

MANDATED REPORTERS AND CHILD ABUSE: SPECIAL ISSUES FOR CLERGY MEMBERS



Presented by
Judge Laura W. Halgren
and
Judge Marian F. Gaston

Who must report?

Mandated reporters include:

- (1) a teacher;
- (3) a teacher's aide or assistant;
- (5) an administrative officer or supervisor of child welfare and attendance, or a certified pupil personnel employee of a public or private school;
- (6) an administrator of a public or private day camp;
- (32) a clergy member.

“Clergy member” means a priest, minister, rabbi, religious practitioner, or similar functionary of a church, temple, or recognized denomination or organization.

When is a report required?

A mandated reporter shall make a report whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, **has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect.**

Penitential communication exception.

There is no duty to report where the knowledge of abuse was acquired in a penitential communication.

“Penitential communication” means a communication, intended to be in confidence, including, but not limited to, a sacramental confession, made to a clergy member who is authorized or accustomed to hear those communications, and under the customs or practices of his or her denomination, has a duty to keep those communications secret.

What degree of knowledge is required to trigger the obligation to report? Reasonable suspicion.

What does that mean? That it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect.

“Reasonable suspicion” does not require certainty that child abuse or neglect has occurred.

The standard of reasonable suspicion is an objective standard. Would a reasonable person entertain a suspicion that abuse or neglect occurred?

The system favors over-reporting. Don't try to make the final determination whether abuse has occurred. Let the investigating agency do this.

What constitutes child abuse or neglect?

- Non-accidental physical injury or death inflicted upon a child;
- Sexual abuse;
- Neglect;
- The willful harming or injuring of a child or the endangering of the person or health of a child; and
- Unlawful corporal punishment or injury.

Neglect means the negligent treatment or the maltreatment of a child by a person responsible for the child's welfare under circumstances indicating harm or threatened harm to the child's health or welfare.

The term includes both acts and omissions on the part of the responsible person.

The willful harming or injuring of a child or the endangering of the person or health of a child means:

- a situation in which any person causes or permits any child to suffer unjustifiable physical pain or mental suffering; or
- causes or permits the person or health of the child to be placed in a situation in which his or her person or health is endangered.

Unlawful corporal punishment or injury
means a situation where any person inflicts
upon any child any cruel or inhuman corporal
punishment or injury resulting in a traumatic
condition.

To whom do I report?

An initial telephone report is required as soon as practicably possible.

Call the Child Welfare Services Child Abuse Hotline at 858-560-2191.

Is a phone call enough? NO!

A written follow-up report must be transmitted 36 hours of receiving the information concerning the incident.

The written report is essential to show that you have complied with reporting requirements.

The following vignettes were provided by the Mandated Reporter Training Project, Chadwick Center for Children and Families at Rady Children's Hospital.

Much thanks for their assistance!

Vignette #1

Colin, a student in your sixth-grade confirmation class, has recently become withdrawn and appears depressed. Although he used to participate actively in discussions and homework assignments, you notice that he no longer volunteers and his assignments are usually incomplete or poorly done.

You talk with him privately about the changes you have noticed, and ask him whether there is anything that is making him angry or unhappy. He tells you that since his step-father lost his job, he is always irritable, yelling at Colin and hitting him for no apparent reason. He shows you a bruise on his back that he says was caused by his stepfather hitting him with a belt.

What should you do?

Based on this information, you are mandated to report suspected child abuse as Colin has both made a verbal disclosure of abuse and has a visible injury.

In this example, Colin has an observable injury. However, it is not necessary to observe injuries to report.

Vignette #2

After church one Sunday, 8-year-old Sara's Sunday-school teacher tells you that Sara was caught exposing herself to other children on the playground and telling them to touch her. The teacher says that she talked with Sara about this behavior, and that Sara told her that her 14-year old brother always wants to see her "pee pee" and likes to touch it.

What should you do?

- (A) Contact Sara's parents to tell them what she said and gather more information about the situation.
- (B) Nothing. You're told that Sara did not seem upset and you do not want to over-react.
- (C) Meet with Sara, her brother and her parents to discuss the allegations and decide what should be done.
- (D) Make a child abuse report for possible sexual abuse.

(A) Contact Sara's parents to tell them what she said and gather more information about the situation.

This answer is incorrect.

Sara has made a disclosure of possible sexual abuse. It must be reported. Although it may be tempting to tell Sara's parents in order to gather more information or discuss your concerns, such action could interfere with the initial CPS investigation.

(B) Nothing. You're told that Sara did not seem upset and you do not want to over-react.

This answer is incorrect.

Sara has made a disclosure of possible sexual abuse; it must be reported. Children react differently to being abused, and many abused children do not exhibit obvious trauma symptoms.

