The largest group of child abusers have drug and alcohol problems.

Many parents who abuse their children lack basic information about normal child development and parenting. One of the significant characteristics of child abusers is that they have unrealistic expectations of their child’s ability to perform certain tasks or to respond emotionally. Parental ignorance, coupled with the child’s inability to meet unreasonable demands, can lead to abuse or neglect.

For instance:

- A parent might expect a one-year-old to be completely toilet trained.
- The parent may require the child to take care of the parent's hurt feelings.
- The parent may believe that a small child is doing certain things to deliberately provoke the parent; i.e., an infant's crying or a toddler's creating a mess with food may be misunderstood as purposeful.

Sexual abusers share some of the same characteristics as physically abusive or neglectful parents. In addition, however, sexual abusers manifest deviant behaviors which result in sexual assault of children. Sexual abusers use manipulation, threats, bribery, coercion, and sometimes force in sexual assaults. Sexual abusers violate the trust that a child inherently places in them for care and protection. Sexual offenders exploit the power and authority of their position as a trusted adult in order to sexually misuse a child. Sexual abusers usually warn or threaten the victim "not to tell" thus creating a conspiracy of silence about the assault(s).

Physical Abuse

Abuse constitutes any physical injury to a child which has been caused by other than accidental means, including any injury which appears to be at variance with the explanation given for the injury. Abuse includes reckless or negligent use of drugs during pregnancy which results in the birth of an infant with addictions or impairment. Non-accidental physical injuries may appear as bruises, burns, fractures, bites, cuts, sprains, internal injuries, and auditory, dental, ocular, or brain damage.

Possible Physical Indicators:

- Bruises and welts on face, lips, mouth, torso, back, buttocks, or thighs in various stages of healing.
- Bruises and welts reflecting shape of article used (electric cord, belt buckle).
- Cigar or cigarette burns, especially on soles, palms, back, or buttocks.
- Immersion burns (sock-like, glove-like, doughnut shaped on buttocks or genitalia).
- Burns patterned like electric element, iron, or utensil.
- Rope burns on arms, legs, neck, or torso.
- Lacerations to mouth, lips, gums, eyes, or external genitalia.
- Fractures of skull, nose, or facial structure in various stages of healing; multiple or spiral fractures.

Possible Behavioral Indicators:

- Wary of adult contacts.
- Apprehensive when other children cry.
- Behavioral extremes such as aggressiveness or withdrawal.

- Frightened of parents.
- Afraid to go home.

Neglect

Neglect is negligent treatment or maltreatment of a child which causes actual harm or substantial risk of harm to a child's health, welfare, and safety. Neglect includes but is not limited to:

Failure to provide adequate supervision such that a child is endangered; an act of exploitation such as requiring a child to be involved in criminal activity; failure to provide life necessities such as food, clothing, shelter, nurturance; "medical neglect" is failure to provide necessary medical care, including the withholding of medically indicated treatment from disabled infants with life-threatening conditions; abandonment or desertion of a child; and "emotional neglect" is failure to provide the emotional nurturing, physical, and cognitive stimulation needed to prevent serious developmental deficits.

Possible Physical Indicators

- Consistent hunger, poor hygiene, inappropriate dress.
- Consistent lack of supervision.
- Unattended physical/emotional problems or medical needs.

Possible Behavioral Indicators

- Begging, stealing food.
- Extended stays at school (early arrival and late departure).
- Constant fatigue, listlessness or falling asleep in class.
- Alcohol or drug abuse.
- Delinquency.
- States there is no caretaker.
- Shunned by peers.

Mental Injury or Emotional Maltreatment

Mental injury is harm to a child's ability to think, reason, or have feelings. A child who has been mentally injured is one who has been the victim of cruel or unconscionable acts or statements or who suffers from a caretaker's failure to provide necessary nurturance or protection.

Mental injury has a harmful effect on a child which can be observed.

Parental behaviors which can cause mental injury fall into a pattern of emotionally destructive actions usually taking one or more forms: rejecting, terrorizing, ignoring, isolating, or corrupting. Acts of parents which may result in mental injury include, but are not limited to, habitual

ridicule, scapegoating, deprivation of food or water, exposure to violence, threats to health or safety, torture, and confinement.

Possible Physical Indicators

- Failure to grow.
- Speech or sleep disorders.
- Forced to dress in “opposite sex” clothing.

Possible Behavioral Indicators

- Behavior extremes: aggression/violence to self or others or withdrawal.
- Habit disorders (sucking, biting, rocking).
- Attempted suicide.
- Conduct disorders (antisocial, runaway, fire setting, destructive).
- Emotional neediness.

Sexual Abuse

Sexual abuse is any incident of sexual contact including, but not limited to, rape, sodomy, incest, and sexual penetration with a foreign object, as those acts are defined in ORS chapter 163.

Sexual abuse includes all of those contacts and interactions in which a child is used to sexually stimulate or gratify another person and includes, but is not limited to: exposing oneself before a child, exposing the genitals of a child, fondling, sexual harassment, and forcing, permitting, or encouraging a child to watch pornography or sexual activities.

ORS chapter 163 defines acts of sexual exploitation. Sexual exploitation generally refers to the use of children for pornography and prostitution.

The ability to lure a child into sexual contact is based on the powerful position of the perpetrator, which is in sharp contrast to the child’s age, dependency, or subordinate position. Threats or bribery are often used to get a child to participate. Children are rarely physically hurt during a sexual assault; therefore, special attention should be paid to behavioral indicators.

Sexual abuse is not always a crime of adults towards children. Approximately 25 percent of the child sexual abuse incidents involve serious offenses committed by juveniles.

Possible Physical Indicators

- Difficulty in walking or sitting.
- Torn, stained or bloody underclothing.
- Pain or itching in genital area.
- Bruises, bleeding, or infection in external genitalia, vaginal, or anal areas.
- Venereal disease, especially in pre-teens.

- Pregnancy.

Possible Behavioral Indicators

- Withdrawal, fantasy or infantile behavior.
- Poor peer relationships.
- Delinquent or run away.
- Indirect allusions to problems at home such as “I want to live with you.”
- Reports sexual assault (children seldom lie about sexual abuse).
- Fear of a person or an intense dislike at being left with someone.
- Unusual interest in or knowledge of sexual matters, expressing affection in ways inappropriate for a child of that age.
- Refer also to behavioral indicators of emotional abuse.

Threat of Harm

Threat of harm includes all activities, conditions and persons which place the child at substantial risk of physical or sexual abuse, neglect, or mental injury, Threat of harm includes all actions, statements, written or non-verbal messages conveying threats of physical or mental injury which are serious enough to unsettle the child’s mind. It includes:

- Expressions of intention to inflict pain, injury, evil, or punishment on the child.
- An avowed determination to injure the child presently or in the future.
- A caretaker regularly telling a child that if she/he tries to make decisions independent of the caretaker, or is too curious, then terrifying consequences, possibly death, will happen to the child.
- Circumstances which expose children to acts of domestic violence. Violence in the home threatens a child’s emotional state as well as physical well being.

Child Selling

- Buying, selling or trading for legal or physical custody of a child.
- Does not apply to legitimate adoptions or domestic relations planning.

Fatality

When suspected abuse or neglect is a factor in a child’s death, a report must be made. The medical examiner and law enforcement conduct a criminal investigation; SCF provides necessary protective services to the other children in the victim’s family. If the investigation indicates that the child victim was abused or neglected, the child’s name is filed in the Central Registry. The most frequent cause of a child abuse death is a head injury from shaking and battering. Most fatally abused Oregon children are under five years of age.

Who Must Report?

