

CLACKAMAS COUNTY BOARD OF COUNTY COMMISSIONERS

Study Session Worksheet

Presentation Date: January 8, 2013

Approximate Start Time: ^{10:30}~~9:00~~ am

Approximate Length: 15 Minutes

Presentation Title: Mandatory Child Abuse Reporting Training

Department: County Counsel

Presenters: Stephen L. Madkour, County Counsel

Other Invitees:

WHAT ACTION ARE YOU REQUESTING FROM THE BOARD?

No decision by the board is required. This session is for the board's information.

EXECUTIVE SUMMARY:

Effective January 1, 2013, the legislature made significant revisions to Oregon's Mandatory Child Abuse Reporting law. These changes affect public employees in Oregon. Up to the time of this change, mandatory reporters included employees with professional licenses or roles, such as doctors, lawyers, peace officers, deputies, social workers, nurses, mental health consultants or similar roles.

Now, the legislature expanded the definition of who is considered a mandatory reporter and added a new category of mandatory reporter. House Bill 4016 provides that any "[e]mployee of a public or private organization providing child-related services or activities. . ." is now a mandatory reporter.

Given how broadly the new provision is written, the Office of County Counsel is advising all County and District employees, including elected officials, consider themselves mandatory reporters. This mandatory reporting requirement is personal to the employee and applies even to people who do not interact with children in the course and scope of their jobs.

Mandatory reporters are required by law to report child abuse, whether it's observed through their jobs or in their non-work hours. The responsibility is 24 hours a day, every day. They are a crucial link in the system that protects all children.

The Office of County Counsel, in conjunction with the Department of Employee Services has prepared an online training for Mandatory Child Abuse Reporting available on the training page on the County's Intranet site. A copy of the training is attached.

FINANCIAL IMPLICATIONS:

None, other than the cost associated with staff time to prepare the training materials.

LEGAL/POLICY REQUIREMENTS:

All County and District employees, including elected officials, are mandatory reporters. Mandatory reporting requirements are personal to the employee. Failure to make a mandatory report is a class A violation.

PUBLIC/GOVERNMENTAL PARTICIPATION:

OPTIONS:

RECOMMENDATION:

ATTACHMENTS:

Attached are the training materials that have been distributed

SUBMITTED BY:

Division Director/Head Approval _____
Department Director/Head Approval _____
County Administrator Approval _____



For information on this issue or copies of attachments, please contact Stephen L. Madkour @ 503-655-8362

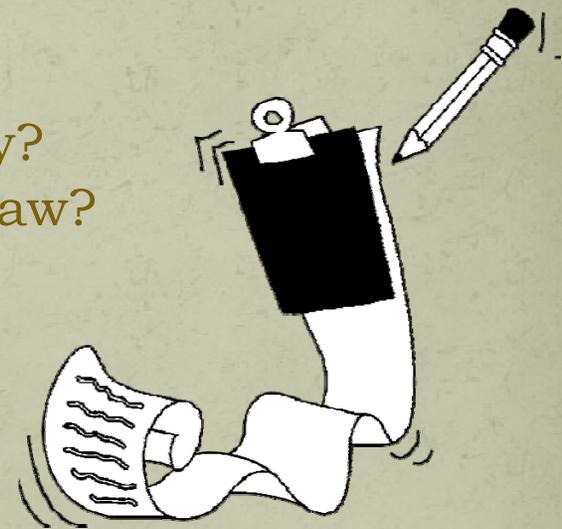
Mandatory Child Abuse Reporting for Clackamas County Employees

Office of Clackamas County Counsel



What is covered in this Training?

- General information regarding child abuse.
- Mandatory child abuse reporting in Oregon:
 - Who is a mandatory reporter?
 - What is a mandatory reporter's duty?
 - What is child abuse under Oregon law?
 - When is a report required?
 - How is a report made?
 - What are the consequences of not making a report when a report is required?



Clackamas County

- In Oregon, a recent change in the law means all employees of public organizations are now mandatory child abuse reporters if the public organization provides child-related services or activities.
- Clackamas County provides child-related services.
- Because Clackamas County provides child-related services and activities, all County employees are now mandatory reporters of child abuse.



THIS MEANS YOU!



Your Reporting Duty

- ORS 419B.010 provides you must report if you have:
 - reasonable cause to believe child abuse has occurred;
 - and you have had contact with the child or the abuser.
- The requirement to report information obtained “in course of official duties” was changed and now it’s a 24/7 obligation.



