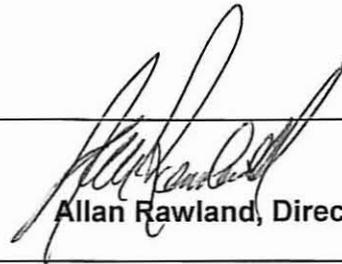


**County of San Bernardino
Department of Behavioral Health**

Child Abuse Reporting Policy

Effective Date 7/1/91
Revision Date 7/9/07



Allan Rawland, Director

Policy In accordance with state law, California Penal Code 2.5, it is the policy of the Department of Behavioral Health that any staff member of DBH, including child care custodians, medical practitioners or non-medical practitioners, has the legal duty to report any incidents of suspected child abuse that he or she has knowledge of or reasonably suspects.

Purpose To insure that all suspected child abuse is reported in accordance with Section 2.5 of the California State Penal Code (PC).

Mandated Reporters Persons who are mandated to report Child abuse include, but are not limited to:

- Administrators of Community Care Facilities licensed for the care of children
 - Clinic Supervisors
 - Employees of child care institutions
 - Group home personnel
 - Licensed Day Care Workers
 - Marriage/Family/Child counselors
 - Personnel of residential care facilities
 - Physicians
 - Program Managers
 - Psychiatric Technicians
 - Psychiatrists
 - Psychologists
 - Registered Nurses
 - Social Workers
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Definitions

The table below provides definitions related to child abuse:

Terms	Definitions
Child Abuse	<p>Abuse or neglect that includes:</p> <ul style="list-style-type: none"> ▪ physical injury inflicted by other than accidental means upon a child by another person ▪ sexual assault, abuse, exploitation as defined by PC 11165.1 ▪ neglect as defined by PC 11165.2 ▪ the willful harming or injuring of a child ▪ the endangering of the person or health of a child as defined in PC 11165.3 ▪ unlawful corporal punishment or injury as defined in PC 11165.4 ▪ Neglect or abuse in out-of-home care on a child by another person.
Physical Abuse	Physical injury (ranging from minor bruises to severe fractures or death) as a result of punching, beating, kicking, biting, shaking, throwing, stabbing, choking, hitting, or otherwise harming a child, or failure to protect a child from another person who perpetrated physical abuse on a child.
Physical Neglect	The failure to provide for a child's physical survival needs to the extent that there is harm or risk of harm to the child's health or safety which may include, but is not limited to' abandonment, lack of supervision, life endangering physical hygiene, lack of adequate nutrition that places the child below the normal growth curve, lack of shelter, lack of medical or dental care that results in health threatening conditions, and the inability to meet basic clothing needs of a child. In its most severe form, physical neglect may result in great bodily harm or death.
Sexual Abuse	<p>Includes activities such as fondling a child's genitals, penetration, incest, rape, sodomy, indecent exposure, and commercial exploitation through prostitution or the production of pornographic materials.</p> <p>Note: Involuntary Sexual Activity is always reportable. Voluntary Sexual Activity may or may not be reportable (please see examples noted: "Sex & Minors" attachment)</p>

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Emotional Abuse	Verbal assaults, ignoring and indifference or constant family conflict causing serious emotional damage or placing the child at substantial risk of suffering serious emotional damage as evidenced by severe anxiety, depression, withdrawal, or other behaviors or states of being (see PC 11166.05).
Incest	Incest is a marriage or act of intercourse between parents and children; ancestors and descendants of every degree; brothers and sisters of half and whole blood; and uncles and nieces or aunts and nephews. (CA Family Code § 2200) Note: Incest, even if voluntary, is always reportable.

Note: Child Abuse does not include injury occurring in mutual affrays between minors, or injury inflicted by peace officers in the legitimate pursuit of their duties.

Reporting Child Abuse

Any staff member, as defined above, who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment, and who he or she knows or reasonably suspects has been the victim of child abuse shall report to EITHER a child protective agency OR to law enforcement immediately or as soon as practically possible by:

- Telephone, and
- In writing (state form, [SS 8572](#)) within 36 hours of receiving the information concerning the incident.