According to Oregon Revised Statute 419B.010, “Any public or private official having reasonable cause to believe that any child with whom the official comes in contact has suffered abuse, or that any person with whom the official comes in contact has abused a child shall report or cause a report to be made...”Those” public or private officials” include:

- Physician, including any intern or resident.
- Dentist.
- School employee.
- Licensed practical nurse or registered nurse.
- Employee of the Department of Human Resources, State Commission on Children and Families, Child Care Division of the Employment Department, the Oregon Youth Authority, county health department, community mental health and developmental disabilities program, a county juvenile department ,a licensed child-serving agency, or an alcohol and drug treatment program.
- Peace officer.
- Psychologist.
- Clergyman.
- Licensed clinical social worker.
- Optometrist.
- Chiropractor.
- Certified provider of daycare, foster care, or an employee thereof.
- Attorney
- Naturopathic physician.
- Firefighters.
- Emergency medical technicians.
- Licensed professional counselor.
- Licensed marriage and family therapist
- Court appointed special advocate, as defined in ORS 412A.004

A psychiatrist, psychologist, clergyman, or attorney shall not be required to report information communicated to him by a person if the communication is privileged under ORS 40.225 to 40.295. Reporting should be considered a request for an assessment of a suspected incident of abuse or neglect. A report is not an already established fact, but rather the request for assessment into the condition of a child. It is the beginning of a helping process for children and families.

All Oregon citizens are encouraged to report suspected cases to SCF or law enforcement. Over one-third of the substantiated cases of child abuse are reported by concerned citizens who are not required to report.

The penalty for mandated reporters who fail to report a suspected victim of child abuse (ORS 419B.010) is a fine not exceeding \$1,000.

Who Do I Contact If I Suspect Child Abuse?

According to ORS 419B.015, a person making a report of child abuse shall make an oral report by telephone or otherwise to the local office of the State Office for Services to Children and Families or to a law enforcement agency within the county where the person making the report is at the time of the contact.

A law enforcement agency can be defined as a local police department, county sheriff, county juvenile department, or Oregon State Police.

How Do I Respond To A Child Who Reports His/Her Victimization To Me?

Tell the child that you believe them and that you are going to contact people who will help. Respect the privacy of the child. The child will need to tell their story in detail later to the investigators, so don't press the child for details. Remember, you need only suspect abuse to make a report. Don't display horror, shock, or disapproval of parents, child, or the situation. Don't place blame or make judgments about the parent or child. Tell the child that she/he will be talking to people who will help - a SCF Child Protective Services worker or the police. Believe the child if she/he reports sexual abuse. It is rare for a child to lie about sexual abuse.

What Information Do I Need To Report?

If known, reports of suspected child abuse shall contain the name, age, and address of the child and his/her parents or other persons responsible for the child's care. The nature and extent of abuse, including any evidence of previous abuse and any explanation given by caretakers for injuries should also be reported. Include all information which you believe might be helpful in establishing the cause of the abuse and for identifying the abuser.

Will My Report Be Confidential?

The reporter's identity will remain confidential to the full extent allowable by law. If court action is initiated, the reporting person may be called as a witness or the court may order that the reporter's name be disclosed. Only people with firsthand knowledge of the child's situation can provide testimony proving that abuse has occurred.

Can I Be Sued If I Report?

Oregon law (ORS 419B.025) provides that anyone participating in good faith in the making of a report of child abuse and who has reasonable grounds for making the report, shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed with respect to the making or content of such report. Any such participant shall have the same immunity with respect to participating in any judicial proceeding resulting from such report.

Procedure Following A Report

Upon receipt of a report concerning the possible occurrence of abuse or neglect, a Child Protective Services worker from SCF and/or a law enforcement official will assess the situation as soon as possible. An assessment includes:

1. Determining the presence or absence of child maltreatment and the nature and extent of abuse and neglect.
2. Evaluating the child's condition, including the risk of harm to the child and the need for medical attention.
3. Identifying all of the factors that cause risk and the problems underlying the abuse or neglect.
4. Evaluating parental or caretaker responses to the identified problems and willingness to cooperate to protect the child.
5. Taking appropriate action to protect the child and to arrange for services to help the family.

Protective Services are provided by SCF to abused/neglected children and their families without regard to income. Special rehabilitative services for prevention and treatment of child I abuse are provided by SCF and other community resources to children and families such as: homemaker services, parenting classes, respite day care, foster care, financial assistance, psychological and psychiatric services, and sexual abuse treatment.

Protective Custody

Where there is an immediate danger to a child's well being, Oregon statute permits law enforcement or SCF to take a child into protective custody without a court order. When it is determined that a child is abused or neglected and would probably be injured because parents or caretakers are unable to protect him/her, then the child is placed in shelter care. Shelter care is usually provided by families or special care facilities licensed by SCF.

Parents are notified immediately if their child is placed in shelter care. A juvenile court hearing is held within 24 judicial hours to review the need for continued protection of the child through shelter care while the investigation of child abuse and assessment of the risk continues. Parents are provided the opportunity at the shelter hearing to present evidence that their child can be returned home without danger of physical injury or emotional harm.

Juvenile Court Hearings

Juvenile court hearings are held when children are removed from their parent's custody and when SCF supervision of abused or neglected children in their own homes is ordered. The court ensures that the parents' and the child's rights will be protected. The parents have a right to legal counsel and, if they cannot afford an attorney, one will be appointed by the court.

The juvenile court holds a "shelter hearing" within 24 judicial hours of an emergency protective custody situation when a child has been removed from parents' care. A subsequent hearing is

held to consider the facts of the child abuse/neglect investigation.

Additional hearings are held if the court determines that the child needs its protection. At each hearing, the court reviews the efforts of the parents to remedy problems and the services arranged or provided by SCF to help the parents and child.

Criminal Prosecution

Law enforcement agencies are obligated to investigate reported cases of child abuse and to submit a report to the district attorney's office.

Criminal prosecution of parents in cases of physical abuse is rare. Criminal prosecution in cases of sexual abuse and fatalities is more common. Prosecution of sexual offenders is often essential to protect the victim from subsequent abuse and to begin the treatment process by breaking through the strong denial system that is characteristic of sexual offenders.

Criminal prosecution is at the sole discretion of the District Attorney.

Central Registry

When it is confirmed that a child is a victim of abuse, the child's name is entered into the Central Registry. The purpose of the Central Registry is to gather data on the incidence and nature of child abuse in Oregon. It is also used as a resource for identifying repeated cases of abuse. The Central Registry was established by Oregon law and is maintained by SCF.

California Child Abuse and Neglect Laws

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Children and Family Services Division)

Introduction

This handbook was originally written to help mental health professionals understand the Child Abuse Reporting Law and be aware of their reporting responsibilities regarding child abuse. However, other health practitioners who come into contact with children as a result of their professions will also find the information helpful. Health practitioners and others who are mandated by law to report suspected child abuse are identified in the section titled “Who Reports?”

Making a report of suspected child abuse is difficult. There are always nagging doubts about how the parents will react, what the outcome will be, and whether or not the report will put the child at greater risk.

The best way to minimize the difficulty of reporting is to be fully prepared for the experience, and to feel reasonably comfortable with the reporting requirements and the process that is triggered by making a report.

Health practitioners who are mandated to report child abuse are often able to use their reporting responsibility in the best interest of the child and family. For example, people who abuse children are often out of control. For various reasons, their internal controls are ineffectual. Therefore, they need as many **external** controls as possible, until they are better able to rely on their own restraints. The reporting law sets an external control which clearly states, “the (abusive) behavior is unacceptable and must stop.”

For professionals in the mental health field, one of the most frequently asked questions about reporting is, “Does reporting sever the trust the client must establish in therapy?” **Not** reporting has a greater potential to sever trust because clients who are abusing children are showing, in action or words, that they need help. How can clients trust therapists who fail to recognize their needs and who avoid helping them?

Working with abusive clients is extremely demanding. Professionals are often called upon to help make decisions such as: “Can the child stay safely in the home?”; “Is the family ready for the child to return home?”; “What is the likelihood of abuse recurring?” A multi-disciplinary approach with shared responsibility has been found to be the most effective way of working with these clients in concert with other professionals who also have ongoing contact with the family.