How to Report

- Report must be made:
 - Immediately
 - Orally by phone or “otherwise” to a Department of Human Services office or to a law enforcement agency.
- “Law enforcement agency” means:
 - (a) A city or municipal police department.
 - (b) A county sheriff’s office
 - (c) The Oregon State Police
 - (d) A police dept. established by a university under ORS 352.383
 - (e) A county juvenile dept.



Who to Contact

- Local Law Enforcement Agency
 - If an emergency, dial 911
 - Otherwise, dial the non-emergency line
 - Clackamas County Sheriff's Office non-emergency line (503) 655.8211
- In Clackamas County
 - In Clackamas County call the Child Welfare/Child Abuse Hotline at (971) 673-7112
- Give as much as information as possible:
 - Names, ages, location, description of abuse



Protections if you Report

- Civil and criminal immunity if:
 - You make the report in good faith; and
 - You had reasonable grounds for the report.



What if you fail to report?

- Class A violation punishable by fine of up to \$2,000 and no less than \$220.
- Failure to perform duties of office.
- Potential civil liability:
 - Failure to protect from foreseeable harm;
 - Negligence per se



Reporting Clarification

- In 2011, the Oregon legislature amended the mandatory reporting law to clarify that the duty to report is personal to the public official.
- The duty to report exists even if the employer or organization has its own internal policies for reporting abuse.
- Employees cannot rely on internal policies to vindicate them of their statutory duty to report.



Duty to report

- The duty to report is personal to the public official alone, regardless of whether the official is employed by, a volunteer of, or a representative or agent for any type of entity or organization that employs persons or uses persons as volunteers, who are public or private officials in its operations.
- The duty to report exists regardless of whether the entity or organization that employs the public or private official or uses the official as a volunteer has its own procedures or policies for reporting abuse internally within the entity or organization.



Exception to Duty

- A report does not need to be made if:
 - You learn of abuse through report already made to law enforcement or state DHS about child abuse; OR
 - You reasonably believe the information is already known by DHS and/or law enforcement.

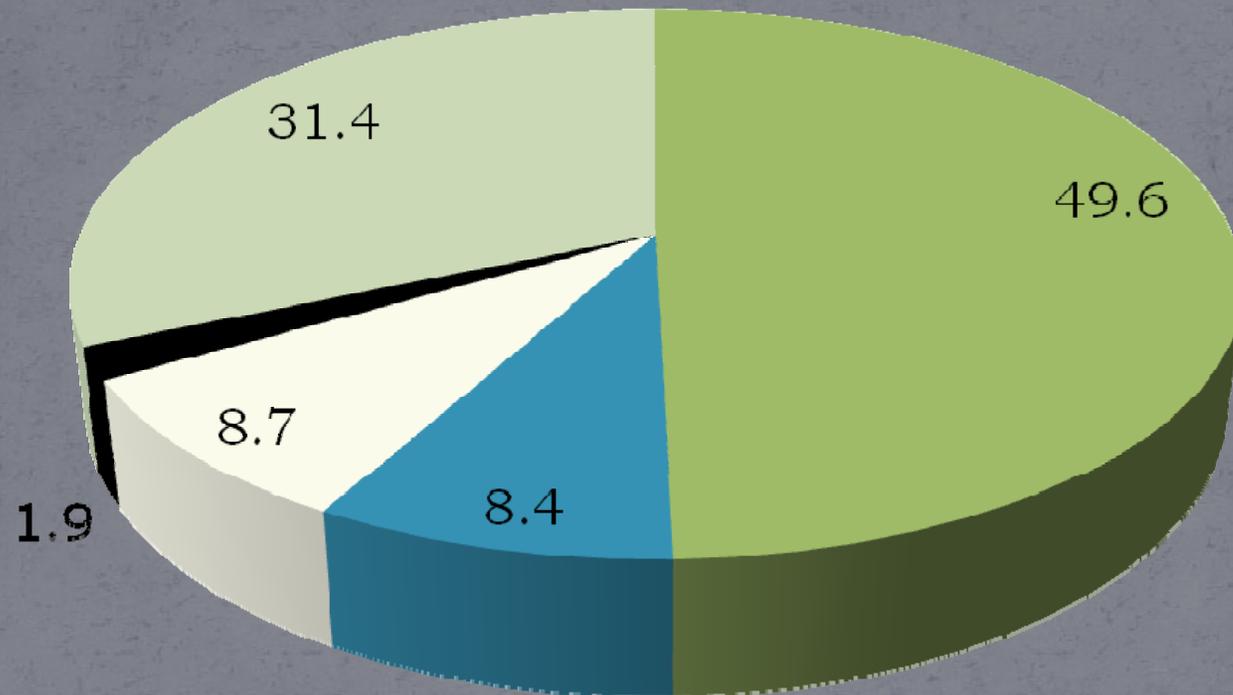


Why Report?

