



## California CASA Association's Mandated Reporting Policy for CASA Volunteers

As a private citizen, it is up to you to decide when, or if, you will report child abuse or neglect to the authorities.

**However, when you are sworn in as a CASA volunteer, you become something more:** you become a "mandated reporter" of child abuse. Penal Code §§ 11164 et seq., specifically § 11166 and 11165.7(a)(35).

As a mandated reporter, you must report child abuse or neglect that comes to your attention while you are acting within the scope of your duties as a CASA volunteer. In fact, it is illegal not to, and you can be charged with a crime if you fail to report. So pay close attention to the next few paragraphs.

### 1. When You Must Report

California law states that a mandated reporter must make a report "whenever the mandated reporter, in his or her professional capacity or within the scope of his or her employment, has knowledge of or observes a child whom the mandated reporter knows or reasonably suspects has been the victim of child abuse or neglect. Penal Code § 11166(a)

A reasonable suspicion "means that it is objectively reasonable for a person to entertain a suspicion, based upon facts that could cause a reasonable person in a like position, drawing, when appropriate, on his or her training and experience, to suspect child abuse or neglect. Penal Code § 11166(a)(1).

Simply put, you must report abuse according to the law if you, in your capacity as a CASA discover, or reasonably suspect child abuse has occurred.

Please note, that just because you become a mandated reporter under the law does not mean that you must report any and all incidents of abuse or neglect you stumble upon. You are still a private citizen in your day-to-day life, and as such, your moral values can dictate when you make a report to authorities. However, when you are acting within your capacity as a CASA, you must report any knowledge of abuse or neglect you discover in the line of duty.

For example, teachers are also mandated reporters. If a teacher discovers suspicious bruises on his infant nephew, he is not legally mandated to report it to authorities. However, if he discovers the same bruises on a pupil, he must. The question turns on whether the abuse was discovered in one's professional capacity (or within the scope of one's employment). It is the same for CASA volunteers. Abuse or neglect discovered within your private life is not subject to the legal requirements for reporting; however, abuse or neglect discovered within your capacity as a CASA volunteer is. If you have any doubt about your need to report abuse or neglect, talk with your CASA case supervisor and he/she will be able to steer you in the right direction.



## 2. Reporting Abuse is Your Responsibility

So, if you become aware of abuse or neglect while working as a CASA, you must report it. Discussing the matter with your case supervisor does not mean that you have satisfied your reporting requirement. A CASA volunteer's duty to report abuse or neglect is an individual responsibility. Penal Code § 11166(i). This basically means that you bear the burden of ensuring that the official report gets made, and that your report complies with the requirements the law, specifically **Penal Code § 11166**.

The law does state that, when abuse or neglect comes to the attention of two or more mandated reporters, you can mutually agree to which one of you will call in the report and which one will follow-up with the written report. Penal Code § 11166(h). If, however, that person does not follow through, you must make the report yourself.

## 3. What Calls for a Report?

Child abuse and neglect is not as easy to discern as one might think. The Child Abuse and Neglect Reporting Act, as well as the Welfare and Institutions Code describes in detail what constitutes abuse and neglect. Penal Code §§ 11164 et seq.; Welf. & Inst. Code §§ 300 et seq.

However, it is your reasonable understanding of what abuse and neglect is that drives your need to report. So, it is safe to say that if you think it is child abuse or neglect, then it must be reported. This also presents a perfect opportunity to discuss the matter with your case supervisor. A good policy is, when in doubt, make the report and let the professionals decide. After all, there is a social worker already assigned to the case.

It is important to note that you must make the report even if the child has subsequently reached the age of majority or died. Penal Code § 11166(a)(2). Conversely, the law specifically says that, "pregnancy of a minor does not, in and of itself, constitute a basis for a reasonable suspicion of sexual abuse. Penal Code § 11166(a)(1).

## 4. How to Make a Mandated Report Penal Code § 11166(a); Penal Code § 11167

Once you have determined that you should make a report, you must follow these steps:

- 1. Make an initial report by telephone immediately, or as soon as practicably possible. By law, you can call the local police department, sheriff's office, or the county welfare department. Penal Code § 11165.9. However, keep in mind that where you should report can vary depending on local custom, so ask your CASA case supervisor if you have any questions.
- 2. Prepare a written follow-up report that complies with the following requirements:
  - a. Use the California Attorney General's form **SS 8572**.



- b. Submit it by sending it, faxing it, or electronically transmitting it within 36 hours.
- c. Include any non-privileged documentary evidence relating to the incident.
- d. You must include your name, business address, and telephone number.
- e. You must include the information that gave rise to the reasonable suspicion of child abuse or neglect, including the source(s) of your information.
- f. If known, you must also include the "child's name, child's address, present location, and, if applicable, school, grade, and class; the names, addresses, and telephone numbers of the child's parents or guardians; and the name, address, telephone number, and other relevant personal information about the person or persons who might have abused or neglected the child. The mandated reporter shall make a report even if some of this information is not known or is uncertain to him or her. Penal Code § 11167

### **5. Your Identity as a Reporter is Confidential**

When private citizens report abuse or neglect, they can choose to remain anonymous. However, when reporting as a mandated reporter, you must give your name. penal Code § 11167(d)(1). The law does protect the identity of mandated reporters with a level of confidentiality, but the mandated reporter's name will be given to those who need to know (which can include people like the social worker, the minor's attorney, the county counsel assigned to the case, etc.). So, in the real world, your identity can be discovered however, if you are reporting abuse as a private citizen, meaning not in your role as a CASA volunteer, then you may remain anonymous. Penal Code § 11166(f).

### **6. Mandated Child Abuse Reporters Enjoy Some Immunity from Liability**

The law specifically grants a level of immunity from civil or criminal liability to mandated reporters who make reports of child abuse or neglect. Penal Code § 11172. So, while you must endeavor to avoid reports that make patently false accusations or recklessly disregard the truth, you should not worry about reporting abuse or neglect.

### **7. You Can Be Held Liable for a Failure to Report**

As mentioned earlier, as a mandated reporter, you must report child abuse or neglect that comes to your attention while acting in your capacity of a CASA. This begs the question: what happens if a mandated reporter fails to report as he/she should? The answer is that you can be held civilly and criminally liable. Penal Code §§ 11166(c), 11166.01(b); this includes jail time and or a fine.

### **8. The Mandated Reporter is Entitled to Know the Outcome of the Report**

Once you make a report of abuse or neglect, the desire to know the outcome of the report can be overwhelming. California Law requires that the investigating agency let the mandated reporter know



the results of the investigation and any action taken once the investigation or disposition is complete. Penal Code § 11170(b)(2).

### **9. Engage Your CASA Staff**

On a final note, you should realize that you are not in this alone! You have an entire CASA network, and your own CASA case supervisor to guide you through this process. CASA employees are also mandated reporters, and they can give excellent advice should you ever find yourself in the sad situation of discovering an incident of abuse and/or neglect. Engage them, and utilize their skill and experience.