The Reporting Law

The first child abuse reporting law in California was enacted in 1963. These early laws mandated only physicians to report physical abuse. Over the years, numerous amendments have expanded the definition of child abuse and the persons required to report. Procedures for reporting categories of child abuse have also been clarified.

In California, certain professionals are required to report known or suspected child abuse. Other citizens, not required by law to report, **may** also do so. It is important for health practitioners and other mandated reporters to keep updated on periodic amendments in the law. Your local Child Abuse Council or Child Protective Agency (see Resources) has current reporting law information.

1. Why Must You Report?

The primary intent of the reporting law is to **protect the child**. Protecting the identified child may also provide the opportunity to protect other children in the home. 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, which in turn may help to lower the risk of abuse in the home.

2. What Is Child Abuse?

The Penal Code (PC) defines child abuse as: “a physical injury which is inflicted by other than accidental means on a child by another person.” It also includes emotional abuse, sexual abuse, neglect or abuse in out-of-home care. Child abuse does not include a “mutual affray between minors,” “reasonable and necessary force used by a peace officer” under specified circumstances, or spanking that is reasonable and age appropriate and does not expose the child to risk of serious injury. (P.C. 11165.6, Welfare and Institutions Code [W&IC] Section 300.)

The California Child Abuse Reporting Law is found in Penal Code Sections 11165-11174.3. The following is only a partial description of the statute. Mandated reporters should become familiar with the detailed requirements as they are set forth in the Penal Code (P.C.).

Under the law, when the victim is a child (a person under the age of 18) and the perpetrator is any person (including a child), the following types of abuse must be reported by all legally mandated reporters:

- a. A **physical injury** inflicted by other than accidental means on a child. (P .C. 11165.6).
- b. Child sexual abuse including both sexual assault and sexual exploitation. Sexual assault includes sex acts with children, intentional masturbation in the presence of children and child molestation. Sexual exploitation includes preparing, selling or distributing pornographic materials involving children, performances involving obscene sexual conduct and child prostitution. (P.C.11165.1).
- c. **Willful cruelty or unjustified punishment**, including inflicting or permitting unjustifiable physical pain or mental suffering, or the endangerment of the child’s person or health. (P .C. 11165.3). “Mental suffering” in and of itself is not required to be reported. However, it may be reported. (P .C. 11166[b])
- d. Unlawful corporal punishment or injury, willfully inflicted, resulting in a traumatic condition. (P.C. 11165.4).
- e. Neglect of a child, whether “severe” or “general,” must also be reported if the perpetrator is a person responsible for the child’s welfare. It includes acts or omissions harming or threatening to harm the child’s health or welfare. (P .C. 11165.2).
- f. Any of the above types of abuse or neglect occurring in out-of-home care. (P .C.11165.5).

3. Who Reports?

Legally mandated reporters include “child care custodians,” “child visitation monitors,” “health practitioners,” “employees of a child protective agency,” “firefighters,” “animal control officers” or “humane society officers,” “clergy members” and “commercial film and photographic print processors,” which are defined as follows:

- a. “Child care custodian” means a teacher; an instructional aide, a teacher’s aide, or a teacher’s assistant employed by any public or private school, who has been trained in the duties imposed by this article, if the school district has so warranted to the State Department of Education; a classified employee of any public school who has been trained In the duties imposed by this article, if the school has so warranted to the State Department of Education; an administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; an administrator or employee of a public or private youth center, youth recreation program, or youth

organization; an administrator or employee of a public or private organization whose duties require direct contact and supervision of children; a licensee, an administrator, or an employee of a licensed community care or child day care facility, a headstart teacher; a licensing worker or licensing evaluator, a public assistance worker, an employee of child care institution including, but not limited to, foster parents, group home personnel, and personnel of residential care facilities: a social worker, probation officer, or parole officer; an employee of a school district police or security department; ...any person who is an administrator or presenter of, or a counselor in, a child abuse prevention program in any public or private school; a district attorney investigator, inspector, or family support officer unless the investigator, inspector or officer is working with an attorney appointed pursuant to Section 317 of the Welfare and Institutions Code to represent a minor; or a peace officer, as defined in Chapter 4.5 (commencing with Section 30) of Title 3 of Part 2 of this code, who is not otherwise described in this section.

- b. **Health practitioner** means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, optometrist, marriage, family, and child counselor, licensed clinical social worker or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code, any emergency medical technician (or 11, paramedic, a person certified pursuant to Division 2.5 (commencing with Section 1797) of the Health and Safety Code, a psychological assistant registered pursuant to Section 2913 of the Business and Professions Code, a marriage, family and child counselor trainee, as defined in subdivision (c) of Section 4980.03 of the Business and Professions Code, an unlicensed marriage, family and child counselor intern registered under Section 4980.44 of the Business and Professions Code, a state or county public health employee who treats a minor for venereal disease or any other condition, a coroner, or a medical examiner, or any other person who performs autopsies. (P.C. 11165.8).
- c. **Child protective agency** means a police or sheriff's department, a county probation department, or a county welfare department. School district police or security departments are not child protective agencies. (P.C. 11165.9).
- d. **Commercial film and photographic print processor** means any person who develops exposed photographic film into negatives, slides, or prints, or who makes prints from negatives or slides, for compensation. The term includes any employee of such (person; it does not include a person v develops film or makes prints for a PL agency. (P.C. 11165.10).

Commercial film and photographic processors must report depictions of (under age 16 in an act of sexual conduct. (P .C. 11166[e]).

- e. **“Clergy member”** means a priest, minister rabbi, religious practitioner, or similar functionary of a church, temple, or recognized religious denomination or organization. (P .C. 11165.7)
- f. **“Child visitation monitor”** means any son who, for financial compensation, monitor of a visit between a child anc other person when the monitoring of I visit has been ordered by a court of la (P.C.11165.15 and 11166.15)
- g. **“Firefighters,” “animal control officer “humane society officers” reporting requirements**
 - (1) “Animal control officer” means an person employed by a city, county city and county for the purpose of enforcing animal control laws or regulations.
 - (2) “Humane society officer” means a person appointed or employed by public or private entity as a humane officer who is qualified pursuant t< Section 14502 or 14503 of the Corporations Code. No firefighter, animal control officer, c humane society officer shall be subject to the reporting requirements of this article unless he or she has received training identification and reporting of child al equivalent to that received by teachers and child care custodians. (P .C. 11165.16)

4. When Do You Report?

Child abuse must be reported when one who(is a legally mandated reporter “...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...” (P.C. 11166[a]).

“Reasonable suspicion” occurs when “it is objectively reasonable for a person to entertain such 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.” (P .C. 11166[a]). Although wordy, the intent of this definition is clear: if you suspect, report.

You must make a report immediately (or as soon as practically possible) by phone. A written report must be forwarded within 36 hours of receiving the information regarding the incident. (P .C. 11166[a]). Written reports **must** be submitted on Department of Justice forms, which can be requested from your local child protective agencies (police or sheriffs department, a county probation department, or a county welfare department). (P.C. 11168). See Appendix B.

5. To Whom Do You Report?

The report must be made to a “child protective agency;” a child protective agency is a county welfare or probation department or a police or sheriffs department. (P .C. 11165.9, P .C. 11166[a]). Exceptions are reports by commercial print and photographic print processors, which are made to the law enforcement agency having jurisdiction. (P .C.11166[e]).

6. Immunity

Those persons legally mandated to report suspected child abuse have immunity from criminal or civil liability for reporting as required. (P.C.11172[a]).Any person not mandated by law to report suspected child abuse has immunity unless the report is proven to be false and the person reporting knows it is false, or the report is made with reckless disregard of the truth or falsity of the incident. (P.C. 11172[a]).

7. Safeguards for Mandated Reporters

No supervisor or administrator may impede or inhibit a report or subject the reporting person to any sanction. (P .C. 11166 [f]).