- A “Child” is any unmarried person under the age of 18.
- Goal of reporting is to identify at risk situations.
- In 2010, there were 11,188 reported cases of abuse in Oregon.
 - 22 children died.
 - 48.3% of victims were under 6 years old.



Types of Abuse Reported



■ Threatened Harm ■ Physical Abuse ■ Sexual Abuse
■ Mental Injury ■ Neglect



What is child abuse?

- Threatened Harm
- Physical Abuse
- Sexual Abuse
- Mental Abuse
- Neglect



Types of Abuse – Threatened Harm

- Activities, conditions or persons that result in a *substantial* risk of harm to child's health or welfare.



Examples of Threatened Harm

- Domestic violence, presence of sex offender barred from being in vicinity of children, drug use, DUI with child in car.
- Permitting child to enter or remain in a place where methamphetamines are manufactures.
- Exposure to controlled substance that subjects child to substantial risk of harm.



Types of Abuse – Physical Abuse

- Intentionally or knowingly causing physical injury or substantial pain to child.
- Non-accidental physical injury, including any injury at variance with the explanation given.



Examples of Physical Abuse

- “Unreasonable” discipline.
- Delayed or inappropriate treatment.
 - “Reasonable discipline” is reasonable physical force, but does not give license to inflict injury. Consider age of child, severity, location of injury.
 - Ask: is the injury at variance with the explanation given?
- Physical indicators:
 - Bruises reflecting the shape of the article used (belt buckle)
 - Cigar/cigarette burns
 - Immersion burns (sock-like; glove-like)
 - Burn pattern (iron or utensil)
 - Rope burns on arms, neck, torso
 - Lacerations to mouth, lips, gums



Types of Abuse – Neglect or Maltreatment

- Failure to provide food, clothing, shelter or medical care that is likely to endanger a child.
- Lack of supervision and protection.
- Unsafe or unsanitary home.
- Typically long-term issue, but can be single serious incident.



Examples of Neglect or Maltreatment

- Neglect is typically long-term issue, but can be single serious incident.
- Signs: consistent hunger; poor hygiene; inappropriate dress; begging/stealing food.
- Leaving child alone in car? Consider temperature, whether child crying/sleeping, how long, where, how old the child.
- Under 10 – criminal neglect to be left alone. ORS 163.545(1).
- DHS says 12-year-old can be left home alone and can care for other kids.
- If drug use is a concern, must be a connection between use of drugs and impairment in parenting skills.



Types of Abuse – Sexual Abuse

- Sexual Abuse
 - Sex crimes defined in ORS Chapter 163
 - Includes rape, sexual assault, and sexual contact (touching the sexual or intimate parts of a child)
- Sexual abuse includes:
 - Sexual exploitation of a minor.
 - Buying or selling a minor.



Types of Abuse – Mental Injury

- Mental Injury
 - Cruelty that results in observable and substantial impairment of child's mental or psychological ability to function.



- Mental injury is typically permanent or long standing psychological harm – repeated screaming, disparaging of child.



What is Reasonable Cause?

- Reasonable cause = a reasonable person considering all of the circumstances would have cause to believe abuse has occurred.
- Reasonable suspicion is more than mere speculation or “gut feeling”, or a hunch. You do not need to be sure that abuse has occurred in order to have reasonable cause and trigger duty to report.
- If you can point to specific facts that cause you to believe abuse may have occurred, you should report.



Am I required to investigate?

- No. You may comment, observe or inquire further, but there is no requirement that you need to confirm that abuse has occurred.
- The Department of Human Services and law enforcement will conduct the investigation.



What is “contact”?

- Contact does not need to be concurrent with occurrence of abuse.
 - If you have contact with a child or an abuser at any time before or after forming reasonable cause to believe abuse has occurred, duty to report is triggered.
- Contact not limited to employment capacity.
 - If contact occurs outside of work or in personal life it still must be reported.
- Direct vs. Indirect Contact – the Oregon Attorney General has opined that most likely only actual or direct contact with abused child or abuser will trigger duty to report. For example, if you observe abuse occurring or signs of abuse; talk to or communicate with abused child or abuser.



