

Mandated Reporting

ABAG Plan Corporation | June 5, 2013

Presented by: Kelly Tuffo

LCW LIEBERT CASSIDY WHITMORE

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Agenda

- Who is a mandated reporter?
- When must I report?
- What must I report?
- How do I make a report?

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Who Is A Mandated Reporter?

- Administrators and employees of a public or private organization whose duties require direct contact and supervision of children
- Administrators of private and public day camps
- Administrators and employees of a youth center, youth recreation program or youth organization
- Administrators and employees of community care and child day care facilities

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“Within the Course and Scope of the Performance of Professional Duties”

- Within your professional capacity
- During work hours
- Off site camp activities

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True, False or Maybe?

Ms. Smith, a summer theater teacher at Eastville Parks and Recreation District, arrives at home one evening and sees her neighbor, nine-year-old Joey, with his arm in a sling. Joey does not attend Ms. Smith’s camp program. When asked, Joey explains that when he spilled juice in the kitchen, his father lost his temper and pushed Joey on to the floor, breaking his arm.

Ms. Smith is required to fulfill her mandated reporter responsibilities.

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Informing Employees of Reporting Duties

- Districts Must Make Employees Aware of Their Obligations as a Mandated Reporter
- Acknowledgement Form is Required
- Training Strongly Recommended
 - But lack of training is no excuse for a failure to report!

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True, False or Maybe?

Eddie just started employment as a lifeguard for the North Harbor and Beach District. Eddie believes that a 14 year old in his Junior Lifeguards class is being physically abused, but has not yet received any training from the District about his duties as a mandated reporter.

Even though he has not received training, Eddie is still required to fulfill mandated reporter duties.

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When Is a Mandated Reporter Required to Make a Report?

- *When the Mandated Reporter Reasonably Suspects* child abuse and/or neglect

What is a reasonable suspicion?

What is abuse or neglect?

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Reasonable Suspicion

When do I know enough to make a report?

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“Reasonable Suspicion”

Standard

- Objectively reasonable
- Based upon facts
- A reasonable person in a like position
- Drawing on training and experience
- Suspects child abuse or neglect

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“Reasonable Suspicion”

Avoid Over and Under Reacting

- Measure concerns against the standard
 - *Don’t just “report everything”*
- But ... you don’t need to be 100% sure
 - *No need to produce evidence or investigate*

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Assessing, Not Investigating

Assessment Practice Pointers: What to Do

- Casually question the child to confirm or dispel your concerns
- Observe body language/behavior
- Evaluate credibility of the child’s response
- Consider additional information within your knowledge

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Assessing, Not Investigating

Assessment Practice Pointers: What Not to Do

- Physically examine “intimate” areas
- Remove or rearrange clothing
- Question parents or possible witnesses
- Notify parents (usually)
- Conduct an investigation

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What Would You Do?

Because of her interaction with Joey, Ms. Smith now fears that some abused kids may “fall through the cracks,” and the abuse will not be reported. Ms. Smith decides that every morning, she will personally check each child in her theater camp to ensure there that are no signs of physical abuse.

Is this an appropriate way to monitor possible abuse?

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Child Abuse and Neglect

- What are some indicators of child abuse and neglect?

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Child Abuse and Neglect

1. Physical Abuse
2. Sexual Abuse
3. Neglect
4. Emotional Abuse

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Physical Abuse Is...

- Non-accidental act resulting in physical injury to a child
- Intentional, deliberate assault
- Unreasonable corporal punishment

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Physical Abuse Is Not...

- A "mutual affray" between minors
- A sports injury
- Reasonable force by a police officer

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True, False or Maybe?

Todd is in the Tadpole Beginners Swim class offered by West Side Recreation District. During swim class, Todd tells Donna, his swim teacher, that his brother, Matthew, a student in the Sharks Advanced Swim class, has recently started holding Todd under water and choking him. Todd reports that he has fainted at least once and cannot stop Matthew's attacks.

Donna is mandated to report possible abuse.

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Assessment: Red Flags

- Physical Indicators May Include
 - Bruises, Burns, Broken Bones
- Verbal Indicators May Include
 - What is the Child's "Story"?
- Behavior Indicators May Include
 - Drastic Changes, Aggressiveness, Anxiety

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What Would You Do?