Persons other than those legally mandated to report are not required to include their names when making a report. (P .C. 11167[e]).

Reports are confidential and may be disclosed only to specified persons and agencies. (P .C. 11167.5)

Mandated reporters and others acting at their direction are not liable civilly or criminally for photographing the victim and disseminating the photograph with the report.(P .C. 11172 [a]).

8. Liabilities for Failure to Make Required Report

A person who fails to make a required report is guilty of a misdemeanor punishable by up to six months in jail and/or up to a \$1,000 fine (P .C. 11172 [e]). He or she may also be found civilly liable for damages. especially if the child-victim or another child is further victimized because of the failure to report. (Landeros vs. Flook[1976] 17Cal.3d 399).

9. Responsibilities of Agency Employing Mandated Reporter

Any person entering employment which makes him/her a mandated reporter must sign a statement, provided and retained by the employer, to the effect that he or she has knowledge of the reporting law and will comply with its provisions (P .C. 11166.5 [a]). See Appendix C for sample of form.

Commercial film and photographic print processors and persons employed by child protective agencies as members of the support staff or maintenance staff and who do not work with, observe, or have knowledge of children as part of their official duties are not required to sign such statements. (P .C. 11166.5 [a] and 11165.10).

10. Licensing Requirement

The state agency issuing a license to a person who is required to report child abuse must either send a statement to the licensee which cites reporting requirements and the penalty for failure to report or print the information on all application forms for a license or certificate printed on or after January 1, 1986. (P.C.11166.5[b] [c]).

11. Feedback to Reporter

After the investigation is completed or the matter reaches a final disposition, the investigating agency shall inform the mandated reporter of the results of the investigation and any action the agency is taking. (P.C. 11170[b] [2]).

Identification

Identifying families where abuse occurs requires the helping professional first of all to believe that child abuse can occur in any family, regardless of socio-economic status, religion, education, ethnic background, or other factors. Secondly, there must be a willingness to inquire into the possibility of abuse. This inquiry can be done as part of a standard repertoire of questions asked

by the professional (see Assessment section). There are four basic areas in which abuse may be revealed: 1) Environmental Problems, 2) Parental Clues, 3) Physical Indicators in the Child, and 4) Behavioral Indicators in the Child. A brief overview of these warning signals follows. This is only a partial list. You may become aware of these factors through interview, observation, or third-party reporting of these concerns.

Environmental Problems

1. Hazardous conditions (broken windows, faulty electrical fixtures, etc.).
2. Health risks (presence of rats, feces, no, running water, no heat, etc.) or unsanitary conditions.
3. Extreme dirt or filth affecting health.

Parental Clues

4. Parent is unable/unwilling to meet child's basic needs and provide a safe environment.
5. Parent tells you of homicidal thoughts/ feelings toward child.
6. Parent tells you of use of objects (belts, whips, clothes hanger) to discipline the child.
7. Parent is unable to describe positive characteristics of child.
8. Parent has unrealistic expectation of child (e.g., toilet-training a 6-month-old).
9. Parent uses "out of control" discipline.
10. Parent is unduly harsh and rigid about childrearing.
11. Parent singles out one child as "bad," "evil," or "beyond control."
12. Parent berates, humiliates, or belittles child constantly.
13. Parent turns to child to have his/her own needs met. Parent is impulsive, unable to use internal controls.
14. Parent cannot see child realistically, attributes badness to child, or misinterprets child's normal behavior (e.g./ a parent takes an infant's crying as a sign that child hates the parent).
15. Parent is indifferent to child.

Physical Indicators of the Child Physical Abuse

16. Fractures, lacerations, bruises that cannot be explained, or explanations which are improbable given the extent of the injury.
17. Burns (cigarette, rope, scalding water, iron, radiator).
18. Facial injuries (black eyes, broken jaw, broken nose, bloody or swollen lips) with implausible or nonexistent explanations.
19. Subdural hematomas, long-bone fractures, fractures in different states of healing.
20. Pattern of bruising (e.g., parallel or circular bruises) or bruises in different stages of discoloration/ indicating repeated trauma over time.

Neglect

21. Failure to thrive—a child's failure to gain weight at the expected rate for a normal child. A child who fails to thrive may have medical or psychosocial problems, or a combination of these.
22. Malnutrition or poorly balanced diet (bloated stomach, extremely thin, dry, flaking skin, pale, fainting).
23. Inappropriate dress for weather. Extremely offensive body odor.
24. Dirty, unkempt.
25. Unattended medical conditions (e.g., infected minor burns, impetigo).

Sexual Abuse

26. Bruising around genital area.
27. Swelling or discharge from vagina/penis.
28. Tearing around genital area, including rectum.
29. Visible lesions around mouth or genitals.
30. Complaint of lower abdominal pain.
31. Painful urination, defecation.

Behavioral Indicators of the Child

Children react differently to being abused. There is no one single reaction that can be clearly associated with child abuse; however, there are a number of possible behaviors which have been found to be consistently correlated with abuse. While some of these behaviors occur more with one type of abuse than another, they may overlap.

The presence of any of these indicators does not prove the child is being abused, but should serve as a warning signal to LOOK FURTHER.

Physical Abuse

32. Hostile or aggressive behavior toward others.
33. Extreme fear or withdrawn behavior around others.
34. Self-destructive (self-mutilates, bangs head, etc.).
35. Destructive (breaks windows, sets fires, etc.).
36. Verbally abusive.
37. Out-of-control behavior (seems angry, panics, easily agitated).

Sexual Abuse

38. Sexualized behavior (has precocious knowledge of explicit sexual behavior and engages self or others in overt or repetitive sexual behavior).
39. Hostile or aggressive.
40. Fearful or withdrawn.
41. Self-destructive (self-mutilates).
42. Pseudo-mature (seems mature beyond chronological age).
43. Eating disorders.
44. Alcoholism/drug abuse.
45. Running away.
46. Promiscuous behavior.

Neglect

47. Clingy or indiscriminate attachment.
48. Isolates self.
49. Seems depressed or passive.

Emotional Abuse

50. Lacks self-esteem; puts self down constantly.
51. Seeks approval to an extreme.
52. Seems unable to be autonomous (e.g., makes few choices, fears rejection).
53. Hostile, verbally abusive, provocative.

It is important to note here that a child who is being physically abused or neglected or sexually abused is also being emotionally abused as a result of that abuse. The best source of information is not what the child says but how the child behaves. Health practitioners, mental health professionals and other mandated reporters must stay alert and responsive to the child behaviors described above. Children will rarely report they are being abused, but being unable to stop it, they frequently develop coping mechanisms and behaviors which bring them to the attention of others. These children tend to be fiercely loyal to their parents, often demonstrating a pathological dependency on them. They may try to adapt and comply in order to please their parents and may be seen as caretakers to their parents in order to avoid further abuse or rejection.

The following sections which include information on assessing, treating, and intervening with children and families is written for the therapist or mental health professional. However, the information provided in these sections may be helpful to all health professionals and other

mandated reporters in understanding the process of assessment, treatment and intervention in cases of child abuse.

Guidelines for Assessment

Making an assessment entails collecting information in order to determine what the problem is, who is involved, and which direction to proceed. The assessment process is dynamic; that is, it does not stop after a particular number of questions have been asked. It requires active involvement on the part of the mandated reporter to interpret clues, observe non-verbal communication, and develop and test hypotheses. Most importantly, the process of assessment necessitates a willingness and ability on the part of the mandated reporter to **inquire further**.

An assessment can be done in such a way that it naturally evolves into collecting information about neglect and physical, sexual and emotional abuse. It is important, however, to maintain a clear distinction between assessment for the purpose of determining whether there are grounds for reasonable suspicion and conducting an investigation of the report. Only a child protective agency can conduct the investigation.

