



Monterey County Behavioral Health Policies and Procedures

Policy Number	300
Policy Title	Reporting of Child Abuse and Neglect
References	California Penal Code, Sections 11164 through 11174.3, Article 2.5; Child Abuse and Neglect Reporting Act (CANRA); AB 2274; Statement of Compliance with Child Abuse Reporting Law (Human Resources Dept); Personnel Management Suspected Child Abuse Reporting Health Department Policy/Procedures 20-6-86 (Human Resources Dept)
Form	Attachment 1: Child Abuse Report, Form SS 8572
Effective	March 1, 1991 Revised: April 1, 2008 Revised: September 12, 2022 Revised: 12/01/2023

Policy

All Monterey County Behavioral Health employees and its contracted providers shall comply with the provisions of the Child Abuse Reporting Law as defined in the Penal Code, Sections 11164 through 11174.3. The intention is to protect children from abuse and neglect.

Mandated Reporters may have additional reporting requirements and/or mandates depending on their licensing boards and other regulatory agencies. This policy does not supersede those requirements nor do meeting those additional requirements substitute for the compliance with this policy.

This law requires the following:

1. A report is to be made when a person knows or reasonably suspects a child is the victim of child abuse [Penal code 11166(a)]. Child abuse includes sexual assault, neglect, severe neglect, general neglect, cruel or inhuman corporal punishment, willful cruelty and unjustifiable punishment [See Penal Code 11165.1 (a), (c), for definitions]. This suspicion can be by observation or by acquired knowledge. Knowledge of child abuse acquired through communication with persons in care, whether the person is the victim or the abuser **must be**

reported. Any mandated reporter **must** report abuse that they *suspect*, or of which there is knowledge.

2. Mandated reporters are defined under Penal code Section 11165.7 through 11165.9. All Behavioral Health employees and/or belonging to one of its contracted providers who have direct contact with a person in care are mandated to report suspected or known child abuse and/or neglect. Any other division employee is encouraged to report the same.
3. Pursuant to Section 11166.5, any person who enters into employment on or after January 1, 1985, as a child care custodian, medical practitioner, or non-medical practitioner or with a child protective agency, prior to commencing his or her employment, as a prerequisite to that employment, shall sign a statement on a form provided to him or her by the employer to the effect that he or she has knowledge of the provisions of Section 11166 and will comply with its provisions.
4. Psychotherapist confidentiality privileges are not applicable and do not exempt reporting required by this law [Penal code Section 11171.2 (b)]. These requirements prevail over the provisions of the Lanterman Petris Short Act that deal with confidentiality as well as the confidentiality of Medical Information Act. Information in case records pertaining to the allegations of abuse can be released verbally to the child protective agency, an investigator from that agency, or the police.
5. Child protective agencies are required to inform the mandated reporter of the results or disposition of the report made [Penal Code Section 11170]. If a reporter has not been informed in a reasonable amount of time, the child protective agency should be contacted.
6. A mandated reporter may be charged with a misdemeanor if he or she should have known or knew of an instance of child abuse and failed to report it [Penal code Section 11166 (c)]. [Additional changes to Statute of Limitations and Prosecution of Mandated Reporters are listed in AB 2274]
7. The law provides immunity from criminal and civil liability for mandated reporters and provides similar immunity for a non-mandated reporter unless the report was false and the non-mandated reporter knew the report was false [Penal Code Section 11172 (a)].
8. The law further provides that the identity of the person reporting suspected child abuse must remain confidential and may be disclosed only between child protective agencies, by court order or when needed for court action [Penal Code Section 11167 (d)].
9. Reporting responsibilities are individual responsibilities even though an organization may adopt internal procedures to facilitate reporting. A mandated reporter's supervisor or administrator cannot make the report for the mandated reporter or in any way prohibit that individual from reporting.
10. "Abuse in out of home care" is mandated to be reported to a child abuse protection agency. This reporting requirement applies where the person responsible for the child's welfare is a foster parent or the administrator or an

employee of a public or private residential home, school or other institution or agency.