Furthermore, it is not within the scope of your training and experience to make a determination regarding the validity of the disclosure or to assess the level of trauma experienced by Sara.

(C) **Meet with Sara, her brother and her parents to discuss the allegations and decide what should be done.**

This answer is incorrect.

Although pastoral support should be made available to families in which abuse is suspected, your first responsibility is to report suspected abuse so that the allegations can be investigated by the appropriate agencies.

In addition to potentially interfering with the investigation, conducting sessions with the family could be detrimental to Sara, the victim. In cases of sexual abuse, professional counseling for the victim, perpetrator, and parents is usually necessary.

(D) Make a child abuse report for possible sexual abuse.

This is the correct answer.

Sara has made a disclosure of possible sexual abuse; you must report.

Although it may be tempting to tell Sara's parents in order to gather more information or discuss your concerns, such action could interfere with the initial CPS investigation. In addition, children react differently to being abused, and many abused children do not exhibit obvious trauma symptoms.

Finally, in cases of sexual abuse, professional counseling for the victim, perpetrator, and parents is usually necessary.

Vignette #3

Michael is a member of an evangelism team that visits families who are new to your congregation. After a visit with Mrs. Ruell, a single parent, and her two young children, seven-year-old David and five-year-old Sarah, Michael approaches you with concerns about the Ruell family.

He tells you that during his initial visit, he noticed that the home was very dirty and there appeared to be very little food for the children. He says that Mrs. Ruell told him that she has a demanding job and frequently comes home exhausted, leaving her little time or energy for cleaning or grocery-shopping. She also said that she has few friends and no social life, and probably won't be coming back to the church because she's "just too tired."

Vignette #3 (continued)

Mrs. Ruell confided that she relies on David for help, but complained that he “doesn’t listen” to her and “just wants to go outside and play.” She described Sarah as a “perfect child who never makes a fuss and almost takes care of herself.”

Michael noticed that Sarah appeared thin and unkempt, would not leave her mother’s side, sucked her thumb, and did not speak at all. Michael tells you that David was disheveled and somewhat hyperactive, and his mother criticized and scolded him frequently during the visit. He also tells you that David said that he is in charge of his little sister when his mother goes to work.

Should you report?

Yes.

As a mandated reporter, you must report your concerns of possible neglect.

Although poverty is an issue for this family, the dirty home, lack of food, and lack of appropriate supervision for the children exceed the threshold for reporting.

In addition, statements made by Mrs. Ruell suggest a risk of physical abuse for David, which warrants further investigation.

Vignette #4

You have noticed that a member of your youth group, 14-year-old Nancy, appears depressed and withdrawn. When talking about her family, she says that her father often criticizes her behavior and appearance, calling her stupid, lazy and fat.

She also comments that, although she likes attending the youth program, she worries about being away from her mother because her father has started drinking again and is sometimes violent when he is drunk.

Should you report?

It is appropriate, but not mandated to make a report.

Although you are not mandated to report these concerns, Nancy's affect and verbal description fall into the category of emotional abuse that may be reported. In addition, there may be more to the situation than what a child initially discloses, and ethical and moral obligations to protect children should supersede the letter of the law.

Remember, the law favors over-reporting, leaving it to the investigating agency to determine if child abuse is occurring.

Vignette #5

Betty Stone has asked you to talk to her 13-year-old daughter, Sarah. Ms. Stone describes Sarah as a good student with many friends, outgoing, and involved in dance and music. However, Ms. Stone is concerned because Sarah has become isolative and moody, her grades have dropped and she no longer wants to participate in extra-curricular activities.

Vignette #5 (continued)

While talking with Sarah, she discloses to you that her mother's boyfriend, Bob, has recently begun watching pornographic videos in their bedroom when Sarah returns home from school and before Betty comes home from work.

Sarah tells you that Bob invited her into the bedroom to watch the movies with him, and that on several occasions he showed her his erect penis.

Sarah asks you not to tell anyone, because Bob warned her that if she ever told anyone about this she would get in trouble.

What are some of the concerns raised in this vignette, and how might they be addressed?

Confidentiality

In this situation, the exemption for penitential communications does not apply. The necessity of making a report should be shared with Sarah, explaining who you will tell and why.

Sarah's fear of getting in trouble

You should attempt to understand Sarah's fears further in order to address them appropriately, although clergy members must be careful not to provide false assurances. If Sarah discloses information that causes you to suspect additional forms of abuse, you must report these concerns as well in order to ensure her safety.

Concerns about Ms. Stone's potential reaction

Ideally, Sarah's mother should be informed when a report is made, unless doing so would further endanger Sarah. Following assessment of Sarah's fears, it may be appropriate to assist her in telling her mother of the abuse, or of obtaining her consent to share this information directly with her mother.