Assessment With a Verbal Child

Two things are important when interviewing a child who is able and willing to be verbal; first, creating an environment that seems safe to the child; and second, providing opportunities for spontaneous disclosure through verbal and non-verbal messages. It is helpful to set a confidentiality policy with a child just as with an adult. For instance, you may use the phrase, "Everything that we discuss in here is private. But if I think you are going to hurt yourself, or if I think you are hurting someone else, or if someone else, including your parents, is hurting you, then what we talk about will not be private." Be careful about promising something that cannot be provided. Often children will say there is a secret they will share **ONLY IF YOU PROMISE NOT TO TELL ANYONE ELSE**. A mandated reporter cannot keep this promise. If it is given, and later the confidence is broken, the child is likely to feel betrayed and trust will be jeopardized.

Assessment can occur over a number of weeks. Building rapport is essential to this process. Proceed by asking the child to talk about him/herself. Depending on how verbal the child is, gentle prodding may be necessary. It is helpful to start with the least threatening questions, such as "What's your favorite sport?"; "Who's your favorite movie star, or sports star?"; "What do you like to watch on TV?"; "Who is your favorite singer, or teacher?", etc. Asking about school, friends, and then the home environment will provide additional information about the child's interests, fears, concerns, habits, hobbies and significant people.

Ask the child to describe a typical day at home. Tell the child to describe the house and who lives there. You can ask the child questions such as: Who gets up first? Who wakes whom? Do people eat breakfast? Who makes breakfast? Who goes where? Does anyone stay at home? Go through the coming home routine as well. See if any patterns can be determined, e.g., who spends more time with whom, are certain people isolated. Notice if the child's voice or affect seems to change when specific family members are discussed.

The presence of physical abuse can be evaluated by asking what happens at home when people get angry, drink or take drugs ...what do people say or do when they are angry? Does anyone throw objects ...who does this? Does anyone ever get mad enough to hit someone else? For example, does mom hit dad? Do brothers and sisters hit each other? Do mom or dad hit the kids? If they do hit, do they use hands, fists or belts or other objects? Does anyone ever get hit hard enough so that the blow causes bruises or bleeding? How often does this happen? Is it scary? Sexual abuse can be assessed by asking about touching and affection in the family. Is the family demonstrative with expressions of affection? Do they sit together and hug a lot?

Do people bathe together or sleep together? Does anyone in or outside the family ever touch the child in private parts (explain what those are: genitals, breasts, anus/ mouth) in a sexual way (if the child is old enough to understand what that means) or in a way that makes the child feel confused, uncomfortable or scared? In addition to listening to the content of the response, it is important to observe changes in the child's affect, tone of voice/ body movements, breathing, eye contact and to note whether the child changes the subject prematurely.

If the child cannot give any information, or cannot tolerate the topic of discussion stop the line of questioning and shift back to the non-threatening information, telling the child that this seems to be an uncomfortable subject to talk about, and come back to it at a later time.

If the child has given information that leads to a reasonable suspicion that he/she is being abused, let the child know that the therapist is concerned about what is going on at home (describe what the child has revealed) and that it is important for the family to get some help. The child should be told what to expect once the decision to report is made (i.e., that parents will be called and the Emergency Response Unit in the Child Protective Agency will be notified, etc.).

Do not make any guarantees to the child about what will happen, but let the child know as much as possible. It is helpful to make the referral to the Child Protective Agency while the

child can listen. In this way the therapist's reliability is confirmed.

Informing parents that a referral is being made is not legally required. Indeed, in some instances it may be contra-indicated by such things as a parent's tendency to flee or exhibit violent, erratic or psychotic behavior. There are instances in which a child may be at risk due to "telling." Advise the child welfare staff if a child is afraid to go home, may be in danger of reabuse or threats, or may be under pressure to change or retract his or her statement. Dr. Roland Summit has written an article "The Child Sexual Abuse Accommodation Syndrome" which clearly explains the child's process of disclosure (See Bibliography). The child welfare staff will evaluate the need to place the child in protective custody.

In most instances, however, the parents should be told that a referral is being made. If the child is at risk due to disclosure, it is important to discuss this with the parents and make a statement about further harm to the child-"I know it probably makes you angry or a little afraid that I've made this referral. You may even feel angry at your child, but it's not OK to hit or hurt the child for telling." Tell the parents the reasons for the referral: "You seem to be behaving in an out-of-control way and I'm concerned that you are hurting your child."

Assessment With A Non Verbal Child

When children are not able to speak, they frequently will "act out" their concerns in play. It is important to assess abuse based on extreme or persistent behaviors that are consistent with indicators of abuse. A child who is physically abused may be very physically abusive of dolls or other play materials, and have themes of violence or death in his or her play or drawings. A sexually abused child may focus on the doll's genitals, and engage dolls in explicit sexual play.

Assessment With the Family

If the entire family will be meeting with a mandated reporter, the family members may be asked non-threatening questions about family life similar to those questions asked of a verbal child (see "Assessment with a Verbal Child"). It must be recognized, however, that if abuse is occurring in the family, parents and other family members may not be inclined to discuss this area of concern. Frequently, meeting with the child separately from the parents may be helpful in gathering further information which may be relevant to the abuse situation.

If the parents make statements such as "we know how to take care of him," "we have a sure-fire cure for that," or similar references regarding their parenting strategies it is absolutely vital to get a clear description of the parents' behavior. These references may indicate that a parent is physically abusing a child. Parents sometimes use objects such as belts, bats, pots and pans, or

telephone cords to physically punish their children. The use of objects increases the likelihood that the child may sustain injuries.

Some parents, who were abused as children, may not recognize their behavior as abusive. They may not hide this behavior since to them it is normal and acceptable. Other abusive parents may think of their behavior as abusive, and may seek to hide it, making up stories, or getting their children to protect them. The latter are obviously more difficult to assess, but looking at the entire family picture, and interviewing the children alone, may help with data collection.

Parents are frequently frightened and angry when the referral is made to the authorities. But most parents love their children and do not want to hurt them. They are being abusive because they are out of control. They may also, either immediately or eventually, feel relief that steps have been taken to protect their children. Giving parents a confidentiality policy (see Appendix B) and being matter-of-fact and confident about what abuse is, will help tremendously in undertaking the emotional and difficult task of reporting. Also, the mandated reporter must clearly understand that his/her responsibility is to make the assessment, determine if “reasonable suspicion exists” and then report. **THERAPISTS, AND OTHER MANDATED REPORTERS, ARE NOT RESPONSIBLE TO INVESTIGATE OR COLLECT EVIDENCE.** The investigation is conducted by Child Protective Agencies. When in doubt, call the Emergency Response Unit in the Child Protective Agency and discuss the situation.

Assessments of False Allegations

Probably among the most alarming situations which can occur are those in which a parent or caretaker is falsely accused of hurting or molesting a child. Whether such experiences are common or rare, their seriousness must not be overlooked. The impact of a false allegation on an innocent individual can be devastating; it can include disintegration of a family, criminal proceedings, imprisonment, and loss of employment. One who is falsely accused may be unfairly subjected to suspicion and scrutiny in virtually any of his/her undertakings or relationships.

Only recently, the issue of false allegations by children has been discussed in the literature (Benedek, E. P. & Schetky, D.H., 1985; Jones, D.P.H. & McGraw, J.M., 1987). Jones and McGraw reviewed 576-reports of sexual abuse received by the California Department of Social Services (CDSS) in Denver in 1983. They found 53 percent of the cases to be founded; 17 percent unsubstantiated by evidence; 24 percent with insufficient evidence to categorize and 8 percent probably fictitious. Of those fictitious reports three were reports made by adults which were considered by CDSS to be potential “deliberate falsifications,

misperceptions, and confused interpretations of nonsexual events.” Four reports were made by children who had been previously abused and then were coached by an adult. There have been other studies (Green, 1986) which have found fictitious allegations by children during custody disputes and suggest psychiatric disturbances in the mothers.

