

CHILD ABUSE REPORTING...

and you





Children are our greatest treasure. The people of California, who are concerned about children need information about what to do when they become aware of child abuse and neglect.



People who come into regular contact with children through their jobs, such as teachers or doctors, are required by law to report all known or suspected instances of child abuse. The law gives clear rules for how these “mandatory reporters” are to report child abuse. However, most people are not mandated reporters and are not sure what to do when they become aware of child abuse. This pamphlet is a brief guide to child abuse reporting in California. It is designed to answer some of the most frequently asked questions.



<u>The areas covered are:</u>	<u>Page</u>
General Questions	2
If You have been Accused . . .	12
If You are a Victim	24
Prevention	25
I Have a Complaint.	28

What Is Child Abuse?

Under California law, child abuse is a crime.

Children need protection because they are vulnerable and often unable to speak for themselves. The California Child Abuse Reporting Law, along with other state laws, provides the legal basis for action to protect children and to allow intervention by public agencies if a child is maltreated.

California law defines child abuse as any of the following:

- A child is physically injured by other than accidental means
- A child is subjected to willful cruelty or unjustifiable punishment
- A child is abused or exploited sexually
- A child is neglected by a parent or caretaker who fails to provide adequate food, clothing, shelter, medical care or supervision.

Any child may be victimized. Child abuse crosses all socioeconomic, ethnic, cultural, occupational, religious and age groups. It can occur in the child's home or outside the family. Tragically, it happens most often at home, and usually the abuser is known to the child. Generally, the abuser is a caretaker. A caretaker can be a parent, stepparent, relative or a child care provider.

GENERAL QUESTIONS

Why Should I Report Child Abuse?

Sometimes people are afraid to get involved in a child abuse situation. Ignoring any problem will not make it go away or get better. In some cases, ignoring child abuse may result in serious injury or even the death of a child.

All children have the right to grow up in a safe environment. Child abuse, in all its forms, has a more long-lasting and negative effect on children, families and the whole community than most people realize. At its worst, its destructive impact haunts its victim through life and can prevent the child from becoming a productive adult. Parents who were mistreated as children will often mistreat their children. Reporting child abuse is a first step in stopping this devastating cycle.

People who hurt children usually need help to change their behavior. Many only get help after someone calls attention to the fact they need it, by reporting the abuse of their child.



What will happen to me if I make a report?

Anyone who reports known or suspected child abuse is protected by the law from civil or criminal liability, unless it can be proven the report was false and the person who made the report knew it was false. Any person, except a mandated reporter, who reports child abuse may remain anonymous. *(Some groups of persons are specified in law as mandated reporters and are required to give their names. They are also provided unqualified immunity from civil liability.)* However, it is helpful to give your name and telephone number to the social worker or law enforcement officer taking the report, in the event he or she needs to obtain more information later.



How does child abuse get reported?

An initial report is made to the police or sheriff's department, or the county welfare department. Many times, calls to the police or sheriff's department are transferred to the local child protective agency to talk about the child's situation. A child protective agency is either the county social services department *(in a few counties it is the probation department)* or the local law enforcement agency *(police or sheriff)*. Social services departments provide child welfare services in California. Except for situations involving allegations of general neglect, child protective agencies are required to cross-report to each other. "Cross-reporting" means that the different agencies inform each other of reports so that each agency can take appropriate steps to respond.

"General neglect" means the negligent failure of a person to provide adequate food, clothing, shelter, medical care or supervision for a child under that person's care or custody. General neglect is handled only by the social services department.



How do I know when to report child abuse?

Reporting should be done when a person either knows or suspects that a child has been or is in danger of abuse or neglect. Hard proof is not needed to make a report. However, reports must be made in good faith. Use common sense. A report of child abuse is serious and may have a lifelong impact on the child and his or her family. **Never make a false or malicious report.** If you are in doubt at all about whether to report a particular situation, telephone the emergency response intake worker at your local child protective agency in the county social services or probation department and discuss the situation.



