

**A REPORT BY
THE 2013-2014 CONTRA COSTA COUNTY GRAND JURY**
725 Court Street
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Report 1403

**TRAINING CITY PERSONNEL IN
REPORTING CHILD ABUSE**

APPROVED BY THE GRAND JURY:

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Contra Costa County Grand Jury Report 1403

Training City Employees in Reporting Child Abuse

TO: All Contra Costa County Cities

SUMMARY

Multiple lawsuits alleging child abuse, and the failure to report suspected instances of the same, have revealed that many employees of public entities, including those of cities, do not understand their duties to identify and report suspected or known instances of child abuse. This failure is due, in large part, to inadequate training of employees, and other personnel, in their legal obligations as “mandated reporters”.

To help protect children from child abuse, and cities from liability for failing to report suspected cases of abuse, each city should establish and implement a program to train all “mandated reporters”, including volunteers and other personnel who have direct contact or supervision of children, in abuse reporting guidelines. The training programs should be conducted on an annual basis and each city should implement a system to verify that employees and other personnel who are mandated reporters have successfully completed the training.

METHODOLOGY

- Review of California Penal Code sections mandating reporting of child abuse;
- Review of publications by the State Office of Child Abuse Prevention, Greater Bay Area Child Abuse Prevention Council Coalition and Child Abuse Prevention Council of Contra Costa County;
- Detailed survey of each city regarding their policies, procedures and practices in the training of employees to report suspected child abuse;
- Interviews of child abuse prevention experts;
- Interview of city personnel responsible for child abuse reporting training, and;
- Review of Walnut Creek Investigative Report.

BACKGROUND

The first child abuse reporting law was enacted in California in 1963. Nevertheless, more than 50 years later, cities within this County, as well as other public entities, have failed to provide basic training to their employees in reporting suspected, or actual, child abuse. The lack of training has resulted in instances when suspected or known child abuse was not reported as required by law and where city employees were unaware of their duties to report the alleged abuse.

The Problem

The alleged failures of various school districts within the County to report suspected or known child abuse are now well documented, as set forth in the Grand Jury's recent report (Report No. 1402). School Districts in Moraga, Antioch and Brentwood have recently agreed to pay millions of dollars to settle lawsuits alleging instances of child abuse that resulted, in part, from the purported failure of school personnel to report suspected, or known, cases of child abuse. Additional lawsuits are pending.

However, problems relating to the alleged failure to report suspected or known child abuse, and the lack of employee training about the duty to report the same, is not confined to school districts in the County. A recent case in the City of Walnut Creek revealed the potential damaging effects that may result when child abuse allegations arise from the failure of a city to adequately train its employees, or other personnel, to report known or suspected instances of child abuse.

This well-documented incident involved allegations of child molestation in 2012 by a part-time employee of Walnut Creek's Leshner Center for the Arts. The suspected abuse became known to various City officials. The District Attorney filed criminal charges against the employee in February 2013. In addition, investigations by the Concord Police Department and later by an independent investigator retained by the City were undertaken to determine whether Walnut Creek employees failed to report the suspected abuse pursuant to their obligations under the California Penal Code.

The report prepared by the independent investigator ultimately concluded that there was no city-wide training of employees about their obligations to report suspected child abuse. The report found that numerous City officials had not received **any** training on "mandated reporting" and, at least in one case ". did not know there was such a thing as 'mandated reporting'." The report found that all of the officials should have received adequate training in reporting suspected child abuse.

The incident cost Walnut Creek far more than the expense of the investigative report. Several City officials were temporarily suspended from their jobs and others resigned. The City ended up paying the attorney's fees for at least some of the suspended employees. The damage to the City's reputation and morale is unknown.

The above discussion is not intended to single out Walnut Creek, as the lack of adequate training has been almost uniform among cities within the County for years. Instead, it is an illustration of the potential consequences cities may face for failing to provide their employees adequate training to report abuse. In light of the explosion of claims against school districts, cities may face serious abuse claims in the future unless adequate training is instituted and maintained.