Fictitious allegations appear to occur in two populations: 1) “coached” children in custody disputes, and 2) adolescents who “make up” convincing reports out of boredom, infatuation, or in an effort to retaliate.

Every professional working with child abuse cases should stay abreast of current research on improved methods of interviewing and treatment, maintain integrity by assessing each case on its own merits, and suspend judgments until all the information is gathered.

Certain phrases tend to elicit an immediate and uncritical response. Phrases such as, “I have a secret,” “Daddy’s doing something mean to me,” and/or “I’m scared,” could indicate a range of experiences. It is best to proceed slowly, maintaining openness about the possibilities.

Child abuse is a reality, and it is very unlikely that young children, without prompting from adults, fantasize or lie about being abused. Not only do they tend to lack the motivation, they lack the cognitive ability to conceptualize detailed sexual activity. Children are more likely to lie to protect an abusive parent than they are to get themselves, or a loved one, into trouble.

The issue of “coached” children, particularly during custody disputes, remains a major problem, and while techniques for discovery of the truth are being developed (Gardener, 1987; Green, 1987), a fool-proof method which applies in all cases is unlikely to be developed soon. In the meantime, professionals must exercise ethical and responsible behavior in assessing these cases.

Reliance on single-source techniques must be eliminated. For example, children’s drawings, or their play with anatomically detailed dolls, or their specific behavioral responses do not provide sufficient grounds to conclude that abuse has occurred. The most reliable evaluations include the use of multiple techniques: psychological tests, clinical observations of the child alone, with parents and peers, collateral information from learning programs, medical personnel, and current or previous psychologists, etc. An evaluation must give the child ample opportunity to show or tell if there is trouble, and must attempt to elicit or encourage self-disclosure of frightening material.

The Major Treatment Issues

Confidentiality

The statutory duty to report is not excused or barred by the client/patient therapist privilege or professional confidentiality or ethics. Nevertheless, health professionals and other mandated reporters frequently must confront and overcome their own internal barriers to reporting.

Denial: Many professionals refuse to believe child abuse exists. They may think it happens only to the poor, the psychotic, the uneducated, or certain racial groups. This is simply not true. When professionals do not acknowledge the possibility of abuse, they miss the opportunity to be helpful to the family. It is important to believe that abuse can happen in any family and ask those questions designed to explore this possibility with a family.

Rationalizing: Another danger is the professional's acceptance of unrealistic explanations for how an injury occurred. If any doubts exist, no matter how small, assessment should continue, and/or consultation should be sought.

Betrayal: Some professionals feel that when they report parents for child abuse they are damaging the client-therapist relationship because of the seemingly punitive consequences of such reports. If this notion is held by the professional, parents may sense that they are being punished. A more useful approach is to consider the reporting as helpful to the family because it will protect the child (and the parents in the long run) by getting them needed services. The attempt to convince the parents that they are being helped should be avoided because it is difficult for them to see a report as helpful at the initial stage.

The fear that reporting will destroy the trust in the therapeutic relationship is understandable, but if the reporting is done in a clear and nonthreatening way, clients will not be as likely to feel betrayed.

Family Breakup: Relatively few of the large number of child abuse reports lead to the removal of a child from his/her home. The current emphasis of child welfare services is on keeping the family intact by providing comprehensive services such as crisis intervention, respite care, in-home counseling and homemaking, parenting education, transportation, housing assistance, clothing, food, and utilities. The child will be removed only if the child protective professionals assess that there is imminent danger to the child or if the parents are unable or unwilling to provide a safe environment for the child.

The Therapist's Reactions To Working With Abuse

Everyone has a reaction to child abuse. Some cringe with disgust and anger and others cry with sadness and empathy. It is crucial for the therapists to examine their own attitudes and feelings toward abusive parents and abused children. It is possible (and advisable) for them

to acknowledge the discomfort or anger they may feel about the abuse, and yet prevent these feelings from interfering with their ability to be useful to families in treatment.

Treatment may be ineffective if the therapist expresses angry or judgmental feelings toward the client, which may reinforce a sense of “badness” or unworthiness.” Most abusive parents have fragile egos and are very susceptible to criticism. This does not preclude a therapist’s making very strong and clear statements about the abusive behavior, but these should be made in a way in which the client is likely to hear them. An effective phrase would be, “I know you love your children, and want them to turn out to be productive citizens, but is not OK for you to hurt them, in order to teach them.” It is, of course, crucial for the therapist to provide clients with clear alternatives to abusive behavior. The tendency to resort to old and familiar (abusive) behavior will persist, and part of the therapeutic goal is to replace the old behavior with new techniques.

Another mistake therapists sometimes make in working with abusive families is to see themselves as “rescuers” of the child. Therapists must remain sensitive to the competitive relationship that may exist between the abusive parent and the therapist regarding the needs of the child. If trust is established in the therapeutic relationship, the client may see the therapist as a parental figure. The more trust that is developed the greater is the client’s need to pull away and make demands by testing the therapist’s ability to set limits. The client’s dependency needs may also surface, which may cause a therapeutic crisis in a needy and frightened client. The client needs to experience and build trust and then needs to be directed toward other people in his or her life where a similar experience can be created.

Helpful Interventions

Confidentiality Policy: Parents and children should be given a confidentiality statement at the beginning of therapy. Contrary to the belief of some, making these statements does not seem to scare clients away or inhibit them. These statements should be made both verbally and in writing. The confidentiality statements are best when included with other guidelines regarding the therapeutic relationship. Some therapists have their clients sign a copy of the confidentiality statements and keep them in their files. The clients may not ask questions related to confidentiality.

Suggested verbal statements are:

To Parent: What we discussed in therapy is confidential with two exceptions: one, if I think you are going to hurt yourself; two, if I think you are going to hurt someone else, including your child. If either of these two incidents seems likely, I will need to take protective action, which will include calling appropriate authorities.

To Child: What we discuss in therapy is confidential with three exceptions: one, if I think you are going to hurt yourself; two, if I think you are going to hurt someone else; and three, if I think someone, including your parents, is hurting you. When any of these things is going on, I will need to let someone know and try to get additional help for you.

In their statements about the limits of confidentiality, therapists should be certain that their clients are aware that child abuse, suicide, homicide and threat of homicide are matters that must be reported if they are suspected. The Tarasoff vs. Regents of the University of California (1976) 17 Cal.3d 425 decision established that a therapist may be liable for injuries resulting from a failure to report their suspicions regarding these issues. These are all circumstances in which the therapeutic and legal arenas overlap, and the therapist must take substantive action in the best interest of the client or intended victims.

The Use of Contracts: Contracts are written agreements between the therapist and the client that specify goals of therapy, with clear behavioral descriptions of expected outcomes.

The structure a contract provides is helpful for many reasons when working with abusive families. Families in crisis respond well to clearly specified objectives, and in addition, families can feel a greater sense of control if they are able to understand what behavior on their part will lead to their desired outcome.

Often the clients are mandated by court to attend therapy, and in those cases it is particularly helpful to use contracts, so that it is clear among all agencies and individuals concerned what is expected.

Limit Setting: Reporting suspected child abuse is often an effective way of setting a firm limit regarding unacceptable behavior. Clients may feel cared for when a therapist sets limits on their self-destructive or self-defeating behaviors. Most abusive parents do not want to hurt their children; furthermore, when parents abuse their children, their self-worth may be negatively affected because the abuse may reinforce their worst fears about themselves.

As the therapist begins to model the setting of limits, the parents may become better able to do the same with their children in a nonpunitive or nonhurtful way.