Vignette #6

Mrs. Smith calls you and tells you that her ten-year-old daughter, Claire, has just told her that her father has been molesting her. She says that she does not know what to do, and requests your help. She wants you to talk to Claire and find out if she is telling the truth. She is very distraught, and says that she kept Claire home from school so that she could talk to you.

You explain to her that it is not within your role to investigate whether or not a child has been abused. However, you agree to meet with her and Claire to talk about how to proceed. They immediately come to your office.

What should you do?

As a clergy member, you have an obligation to protect the welfare of those you serve. Although in this situation you will have to inform Mrs. Smith and Claire that you are mandated to report concerns of child abuse, it is important to do so in a manner that acknowledges their fears and concerns. Explaining who you will tell and why as well as assuring them of your ongoing support and concern may assist them in recognizing rather than resisting the need to report.

What happens after I report
suspected abuse or neglect?



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22,242

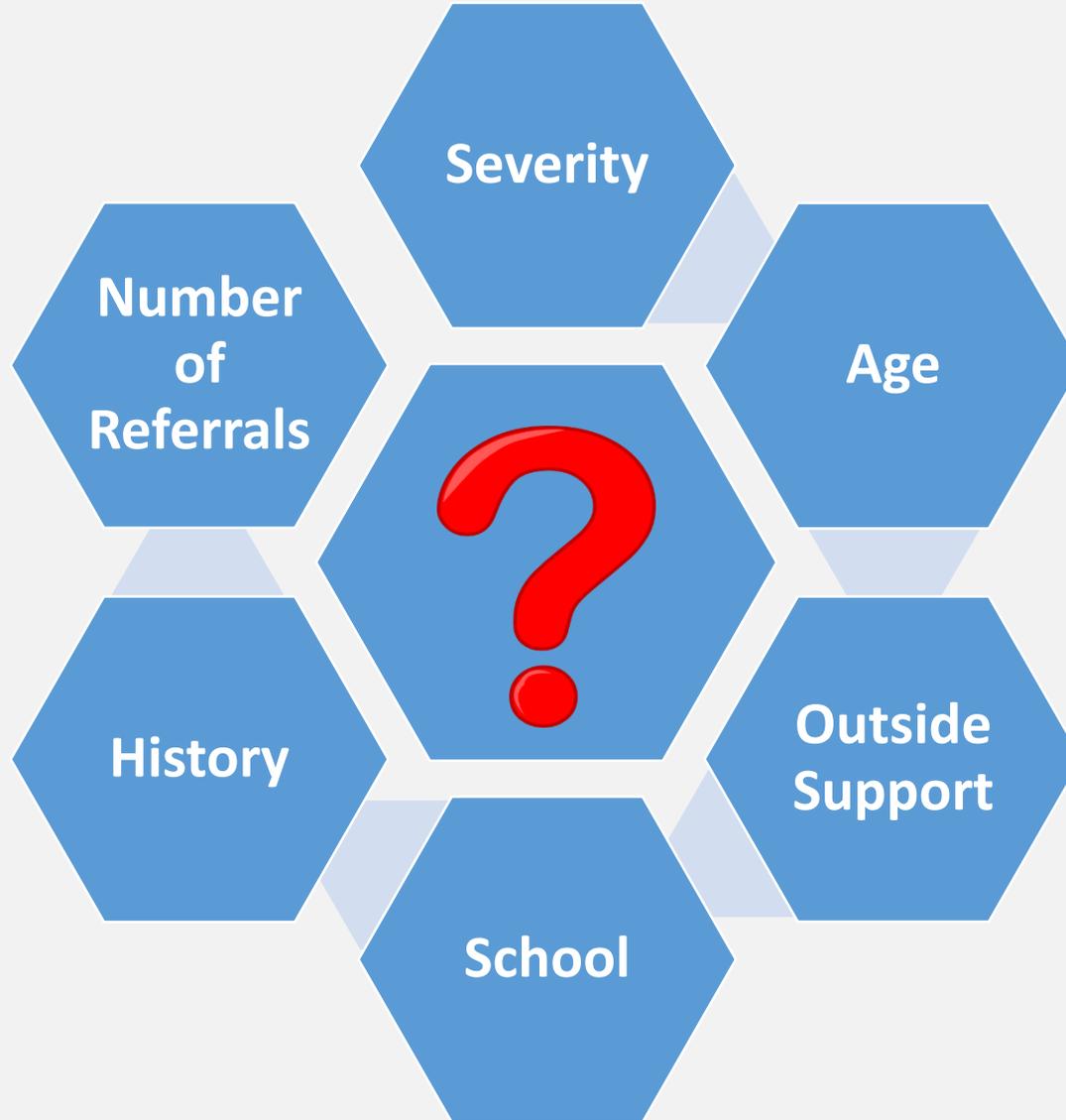


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966





Questions?