MANDATED REPORTING

WHAT IS CHILD ABUSE?

- **In California -**
  - ***Physical Injury inflicted non-accidentally***
  - ***Sexual abuse; both assault and exploitation***
  - ***Willful cruelty or unjustified punishment***
  - ***Corporal punishment or injury resulting in a traumatic condition***
  - ***Neglect; general or severe***

Cultural Diversity

- **Child rearing practices may be influenced by economic status, religion and culture SO**
- **Important to be aware:**
  - **Recognize and reject preexisting beliefs**
  - **Focus on understanding individuals**
  - **Resist temptation to classify or label**

BUT The law does not exempt cultural practices from reporting requirements if abusive.

We know child abuse is wrong…

- **Then WHY are people so reluctant to report suspected abuse?**

TO WHOM DO YOU REPORT?

- **To a "child protective agency"**
- **County Welfare Department**
- **OR**
- **Police or Sheriff's Department**

WHO MUST REPORT

- **Penal Code § 11165.7**
  - **44 described individuals**
  - **Teacher to therapist/counselor to photo lab to animal control officers to clergy members and clergy record custodian to college employee and administrator to commercial computer tech to athletic coach and assistant at post secondary institution. (2012 amendments)**

"Reasonable Suspicion"

- **Info at face value, provides reasonable belief that a child may be a victim.**
- **Objectively reasonable**
- **Certainty not required**

Legal Summary

- **Reporter must report if REASONABLE SUSPICION OF ABUSE *and* obtained the knowledge in the course of work**
- **NOT required if not serving in professional capacity**
- **NOT required to prove the abuse or collect evidence!**

If mandated reporter fails to report…

- **Up to six months in jail and/or $1000 fine**
- **Possible damages in a civil suit**
- **Educators and others risk loss of license or credential**

Any safeguards for reporters?

- Reporters immune from civil and criminal liability for reporting as required
- Supervisors/employees may not impede or sanction reporters
- Reports and identity of reporter are confidential
- Reporters not liable for photographing victim and submitting photo with report
- Can't prevent lawsuits, but costs for defending are reimbursable

CHILD ABUSE CONTRAL INDEX (CACI)

- Penal C. § 11169: requires investigating agency to report to DoJ any *substantiated* case and to notify accused abuser of the report.
- P.C.§ 11170: DoJ to maintain an index of *substantiated* reports.

CACI

- P.C. § 11165.12 : Defines
- "Unfounded"- determined to be false, inherently improbable, accidental injury or not constituting abuse or neglect.
- "Substantiated"- evidence of child abuse or neglect.
- "Inconclusive" – not unfounded, but findings inconclusive and insufficient evidence to determine.

GOMEZ V. SAENZ SETTLEMENT

- **2007 law suit based on the lack of a procedure to challenge a "substantiated" report retained in the DoJ**
- **Settlement resulted in creation of a procedure now referred to as a "Gomez" hearing at which the "abuser" can challenge the finding in the report.**
- **2011: P.C.§11169(d) codified the right.**

Gonzalez v. Santa Clara County DSS October 8, 2013

- **12 yr. old daughter skipping school, lying to parents, gang leanings.**
- **Parents tried grounding, removing cell phone, iPod and T.V., forbidding associations etc, but no change.**
- **Parents decided to use corporal punishment- i.e. spankings .**
- **Daughter defied the rules, so…**

Gonzalez

- **Mother told daughter she would have to spank her and would have to use a wooden spoon because her hands hurt.**
- **Next day daughter told friends at school who reported to a school employee who completed a child abuse report.**
- **Social worker investigated and made a report quoting statements disputed by parents and by daughter**

Gonzalez

- Daughter remained at home and S.W. reported that although no indication of violence in the home, the allegation was substantiated---reported as such to DoJ (CACI) and mother notified.
- Mother requested a Gomez hearing at which S.W. testified; mother told her version and requested that the daughter be allowed to testify.

Gonzalez

- Hearing Officer found that the mother did spank daughter with a wooden spoon, causing bruising to the buttocks meeting the definition of physical abuse and unlawful corporal punishment as defined in the Penal Code. Did not state specific findings.
- Mother filed writ in Superior Court; denied.
- Mother appealed.