Use of Authority: Many mental health professionals are trained to moderate their influence on clients in order to encourage clients to draw conclusions or insight and choose their own directions. In abuse situations, however, the therapist must feel comfortable with his/her own use of authority and employ it to maximize safety for both parent and child. Making a seemingly unpopular decision to report and stating it clearly is not synonymous with rigid authoritarianism, but it takes time for some mental health professionals to become

comfortable with this idea. When the decision is presented in a firm and supportive manner, the therapist can let the clients know that he/she recognizes their feelings of helplessness and anger and that he/ she will be available to help them take some control over their lives. Most clients will feel relief because external controls or limits have been introduced to stop the abuse. Offering a matter-of-fact and caring approach counters the client's sense of secrecy and shame about the incident. In contrast, not responding to the client's clues or action language give the message that the abuse is so repugnant it must be kept hidden, or that the therapist does not take the abuse seriously, or believes it will go away by itself.

Facing Denial: It is common for abusive parents to deny that they have been abusive. This is to be expected. They have a great deal to protect and they are usually feeling judged and exposed. It is often helpful for the therapist to initially expect and ignore the denial, and proceed with the therapy as if an admission had just been obtained. In other words, if the admission is not forthcoming immediately, proceed beyond the "who done it?" stage, focusing on assessment of the individual's strengths, weaknesses, and concerns based on an understanding of the underlying family dynamics.

[**NOTE:** The therapist is not the long arm of the law, particularly regarding investigation. While the therapist can use the legal system effectively and cooperatively, it is not the therapist's job to prove culpability or collect evidence. However, information gathered regarding child abuse can be used in the investigation.]

If the denial persists past a set time frame (usually 4-6 months) the prognosis for the improvement becomes more bleak. It is essential for the therapist to create a safe and trusting environment conducive to self- disclosure, while consistently raising the issue of denial.

Some clients will never admit to the abuse. In these cases, the possibility that a client will obtain therapeutic help is minimal.

Stay With The Client: After a report is made, it is important to continue supportive contact with the client, rather than assuming that the job is done. The client who is a child will especially benefit from having access to the therapist, since frequently he/she is propelled into a child welfare system which can be insensitive and demanding.

The child who has been abused and is involved in the child welfare system may not only be dealing with his/her abuse, but also may be dealing with the process of investigation and prosecution of the abuser. The client may need someone to answer questions about the investigatory or Court processes and may blame all authority figures in order to continue the denial. The client needs an ally, and as much information as possible should be relayed to the family.

Telling The Client A Report Is Being Made: Reporters are not required by law to tell the client a report of child abuse is being made. However, in the majority of cases, telling the client about the report is therapeutically advisable.

In so doing, the therapist is employing clinical leverage by using authority to set a firm and necessary limit. Reporting responds to the client's nonverbal plea for help. The therapist can reassure the parent that steps will be taken to help him/her gain control so that the abuse does not continue and lead to serious injury of the child.

Furthermore, if the therapist does not mention the report to the client, secrecy and tension can result which may lead to the client feeling suspicion, isolation, or betrayal.

In some cases, reporting may elicit an extreme response from clients. It is contraindicated to inform people of a report if the individual seems psychotic, has poor impulse control coupled with a history of violent behavior, has a problem with alcohol or drugs, or is likely to flee the area. It can be very beneficial to give clients the opportunity to make the reports themselves in your presence. However, telling clients to report themselves does not negate the therapist's mandate to report.

Consultation/Coordination: Abusive persons are frequently "needy" people, and "team treatment" can contribute to the optimal provision of services and monitoring.

Coordination of services can result in less disruption to the family in crisis and optimal use of each agency's limited resources. Case conferences allow therapists and other caregivers the opportunity to define expectations for change in areas of concern, and allow for definition of roles by the many professionals involved in each case. When a specific plan of action is designed by a multi-disciplinary team and defines the key players, it is easier to provide clear direction to the parents. Therapists are bound by confidentiality and should obtain client release forms, waiving confidentiality on specific information. If no waiver is obtained, the therapist may attend and listen to the case management meetings.

The private mental health therapist has traditionally stayed out of case coordination, feeling the restrictions of confidentiality, time constraints, or unfamiliarity with community services and legal systems. Frequently, however, the therapist can be pivotal in obtaining supportive services for the client.

Non-Helpful Interventions

Threats: Threatening the clients with a report gives the impression that reporting is a punishment and may further alienate the client from seeking needed services.

Bargaining With Clients: (“I won’t report you this time, but if you do it again ...I’ll have to”) gives the message that sometimes it is all right to be abusive, but other times it is not. The client may find the double message confusing, and his/her behavior may escalate.

Threats and bargaining are not options for the reporter. The reporting law states that reports must be made by those engaged in specified professions when there is reasonable suspicion, knowledge or observation of child abuse.

Hit and Run — Abandoning The Client: It is important to provide ongoing support to the client throughout the investigation and follow-up services.

Arguing: Many clients will argue that they are not abusive since their own parents did worse things to them. They are probably right about their parents’ behavior. Have clients describe previous abuse and then explain that the reporting laws have changed. Let them know that, were their parents’ abusive behavior to occur today, it would be reportable as child abuse.

Questions Often Asked

1. Who am I to say what’s abusive?

The health professional and other mandated reporters often feel reticent to label behavior as abusive. They may feel they have no right to pass judgment on other people. However, if a reasonable suspicion exists, the protection of the child and compliance with the law must take precedence over these concerns. This protective action is beneficial to the parents as well, who may not recognize their behavior as abusive, or may be reluctant to seek help.

2. What if I make a mistake?

Dr. C. Henry Kempe, a pioneer in the field of child abuse prevention, once said he would rather apologize to a parent because he made a mistake about reporting the abuse, than apologize to a brain-damaged child because he did not report. It is better to err in the direction of over-reporting than under-reporting. It is important to note that mandated reporters are immune pursuant to statute if they make a report, but they are liable if they fail to report when they have reasonable suspicion.

3. What is the fine line between abuse/discipline?

If the discipline is excessive or forceful enough to leave injuries, physical abuse has occurred. The use of instruments increases the likelihood of injuries as does the excessive punishment of young children. The intent of the reporting law is not to interfere with appropriate parental discipline, but to respond to extreme or inappropriate discipline which is abusive. Some parents hit their children in places where injuries are not visible (the buttocks, the thighs, the back) and yet may tell the therapist, or other mandated reporter, that they use belts, whips or other potentially dangerous instruments. If you have reasonable suspicion of abuse, even with no visible signs, you are required to report. Under California Welfare and Institutions Code Section 300(a), reasonable and age appropriate spanking to the buttocks where there is no evidence of serious physical injury does not constitute abuse.

In some cases the professional may be concerned that the client may abuse in the future; although a situation may not *yet* be reportable, the therapist should continue treatment with the client, offering counseling and other voluntary services.

4. What if abuse occurred in the past?

There is no time limitation regarding the reporting of child abuse. If a victim is under age 18, the abuse must be reported.

5. What if an adult states he/she was abused as a child?

The child abuse reporting law mandates a report when there is a reasonable suspicion or knowledge that minors may be in need of protection. Therefore, childhood abuse of adults should be reported if there is a reasonable suspicion that there may be another potential child victim. (This does not impose an investigatory duty on the professional).

6. What about testifying in court?

The majority of cases do not go to trial. When they do, and the professional is called or may be required to testify, it is important to remember that the testimony may be essential for the protection of the child. The professional's effectiveness and comfort as a witness may be greatly increased by meeting with the attorney at the earliest opportunity.

7. At what age is a child most at risk of abuse?

All children are at risk of abuse, but infants and toddlers are most likely to sustain serious injuries due to their fragility. The mortality rate is highest for children 0-2.

Some people are predisposed to respond more inappropriately to one age of child than to another. For example, sexual abuse of infants is more difficult to fathom than sexual abuse of adolescents, yet it does occur. Adolescents are also at risk of abuse but may not receive needed help because people may believe that they provoke their abuse or are better able to protect themselves or run away from abusive situations. Despite their age and size, adolescents are often just as vulnerable as younger children to physical, sexual and emotional abuse and neglect.