11. Child abuse occurring between two minors is also to be reported.

12. There is no statute of limitations regarding reporting, but prosecution of different offenses usually carries statutes of limitations.

Procedure

1. Employee Statement Child Abuse Reporting

- a. Any person who enters into employment with the Behavioral Health Division on or after January 1, 1985, in any of the capacities listed under 3 (above) shall be required to acknowledge their understanding and agreement with the Child Abuse Reporting Law by signing an "Employee Statement Child Abuse Reporting". It will be the responsibility of the Personnel Analyst to see that each new employee for any of the above mentioned disciplines signs said agreement. The statement shall be filed in the employee's Departmental personnel file. A copy of the Statement will be given to the employee.

2. Report of Suspected or Observed Child Abuse or Neglect

- a. Any employee of the Monterey County Division of Behavioral Health and any contracted provider who is mandated by the California Penal Code to report suspected child abuse, who suspects or observes evidence of such child abuse or neglect as defined in Penal Code Section 11166 (a) will report it **immediately** by telephone to the Child Protective Services Office to include a faxed or electronically transmitted written follow-up report. If Child Protective Services cannot respond, the local law enforcement authority is to be notified. The employee will obtain the name of the minor and necessary information which must be submitted **within 36 hours** to Child Protective Services. *A copy of the report should be scanned into the Electronic Health Record (EHR).*

3. Reporting Instructions

Child Protective Services (CPS) (800) 606-6618 or (831)-755-4661

- a. A telephone report is to be made immediately, or as soon as practically possible. A written report shall be submitted **within 36 hours** of receiving the information.
- b. The completion of suspected child abuse report shall be documented in a clinical progress note, which may be designated "Restricted Disclosure" based on clinical judgment.
- c. A copy of the report shall be scanned into the EHR under the category of "Child Abuse Report" unless the report is made about a non-beneficiary, whereas a copy of the report shall be sent to Quality Improvement with a completed Incident Report.

- d. Staff shall inform their immediate supervisor or designee of the completion of the SCAR immediately but no later than the end of the business day or shift.

Note: Mandated reporters shall file their own SCAR and not allow their supervisor or another staff to file or process a mandated report on their behalf. Informing the immediate supervisor or other co-worker of the report shall not be a substitute for making a mandated report to CPS. A supervisor or administrator shall not impede or prohibit mandated reporting duties. No person making a report shall be subject to any sanction for making the report.

Disclosure of Protected Health Information (PHI)

- Mandated Reporters can only release Protected Health Information (PHI) to CPS as it pertains to the known or suspected Child Abuse or Neglect.
- The SCAR will be limited to the least amount of information necessary to ensure the safety of the Child and directly related to the reported abuse.
- The SCAR is confidential and may be disclosed only to specifically authorized persons or agencies.
- All other information requested will require a signed Release of Information (ROI) by the client or authorized representative.

Definitions

- i. **Child:** Means a person under the age of 18.
- ii. **Child Abuse:** Means a physical injury that is inflicted by other than accidental means on a child by another person. Child abuse includes:
 - a. Unlawful corporal punishment or injury (Penal Code 11165.4)
 - b. Neglect (Penal Code 11165.2)
 - c. Willful cruelty or unjustifiable punishment including mental suffering (Penal Code 11165.3)
 - d. Sexual abuse (Penal Code 11165.1)
 - e. Abuse or neglect in out of home care (Penal Code 11165.5)
 - f. Child abuse does not include an injury caused by reasonable and necessary force used by a peace officer acting within the course and scope of his or her employment as a peace officer. (Penal Code 11165.5)
- iii. **Mandated Reporter:** Includes an administrator or employee of a public or private organization whose duties require direct contact and supervision of children, and the following: physician, surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, marriage and family therapist, clinical social worker, any person who performs autopsies, a marriage and family therapist trainee, an unlicensed marriage and family therapist intern registered, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code. (Penal Code 11165.7-11165.9)

- iv. **Reasonably suspects:** means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate from his/her training and experience, to suspect child abuse (Penal code 11165.9 (1))