Gonzalez

- HELD: Judgment denying the petition for writ is reversed.
- Superior Court directed to issue the writ and
- Command the Department to either conduct a new hearing OR issue a decision finding the report unfounded and to notify the DoJ of that finding.

Penal Code Definitions

- §11165.3: Willful harming or injuring a child = willfully causing or permitting any child to suffer, or inflicting thereon, unjustifiable physical pain of mental suffering.
- §11165.4: Unlawful corporal punishment or injury = willfully inflicting upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

Child Abuse & Neglect Reporting Act (CANRA)

- Language and case interpretations indicate there is a "parental privilege " justifying the use of physical force against a child "if a reasonable person would find that punishment was necessary under the circumstances and that the force used was reasonable."
- Requires disciplinary motive and must be reasonable in kind and degree.

Bottom Line

- The parental privilege to impose reasonable physical discipline on a child must be incorporated into CANRA's definitions of "willful harming or injuring of a child" and "unlawful corporal punishment or injury,"
- "It follows that Mother's conduct here was not reportable child abuse if it constituted the reasonable imposition of discipline."

So …does this change the reporting duties?

- **Required to report if there is a "reasonable suspicion of abuse" and you are a mandated reporter**
- **NOT required if you are not serving in your professional capacity**
- **NOT required to PROVE the abuse or collect evidence**

What if I reported?

- **Can I find out what happened?**
- **How?**
- **What if I haven't heard?**

SO WHAT DO WE LOOK FOR?

GENERAL SIGNS OF ABUSE

- Running away
- Not wanting to go home
- Fear of a specific person or type of person or everyone
- Harming animals
- Victimizing other children
- Lack of empathy
- Setting fires
- Poor peer relations

And…

- School problems
- Substance abuse problems
- Suicide attempts
- Depression
- Overly compliant behavior
- Angry, hostile behavior
- "Perfect" child; quiet, shadow child
- Self mutilation
- Statement by child

Physical Abuse

Physical Indicators

- Fractures, lacerations, bruises facial injuries: UNEXPLAINED OR IMPROBABLE
- Burns (cigarettes, rope, water, iron, radiator)
- Untreated burns or other indications of harmful delay in seeking treatment for injuries
- Indications of repeated trauma over time

Other physical indicators…

- Bilateral Injuries
- Hazardous conditions
  - Broken Windows, faulty electrical fixtures
- Health risks
  - Presence of rats, feces, etc
  - No running water, heat, etc
  - Extreme dirt or filth

Physical Abuse

Behavioral Indicators

- Hostile, aggressive, verbally abusive, destructive
- Fearful, withdrawn, self-destructive
- Attempts to hide injuries
- Frequent absence from school
- Difficulty sitting or walking
- Wary of physical contact w/adults
- Clingy, indiscriminate attachments

Physical Abuse

Additional Considerations

- **Is the injury unusual for his or her age?**
- **What is the child's history of previous or recurrent injuries?**
- **Has the parent or caretaker delayed seeking or failed to seek medical care for the child?**

Sexual Abuse

Physical Indicators

- Torn, stained or bloody underclothing
- Physical trauma or irritation to anal/genital area
- Swelling, discharge from vagina or penis
- Lesions around mouth or genitals
- Abdominal pain, painful urination/defecation, difficulty walking or sitting
- STDs
- Psychosomatic symptoms

Sexual Abuse

Behavioral Indicators

- Precociously sexualized behavior
- Compulsive indiscreet masturbation
- Excessive curiosity about sexual matters or genitalia (self and others)
- Unusually seductive
- Excessive concern about homosexuality (especially boys)
- Consider age specific behaviors

Neglect

Physical Indicators

- Failure to thrive
- Malnutrition or extremely unhealthy diet
- Inappropriate dress for weather
- Dirty, unkempt, extremely offensive body odor
- Untreated medical or dental conditions
- Poor or inadequate supervision for child's age