State licensed group homes shall also report all incidents of child abuse to the Community Licensing Agency as soon as circumstances permit.

Note: If there appears to be an immediate risk, the nearest law enforcement agency should be contacted by telephone as soon as circumstances permit.

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Penalties & Protections

- The reporting duties are individual and no supervisor or administrator may impede or inhibit said reporting duties and no person making such a report should be subject to any sanction for making such a report.
- No mandated reporter reporting a suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by Article 2.5 of the Penal Code.

Note: any person who fails to report as required by this article, an instance of child abuse which he or she knows to exist or reasonably should know to exist is guilty of a misdemeanor which is punishable by confinement in the County Jail or by a fine of not more than \$500 or both.

Client Documentation

All actions taken by staff shall be documented in the patient's medical record. A copy of the report form shall be filed in the legal section of the chart.

Reference

California Penal Code, Article 2.5, Sections 11166 - 11167 and Section 11172.

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Attachment 1

**Sex & Minors:
Example of
Reporting
Guidelines**

The Child Abuse Council of Santa Clara County at its website (<http://www.cacsc.org/council/reportminors.html>) notes the following:

“This is a guide for mandated reporters and the information contained in this document is designed to assist those mandated by California Child Abuse Reporting Laws to determine reporting responsibilities. It is not intended to be and should not be considered legal advice. In the event there are questions regarding reporting responsibilities in a specific case, the advice of legal counsel should be sought.”

The following table summarizes reportable versus non-reportable incidents:

A. Subject Child Younger Than 14 Yrs Old	Mandatory Report	No Mandatory Report	Notes
1. Sex partner is younger than 14 and of similar chronological or maturational age		X	<ul style="list-style-type: none"> • Sex is voluntary and consensual • No indications of intimidation, coercion, bribery or other indications of an exploitive relationship • See Planned Parenthood Affiliates of CA v. John K. Van De Kamp (1986) 181 Cal App 3d 245 & In re Jerry M, 59 Cal App 4th 289
2. Partner is younger than 14, but there is disparity in chronological or maturational age or there are indications of intimidation, coercion, or other indications of an exploitive relationship	X		
3. Partner is 14 yrs or older	X		
4. Lewd & lascivious acts committed by a partner (any age)	X		<ul style="list-style-type: none"> • Perpetrator has the intent of “arousing, appealing to or gratifying the lust, passions or sexual desires of the perpetrator or the child”
5. Partner is alleged spouse and over 14 yrs of age	X		<ul style="list-style-type: none"> • The appropriate authority will determine the legality of the marriage

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Attachment 1

B. Subject Child 14 or 15 Yrs Old	Mandatory Report	No Mandatory Report	Notes
1. Partner is less than 14	X		
2. Unlawful sexual intercourse with a partner older than 14 and less than 21 Yrs old & no indication of abuse or evidence of an exploitive relationship		X	
3. Unlawful sexual intercourse with a partner older than 21 Yrs old	X		
4. Lewd & lascivious acts committed by a partner more than 10 Yrs older than the child	X		<ul style="list-style-type: none"> • Perpetrator has the intent of "arousing, appealing to or gratifying the lust, passions or sexual desires of the perpetrator or the child"
5. Partner is alleged spouse and over 21 yrs of age	X		<ul style="list-style-type: none"> • The appropriate authority will determine the legality of the marriage
C. Child 16 or 17 Yrs Old	Mandatory Report	No Mandatory Report	Notes
1. Partner is less than 14	X		
2. Unlawful sexual intercourse with a partner older than 14 & no indication of an exploitive relationship		X	
3. Unlawful sexual intercourse with a partner older than 14 & evidence of an exploitive relationship	X		
4. Partner is alleged spouse and evidence of an exploitive relationship	X		<ul style="list-style-type: none"> • The appropriate authority will determine the legality of the marriage
D. Child Under the Age of 18	Mandatory Report	No Mandatory Report	Notes
1. Sodomy, oral copulation, penetration of a genital or anal opening by a foreign object, even if consensual, with a partner of any age	X		