The Law

The California Child Abuse and Neglect Reporting Law is set forth in Penal Code sections 11165 – 11174.3. Since its enactment in 1963, the law has been amended on several occasions, expanding both the definition of “abuse” and the persons – known as “mandated reporters” – who are required to report suspected instances of child abuse. The law defines the obligations in detail, that include:

1. **What** is child abuse (Penal Code section 11165.6 [all references are to the Penal Code]);
2. **What** must be reported (P.C. section 11166);
3. **Who** is a mandated reporter (P.C. section 11165.7);
4. **When** the suspected abuse should be reported (P.C. section 11166)
5. **To Whom** the suspected abuse should be reported (P.C. section 11166);
6. **Safeguards** for persons making the mandated reports (P.C. section 11172)
7. **Liabilities** for failure to make a required report (P.C. section 11166.01);and
8. **Responsibilities** of the agency employing the mandated reporter (P.C. section 11166.1).

The Penal Code’s definition of a “mandated reporter” is extensive and should be scrutinized by each city to determine which of its employees fall within the statutory definition. However, certain categories of employees set forth in P.C. section 11165.7 clearly apply to certain employees within a city. These employees include:

“ ...

(6) An administrator of a public or private day camp;

(7) An administrator or employee of a public or private youth center, youth center recreation program or youth organization;

(8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children...”

The Penal Code does not explicitly require cities to train their “mandated reporters” in their obligations; however, P.C. section 11165.7(c). provides:

“Employers are strongly encouraged to provide their employees who are mandated reporters in [their] duties . This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting.
...”

A report of suspected child abuse must be made **immediately**, or as soon as practical, to legal authorities by phone and then followed by a **written** report within 36 hours. Failure to do so,

subjects the mandated reporter to criminal liability. Moreover, the obligation to make the report cannot be satisfied by telling a supervisor or colleague – an apparent misconception in many of the child abuse cases.

The Training

1. Mandated Reporters

The Grand Jury recently issued a report (Report No. 1402) on the status of child abuse reporting training by school districts in the County. While the Grand Jury concluded that the training programs were long overdue and deficient in a number of respects, the Grand Jury found that most of the districts were making a serious effort to develop and improve their training programs. Clearly there is further work to be done.

However, the abuse reporting policies and training programs of the cities in the County lag far behind the programs instituted by the school districts. Almost none of the cities had a city-wide policy on reporting child abuse, let alone a training program, until the last few months. The responses of several of the cities to the Grand Jury's request in November 2013 for information on this subject illustrate the problem.

The City of Clayton responded, in part, that:

“Following the recent unfortunate incident and publicity on this subject with The City of Walnut Creek, Clayton was in the midst of preparing a City Administrative Policy. After receipt of the Civil Grand Jury's November 2013[letter], City staff accelerated the task and the enclosed City Administrative Policy was adopted by the Council at its public meeting on 12/13/13.”

The City of Oakley responded that it did not have a formal policy on child abuse reporting in place, but attached a draft Mandated Reporting Policy “...that is currently under review by the City Attorney.”

The City of San Pablo responded to the Grand Jury's request by stating, in part:

“...the City plans on presenting for City Council approval in the near future a child abuse reporting policy along the lines of similar policies recently adopted by Concord, Brentwood and Lafayette.”

These responses reflect the status of policies and training programs across almost all cities within the County. Almost all of the cities are scrambling to enact policies. But policies alone are not enough. Adoption of actual training programs and effective implementation of those programs are critical. Such training programs should be adopted and implemented now.

From a training perspective, the Child Abuse Prevention Council of Contra Costa County (CAPC) has been retained by a number of school districts and cities to provide “mandated reporter” training to their personnel. CAPC provides live training by qualified instructors. The training lasts approximately one to one and a half hours and includes sample scenarios, as well as a “give and take” discussion with the training participants. Moreover, the training is provided at

no cost to the city.

The evidence clearly suggests that cities within the County should be encouraged to adopt a uniform training program in order to ensure adequate and comprehensive education of City personnel in reporting suspected child abuse. A review of the Penal Code provisions relating to mandated reporters, as well as other pertinent information, indicate that an effective and comprehensive training program should be mandatory for all city employees whose duties require direct contact and supervision of children. The training program should be given annually and, at a minimum, include the following topics:

- Who are “mandated reporters”;
- What is “reasonable suspicion” of child abuse;
- How and when should a report be made;
- What safeguards are in place to protect mandated reporters; and
- What are the ramifications of making a suspected child abuse report.