Jim, a 23 year old former camper, returns to Grizzly Valley Parks and Recreation District Day Camp to watch his brother play in the summer flag football tournament. While watching the game, Jim notices his brother is slower than the other kids and avoids physical contact. Jim tells the camp administrator that he had difficulty with sports as a child because he was physically abused by his father.

What are the camp administrator obligations in this scenario?

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Sexual Abuse Includes...

- Sexual Assault
- Sexual Exploitation
- Statutory Rape

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Sexual Assault

- Child Molestation
- Forcible Rape or Rape in Concert
- Incest
- Sodomy
- Lewd and Lascivious Acts

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Sexual Activity Between Minors and Statutory Rape

It Is A Mandatory Report If...

- One person is 14 or older and one child is 13 or younger
- A Child who is 14 or 15 and an Adult who is 10+ years older (Lewd and Lascivious Conduct)
- Any Child Under 16 and an Adult who is 21+ (Intercourse – Statutory Rape)
- Any Child Under 18 by Any Other Person if...
 - Intimidated, forced, bribed or exploited or
 - There is a maturity gap between the two

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Sexual Exploitation

- Pornography
- Child Prostitution or Trafficking
- Computer and Internet Predators

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What Would You Do?

Ms. Gates runs a computer camp through Tompkins County Parks and Recreation District. One day she notices that a number of children are grouped around one child's computer. When Ms. Gates approaches, the kids disperse and the computer screen simply shows a Tetris game.

In the ensuing 15 minutes, Ms. Gates hears a few of the girls commenting that what they saw on the computer was a "nudey cutie." Ms. Gates believes the images may be child pornography.

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Assessment: Red Flags

- Physical Indicators May Include
 - Injuries, Pregnancy, Diseases
- Verbal Indicators May Include
 - Advanced Terminology
- Behavioral Indicators May Include
 - Psychological Effects
 - Behavioral Effects

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Practice Pointers

- Provide a quiet, private space
- Listen, do not investigate
- Do not promise confidentiality
- Limit questions to Reporter Form
- Reassure but do not “follow up”

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What Would You Do?

Celine is 14 years old and attends an after school program at Temple Parks District for Mathletes. After Mathletes practice one day, Celine tells her math coach that she thinks she has a sexually transmitted disease and asks her coach if she knows any doctors she can go to without telling her parents.

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Child Neglect Is ...

- General Neglect
 - Negligent failure to provide necessities
 - Person or life endangered
 - Involving in criminal activity
- Severe Neglect
 - Malnutrition
 - Unjustifiable physical pain
 - Unjustifiable mental suffering
 - Willful endangerment

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Child Neglect is not...

- Poverty
- A one time occurrence
- Denying "wants" (not needs!)
- Parenting – Beware of Overreaction

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What Would You Do?

Dustin is enrolled in a hockey clinic through the Empire City Recreation District. Fridays are "pizza day." The cost is \$10 and every other child's parents pay for their children to receive the pizza. Dustin's mom cannot afford to pay for the pizza so Dustin has to bring his own food. He eats unhealthy snacks. The other kids bring Gatorade or water bottles. Dustin drinks from the water fountain.

Is this neglect?

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Assessment: Red Flags

- Physical Indicators May Include
 - Consistently hungry or sleepy
 - Lacking medical attention
 - Erratic camp or activity attendance
 - Poor personal hygiene

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What Would You Do?

Arnold is a 9-year-old day camper. This morning during arts and crafts he looked unusually sleepy. When you ask him why, he says that his mother forgot to go grocery shopping and so he had no dinner or breakfast. He says he is too hungry and sleepy to do crafts.

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Assessment: Red Flags

- Verbal Indicators May Include
 - States no one is at home
 - States hungry frequently
- Behavioral Indicators May Include
 - Low self-esteem
 - Anti-social and destructive
 - Poor social relations with peers
 - Inability to concentrate

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What Would You Do?

Every day John is dropped off at camp by his father. John is never wearing a seatbelt. When you ask him why, he says that his dad says that seatbelts are for babies and a real man will not wear them. John says he is a real man, so he does not wear a seatbelt.

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Emotional Abuse

- Not Usually a Single Incident!
- A **PATTERN** which impairs a child's emotional development or sense of self-worth;
- Resulting in **SERIOUS** Emotional Damage;
 - OR
- A Substantial Risk of Serious Emotional Damage

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“A Pattern of Behavior”

- Family discord and violence
- Repetitive verbal assaults
- Belittling, screaming, threats, blaming

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What Would You Do?