Hypothetical Situations

The following are possible situations you, as a mandatory reporter, may witness. Read each situation and decide if you have a duty to report.



Hypothetical No. 1

You go to Lowes on a beautiful and unusually sunny, warm Saturday in June. It is 85° outside. As you are walking through the parking lot to the store, you notice a parked car with a child sitting in a car seat in the back. You step closer and sees that the windows are cracked; the child looks to be about a year old and is asleep. You look around and don't see any adult in the vicinity who appears to be heading for the vehicle. Are you required to report?



Analysis of Hypothetical No. 1

- Evaluate criteria for a report:
 - Public official? Yes.
 - Contact with child? Yes.
 - Reasonable cause to believe abuse has occurred? Yes.
 - On an 85° day, the temperature in the car will reach 102° in 10 minutes and 120° in 30 minutes.
 - Does it matter that it is on a weekend?
 - No, the duty to report is 24/7 for mandatory reporters.



Hypothetical No. 2

You are at an outdoor summer concert with your best friends Matt and Debbie and their two kids, ages 7 and 9. You are enjoying the sun, the music and a glass of wine. Two hours later, the music has ended and you gather your stuff to leave. Your friends are laughing and talking loudly and nearly fall over when they try to stand. As they get up, you notice the four empty bottles of wine next to them and you are concerned that they are seriously intoxicated. You offer to drive them home, but they refuse. You use your best persuasive techniques to convince them that they really shouldn't drive and even try taking their keys from them, but they become hostile, lock themselves and their kids in the car, and take off. Later, you learn that the family arrived home safely. Are you required to report?



Analysis of Hypothetical No. 2

- Evaluate criteria for a report:
 - Public official? Yes.
 - Contact with child or the abuser? Yes.
 - Reasonable cause to believe abuse has occurred? Yes.
Driving while significantly impaired is an “activity that results in a *substantial* risk of harm to child’s health or welfare.”
- Do you have to know that the friends are intoxicated?
No, just need information leading to a reasonable suspicion that they are intoxicated.
- Does it matter that the children arrived home safely? No.



Hypothetical No. 3

Your teen daughter has a friend over to spend the night. The friend says how much she likes visiting your house because it is “safe” and she doesn’t have to worry about her stepfather “coming on” to her and trying to touch her when her mom isn’t home. Are you required to report?



Analysis of Hypothetical No. 3

- Evaluate criteria for a report:
 - Public official? Yes.
 - Contact with child or the abuser? Yes.
 - Reasonable cause to believe abuse has occurred? Most likely. Just need to have information that leads to a reasonable suspicion that sexual abuse has occurred.
- There is no requirement that the employee conduct her own investigation.
- Remember that the duty to report is immediate after there is contact with the victim or the abuser.



Hypothetical No. 4

Your neighbor Joan, tells you that she is concerned about the 4-year-old who lives in the house next door to her. She frequently sees him playing outside alone, dirty and dressed inappropriately. If the boy sees Joan, he will come over and ask for something to eat. Based on frequent late night visitors, Joan believes the boy's parents are involved in illegal drug activity. Are you required to report?



Analysis of Hypothetical No. 4

- Evaluate criteria for a report:
 - Public official? Yes.
 - Contact with child or the abuser? No.
 - Reasonable cause to believe abuse has occurred? Yes. Signs of neglect: poor hygiene; inappropriate dress; begging food. Also possible drug activity.
- Because there has been no contact with the child or the abuser, the employee is not required to make a report. However, the employee is certainly permitted to do so.



Hypothetical No. 5

You are in a store at the mall. You see a mother with a small child who appears to be about 3-years-old. The child is wandering around the store in and out of the clothes racks. The mother is having a hard time keeping track of him. She catches up with him and grabs him by the wrist. He collapses on the ground and starts screaming and kicking. Mother drags him up by the arm and over to the stroller. She tries to get him into the stroller, but he resists. Finally, losing patience, she slaps the boy in the face hard enough that the employee can see a hand print. The mother walks quickly out of the store and into the mall. Are you required to report?



Analysis of Hypothetical No. 5

- Evaluate criteria for a report:
 - Public official? Yes.
 - Contact with child or the abuser? Yes.
 - Reasonable cause to believe abuse has occurred? Yes. “Reasonable discipline” does not give license to inflict injury.
- Keep in mind that you do not need to have all relevant information, such as the name and address of the abuser, before you make a report. You report what you know. In this case, you would report the date, time, place, and details of the abuse.



Questions?

Contact information

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Child Welfare/Child Abuse Hotline at (971) 673-7112