Neglect

Behavioral Indicators

- Clingy or indiscriminate attachment
- Depressed, withdrawn or apathetic
- Antisocial or destructive behavior
- Fearfulness
- Substance abuse
- Speech, eating or habit disorders
- Often sleepy or hungry
- Brings unhealthy food or "forgets" lunch
- Stealing food

Emotional Abuse

Behavioral Indicators

- Withdrawn, depressed, apathetic, low self-esteem
- Clingy, indiscriminate attachments
- Hostile, verbally abusive, provocative
- Exaggerated fearfulness
- Sleep, speech or eating disorders
- Repetitive, rhythmic movements
- Enuresis or encopresis other regressive behavior
- Substance abuse
- Suicide attempts

Questions?

- Past or present abuse, victimization or risk?
- Knowledge of a prior investigation?
- Doubt about the credibility of the information?

WHAT HAVE WE MISSED?

Some situations…

- **For each example consider whether or not there is a reporting duty and**
- **What other information would you need and**
- **What steps should you take.**

Do you report if…

- **Girl in 2nd grade.**
- **Often complains that she is hungry and comes to school without breakfast**
- **Brings little for lunch—mostly packaged stuff**
- **Should the teacher report?**
- **Should the school nurse report?**
- **What if the nurse learns from the teacher that talking with parents last year didn't help?**

If…

- 3 year old boy comes to daycare with bruises on his forehead.
- Mom says he fell out of shopping cart.
- Boy says mom's BF hit him with a shoe.
- BF says child fell at home.

- What if the bruises are on his shins and no report of hitting?

If…

- **Parent comes to day care to pick up child.**
- **Parent smells of alcohol**
- **Appears to be under the influence of alcohol or drugs.**

If…

- Evening family counseling with 14 year old girl and mother
- Daughter says stepfather molests her
- He is home babysitting his and mother's two children
- Mother accuses daughter of lying because S.F. is too strict.
- Your gut…Mother is probably right……

Sex…

- 1. 15 yr. old girl tells therapist she is sexually active with a 21 year old man.
- 2. 13 year old boy tells coach he and his 14 year old girlfriend have had sex twice.
- 3. 13 year old girl tells her CASA that she is pregnant by her 17 year old boyfriend. Parents approve of boy but do not know they are having sex. Refuses to ID the boy.

And…

- **You teach at a high school.**
- **Volunteers come weekly to tutor and work with troubled teens.**
- **A volunteer tells you that a child has disclosed sexual abuse by her father.**

What if….

- **Two heterosexual 17 yr olds are having intercourse?**
- **Two heterosexual 17 yr olds having oral sex?**
- **Anything else????**

Let's see what we have learned!

- **1. Under the law, mandated reporter must report suspected abuse to?**
- **a.) employer or supervisor**
- **b.) local child protective authorities**
- **c.) child's parents**
- **d.) California Department of Justice**

?????

- **Mandated reporter who suspects abuse must call the proper agency or party within…**
  - **a.) 36 hours**
  - **b.) 24 hours**
  - **c.) immediately or as soon as possible**
  - **d.) the law doesn't say**

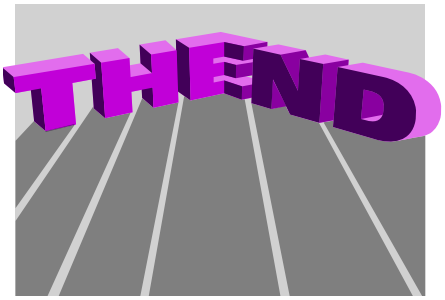
And…

- **Which types of reports must be reported to the CACI (Child Abuse Central Index) by the Child Protection Agency?**
  - **a.) unfounded reports**
  - **b.) inconclusive reports**
  - **c.) substantiated reports**
  - **d.) all of the above**

True or False

- **1. Mandated reporter need not report if his or her supervisor states it is not necessary.**
- **2. Mandated reporter should investigate and report only if the reporter determines the abuse or neglect has occurred.**
- **3. A report always results in the child being removed from the home.**
- **4. Mandated reporters may report anonymously and need not reveal their names.**

QUESTIONS in the future….

- Contact….

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