Annie has recently come to the City sponsored “Kid Scouts” meetings very tired and unusually irritable. When you ask her how she is feeling, she bursts into tears and tells you that her parents fight every night, keeping her awake. She says she cannot sleep because she can hear her mom being hit by her dad and it frightens her.

Is this emotional abuse?

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What Can A Mandated Reporter Do About Emotional Abuse?

- Discretionary Report, Not Mandatory
- Reportable Abuse:
 - “Mental suffering” such as
 - Severe Anxiety
 - Depression or Suicidal Ideation
 - Withdrawal
 - Aggressive Behavior

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Assessment: Red Flags

- Physical Indicators May Include
 - Sleep and Eating Disorders
 - Substance Abuse
- Verbal Indicators May Include
 - “Mommy always tells me I’m a loser”
 - Berating Self for Mistakes

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Assessment: Red Flags

- Behavioral Indicators
 - Withdrawn, Depressed, Isolated
 - Unreasonably High Expectations of Self
- Parental Indicators
 - Controlling
 - Child as Pawn or Ego-Booster

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Nuts and Bolts: When?

- Telephone Report:
 - Immediately or...
 - As Soon As Practicably Possible
- Written Report:
 - Fax, Mail, E-Mail Follow Up Report
 - Within 36 Hours of Receiving Information

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Nuts and Bolts: Who

- Identity Remains Confidential
- Immune from Liability
- But Not Immune from Liability for Failure to Report!

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What Would You Do?

When you ask about several lacerations, a child in the sports program, Mike, says his father hits him when he does badly on a test or quiz. Mike's father is quite muscular, and when you have spoken to Mike's father about extra tutoring for Mike in the past, he has told you to "mind your own business, or else!" As a result, you are scared of Mike's father and feel that if you make a report, you will be in danger.

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True, False or Maybe?

Last summer, you were sure that a camper with several broken bones was the victim of abuse. You reported it and CPS did an investigation. The investigation found that the child was engaging in rough "wrestling" horseplay. His parents were not abusing him.

The student's parents can sue you for making a false report.

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Nuts and Bolts: Where?

- Internal Procedures
- Any Police or Sheriff's Department
 - *Except a School Police Department or Security!*
- The County Probation Department
- The County Welfare Department ("CPS")

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Nuts and Bolts: What?

- Mandatory Information
 - Name, Business Address, Phone Number
 - Capacity as Mandated Reporter
 - Information Giving Rise to Reasonable Suspicion

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Nuts and Bolts: What?

- Information to Include, *If Known*
 - Child’s Name, Address, School, Grade
 - Parent or Guardian Name, Address
 - Alleged Abuser Name, Address
 - Child’s Present Location

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What Would You Do?

A child in your Saturday Japanese dance class tells you that her after school care provider does the “bad touch.” You know that this is a phrase taught to the kids to give them the vocabulary to report sexual abuse. You do not know who the after school care provider is, and the child only knows her by her first name.

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Nuts and Bolts: What’s Next?

- Cross-Reporting by Agencies
- CPS Risk Assessment
- Possible Investigation
- Reporter Will Be Informed of Outcome

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Nuts and Bolts: The Investigation

Practice Pointers:
Law Enforcement and Child Services

- May law enforcement or child service workers interview a student:
 - Without parent consent?
 - Without a court order?

Camreta v. Greene (2011) 131 S.Ct. 2020

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Nuts and Bolts: The Investigation

Practice Pointers:
Law Enforcement and Child Services

- Work with local law enforcement and School Resource Officers to develop best practices and a mutual understanding.
- Child Service Workers may interview children without a court order or parental consent if they are not actively involved in law enforcement activities.

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Nuts and Bolts: The Investigation

Practice Pointers:

- Not necessarily call or alert parents or attempt to secure consent for law enforcement.
- Employers with no ties to law enforcement may interview a student.
- Consult with legal counsel if there is any question whether a Child Services Worker or law enforcement may interview a student.

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Wrap Up and Conclusion

- If you have reasonable suspicion...
 - You must make a report
- Use your professional judgment
 - It may not always be an easy task
 - You may consult with your supervisors and colleagues

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THANK YOU

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