In addition, each City should establish a procedure for **verifying** that all employees who are mandated reporters have successfully completed the training program.

2. Volunteers

Volunteers are specifically excluded from the definition of “mandated reporters” under the Penal Code, even those who have direct contact with and supervise children. (P.C. section 11165.7(b).) However, the statute also provides that such volunteers are:

“ . . . encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect . . . ”

Moreover, the statute further provides:

“Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.” (P.C. 11165.7(f).)

There have been well-documented instances of child abuse by volunteers in city programs, particularly those in recreational or sports areas. Given the potential for abuse, as well as the statutory language that encourages training of volunteers, each city should consider including volunteers in its abuse reporting training programs.

3. Independent Contractors

Some cities enter into agreements with independent contractors to provide services that require direct contact or supervision of children. In those cases, the contracting city should ensure that

each independent contractor involved in such contact with children has successfully completed the city's "mandated reporter" training program.

Obviously, training programs alone cannot prevent all instances of child abuse. However, if an effective and comprehensive training program prevents only **one** child from being abused, **one** family from having to endure the hardships of an abused child, **one** City from having to pay millions of dollars to settle a child abuse lawsuit, then there is no reason for any district to resist implementing the same.

FINDINGS

1. The law strongly encourages cities to provide their employees who are "mandated reporters" with training about their obligations to identify and report known or suspected child abuse.
2. A "mandated reporter" employed by a city includes, but is not limited to, an administrator or employee whose duties require direct contact and supervision of children.
3. Training in child abuse reporting obligations should be given annually to every city employee whose duties require direct contact and supervision of children.
4. Training in child abuse reporting obligations should include:
 - a. Who are "mandated reporters";
 - b. What is "reasonable suspicion" of child abuse;
 - c. How and when a report should be made;
 - d. What safeguards are in place to protect mandated reporters; and
 - e. What are the ramifications of making a suspected child abuse report.
5. While volunteers who have direct contact or supervise children are excluded from the definition of "mandated reporters" under the Penal Code, the law "encourages" such volunteers to obtain training in identifying and reporting suspected or known child abuse.
6. A procedure should be implemented to verify that all city personnel who are mandated reporters receive training.
7. The Child Abuse Prevention Council of Contra Costa County provides training services in abuse reporting at no cost to cities in the County.

RECOMMENDATIONS

1. Each city should consider immediately adopting a policy to train its employees and other personnel about their obligation to identify and report suspected cases of child abuse.

2. Each city should review the duties of all employees and other personnel to determine which personnel fall within the definition of “mandated reporters” under Penal Code section 11165.7.
3. The training program should include all personnel who are “mandated reporters”.
4. The training program in child abuse reporting obligations should include:
 - a. Who are “mandated reporters”;
 - b. What is “reasonable suspicion” of child abuse;
 - c. How and when a report should be made;
 - d. What safeguards are in place to protect mandated reporters; and
 - e. What are the ramifications of making a suspected child abuse report.
5. Each city should consider including all volunteers who have direct contact with or supervise children in its abuse reporting training program.
6. In the case where a city enters into an agreement with an independent contractor to provide services that requires direct contact or supervision of children, the city should consider ensuring that the independent contractor and each of its staff who will have direct contact or supervision of children have successfully completed the city’s “mandated reporting” training program.
7. Each city should establish a procedure for verifying that all employees and other personnel who are mandated reporters have successfully completed the training program each year.
8. Each city should consider retaining the Child Abuse Prevention Council of Contra Costa County to provide free training services about child abuse reporting.

REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
City of Antioch	1-7	1-8
City of Brentwood	1-7	1-8
City of Clayton	1-7	1-8
City of Concord	1-7	1-8
Town of Danville	1-7	1-8
City of El Cerrito	1-7	1-8
City of Hercules	1-7	1-8
City of Lafayette	1-7	1-8
City of Martinez	1-7	1-8
Town of Moraga	1-7	1-8
City of Oakley	1-7	1-8
City of Orinda	1-7	1-8
City of Pinole	1-7	1-8
City of Pittsburg	1-7	1-8
City of Pleasant Hill	1-7	1-8
City of Richmond	1-7	1-8
City of San Pablo	1-7	1-8
City of San Ramon	1-7	1-8
City of Walnut Creek	1-7	1-8