8. What is the difference between children’s “normal” sex play and sexual abuse?

The lack of contemporary normative data regarding sexual activity among young children makes differentiating between normal sex play and sexual abuse difficult. It is clear, however, that very young children without exposure or experience do not usually have substantial or detailed knowledge about sexual activity, and that the child who exhibits developmentally inappropriate behaviors has probably either been exposed to that behavior or has experienced it. Exposure may have occurred directly (by observing people engaged in those activities or by having personally been involved) or indirectly (through TV or pictures in a magazine).

Factors to be considered in addition to developmental appropriateness include the dynamics of the situation. Was coercion, threat, intimidation or force involved? Were age and size of the children involved similar? Even in cases involving children of similar age and size it is possible that the activity is abusive if threats, force or coercion is present. Differences in emotional maturity and status must also be evaluated. For example, a child who has been delegated the authority of “babysitter” by parents has a distinct status or power advantage over other children, even if the age differential is not large. Many assessment questions must be considered when professionals are presented with situations in which children are engaging in sexual activity. It is important to understand not only the child’s knowledge base but also the sources of that knowledge. In most cases of this type, consultation is very helpful.

9. When do you report sexual activity between minors ?

The answer to this question can only be determined by comprehensive evaluation of the situation. Two court cases address the question of whether a child sexual abuse report is warranted in the case of a child under fourteen who is sexually active. In the case of Planned Parenthood Affiliates vs. Van de Kamp (1986) 181 Cal.App.3d 245, the court stated that sexual activity alone does not imply sexual abuse. If, in the judgement of the reporting professionals, there are no indicia of actual sexual or other abuse, then voluntary and consensual sexual behavior between minors under the age of fourteen who are of similar age need not be reported.

In the case of People vs. John L., (1989) 209 Cal.App. 3d 1137, the court determined that Penal Code Section 288(a) prohibits all sexual contact with persons under the age of fourteen, regardless of the young person's consent, if the offender is over age 14.

It should be noted that even in light of these two decisions, legally mandated professionals must report instances of sexual contact between children (under 18) if they suspect that the child has been sexually abused or exploited. It is also worth noting that even in children over fourteen the issue of consent must be carefully evaluated. A history of sexual abuse may lead a child to view further abusive situations as familiar and normal, thus impairing that child's ability to protect him/ herself from further abuse.

10. Are clergy mandated to report?

Yes. beginning January 1,1997, all clergy members are mandated to report known or suspected instances of child abuse to a child protective agency. Clergy members are exempt from their mandated reporting responsibilities only if the knowledge or reasonable suspicion of child abuse was obtained during a "penitential communication". (P.C.11165.17, P.C.11166 [c] [2])

"Penitential communication" means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who, in the course of the discipline or practice of his or her church, denomination, or organization, is authorized or accustomed to hear those communications, and under the discipline, tenets, customs, or practices of his or her church, denomination, or organization, has a duty to keep those communications secret. (P .C. 11166[c] [2])

11. Are alcohol programs exempt from reporting child abuse?

No. The exemption in effect until 1987 for federally-funded alcohol/drug programs has been withdrawn. Today all alcohol/drug programs are required to make appropriate child abuse reports.

12. May reports be made anonymously?

Mandated reporters must identify themselves when making child abuse reports. However, persons not legally mandated to report may make anonymous reports.

13. What happens after a report is made?

Child Protective Agencies (county welfare or probation department, police or sheriff's department) are responsible for investigating the referral once it is made. Emergency Response (ER staff from the child welfare or probation agency) and law enforcement will work together, although their investigations will be separate. When abuse has occurred within a family, ER's emphasis in intervention is to assure the safety of a child and provide services to keep the family together.

Removing a child from the home is an action taken only when a child cannot remain there safely. Services provided to a family in which abuse is occurring may range from counseling to respite care or the placement of a family care worker in the home to provide role modeling and assistance to parents. If removal becomes necessary, the Juvenile Court has several options for placement including the non-custodial parent, relatives, foster homes and group homes, in that order, depending upon the specific needs of the child. Parents should be reassured that the Court's removal standards are stringent. The Court will order the Child Protective Agency which provides child welfare services and the parents to work together for reunification as quickly as possible.

When abuse has occurred where the alleged perpetrator is not a member of the household (for example, a stranger molesting a child), law enforcement is responsible for investigating the referral. The Child Protective Agency will investigate to determine if the child is being protected in his/her home. Once the agency has determined that the child is safe at home, then it may refer the family for counseling or medical care and to appropriate local community resources. A case of out-of-home abuse is generally closed by the welfare or probation department, with the law enforcement agency continuing its investigation.

When there is an allegation that abuse (including general neglect) has occurred in a licensed day care or out-of-home care facility, the State or County licensing agency must report the alleged abuse to law enforcement, a Child Protective Agency or the county probation department. The licensing agency then conducts an investigation of the allegations. The licensing agency investigations may be conducted concurrently with the law enforcement or CPS investigations, however, the licensing agency should not interfere with these investigations. Depending upon its findings, the State licensing agency-an agency within the California Department of Social Services (CDSS)-may temporarily suspend or revoke the facility's license. The CDSS action is not dependent upon the outcome of the law enforcement or CPS investigations or any civil action resulting from such investigations; CDSS has only to have a preponderance of evidence in order to take action against a licensed care facility.

Procedures in Child Protective agencies vary from county to county. Therefore, it is important to understand the local procedures which are set in motion by a report.

14. Does a positive toxicology screen at time of delivery require a child report?

A positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse. However, any indication of maternal substance abuse shall lead to an assessment of the needs of the mother and child pursuant to the Health and Safety Code. If other factors are present that indicate risk to a child, then a child abuse report must be made. A report based on risk to a child which relates solely to the inability of the parent to provide the child with regular care due to a parent's substance abuse shall be made only to a county welfare department and not to law enforcement. (P.C.11165.13)

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(a) Each county shall establish protocols between county health departments, county welfare departments, and all public and private hospitals in the county, regarding the application and use of an assessment of the needs of, and a referral for, a substance exposed infant to a county welfare department pursuant to Section 11165.13 of the Penal Code.

(b) The assessment of the needs shall be performed by health practitioner, as defined in Section 11165.8 of the Penal Code, or a medical social worker. The needs assessment shall be performed before the infant is released from the hospital.

(c) The purpose of the assessment of the needs is to do all of the following:

(1) Identify needed services for the mother, child, or family, including, where applicable, services to assist the mother caring for her child and services to assist maintaining children in their homes.

(2) Determine the level of risk to the newborn upon release to the home and the corresponding level of services and intervention, if any, necessary to protect the newborn's health and safety, including a referral to the county welfare department for child welfare services.

(3) Gather data for information and planning purposes.

15. Should a person's culture be considered in determining if a report should be made?

While some cultural practices may appear to look like child abuse, they are not, when done properly. Likewise, this same practice, if done improperly or to excess, could constitute child abuse. Other practices which are generally acceptable within a particular native culture are not acceptable within our culture and would constitute child abuse, necessitating a child abuse report. Mandated reporters should be encouraged to receive cultural-competency training in order to better understand cultural factors that need to be considered in recognizing possible child abuse.

Conclusions and Recommendations

Child abuse is a problem with many intra-psychic, social and interpersonal aspects. It is usually "action language;" that is, parents and others cannot always recognize and verbalize their needs and may use behavior rather than words to get help for themselves.

It is important that the health professional not let denial, fear, or ignorance of laws or procedures interfere with providing help to the family.

Not everyone is able to work effectively with these families. The responsible therapist faces his/her limitations or preferences, and, when appropriate, **REFERS OUT** to others better able or willing to provide treatment for these families.

Most parents who abuse their children can be successfully treated. The helping professional can become the appropriate and safe parent figure, the educator and limit-setter to the abusive parent. No one person can do the job alone. The responsibility can be shared.

Therapists are advised to familiarize themselves with the social service/legal system, the laws and the helping agencies in the community. Frequently, coordinating the therapy with other helping services will result in enhanced treatments.