What happens after a report is made?

When receiving a report about suspected child abuse or neglect, the social worker or law enforcement officer on duty will speak to the person making the report in order to obtain information about the child. The kind of information needed includes answers to such questions as: What type of abuse has occurred? Who or what caused the abuse? Most importantly, the person receiving the call will need to ask: “Is the child still in a dangerous situation or in need of medical care?”

No two reports are handled in exactly the same way. Decisions by all the people involved are based on each child’s situation. Even reports on two children in the same family may be handled differently; the agency receiving the report will determine how to proceed, based on the information available. What the response will be and how quickly it will be made depends on the seriousness of the events reported and the situation the child faces.

Where it appears that the child is in danger, the response will be immediate. Where there is less risk involved, it may be three to ten days before action is taken. Not all reports are serious enough to require the assistance of the law enforcement agency. In these events, the family may be contacted only by the local social service department. An in-person response may not be made when the county social services department, based upon an assessment, determines that one is not appropriate.

The investigations by the child welfare services agency and law enforcement are conducted separately. The child welfare agency will concern itself with the welfare of the child and family. Law enforcement efforts will focus on obtaining evidence to determine whether a crime has been committed and by whom.



What does the social worker do?

The social worker interviews the child and family to evaluate the situation. The worker's primary responsibility is the protection of the child.

Often, parents or others who mistreat children are beset by problems which overwhelm them. Abusive parents are frequently very lonely and have few friends. Many of these parents report that they were poorly treated by their own parents and that their childhoods were unhappy. These parents may not be able to handle the normal stresses of raising children without help. Because they were denied safe, secure lives as children, they may not understand the behavior of a child who is experiencing a "normal" childhood. As a result, they may have unrealistic expectations about their child's behavior.

The social worker's responsibility is to offer services to help reduce the problems of the family and child. These services can include such things as counseling, referrals to self-help groups or assistance in obtaining medical care, emergency shelter, transportation or a temporary in-home caretaker. The social worker's activities are designed to protect children and enable families to stay together whenever possible.



What does the law enforcement officer do?

A law enforcement officer is not always involved when allegations of child abuse are made. However, when they are, they have a responsibility to protect the child in investigating abuse. Sometimes a child protective services (CPS) worker investigates a case. **The officer (or CPS worker) will interview the parent(s) and child and gather information based on the interviews, physical evidence and information from other sources such as medical and school records.** Usually the parent or caretaker is neither arrested nor criminally charged in a child abuse case. This is because the goal of intervention is to protect the child from further maltreatment and to help the parent(s) change their behavior. In some cases there are instances of serious abuse and crimes when the parent(s) or caretaker(s) are arrested and the case is referred by law enforcement to the district attorney for criminal prosecution.



I heard a rumor that someone is abusing their child. Do I report it? . .

The standard by which a report should be made is "reasonable suspicion". **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)). One should never take child abuse reporting lightly. It is difficult to make a judgment as to whether or not child abuse has occurred based on rumor. If in doubt, discuss the situation with your local CPS or law enforcement.



What is the fine line between physical abuse and discipline?

If the discipline is excessive or forceful enough to leave injuries, physical abuse has occurred. The intent of the reporting law is not to interfere with appropriate parental discipline, but to respond to extreme or inappropriate discipline which is abusive.



What if an adult states he/she was abused as a child?

Child abuse of adults should be reported if there is a reasonable suspicion that there may be another potential child victim. (This does not impose an investigatory duty. The investigation is to be done by a local Child Protective Services agency.)



What about testifying in court?

The majority of cases do not go to trial. When they do, if the person reporting is known, it is important to remember that the testimony may be essential for the protection of the child.



May reports be made anonymously?

Persons not legally mandated to report may make anonymous reports. **Mandated reporters** must identify themselves when making child abuse reports.



Does a positive toxicology screen at time of delivery require a child abuse report?

A positive toxicology screen at the time of the delivery of an infant is not in and of itself a sufficient basis for reporting child abuse. However, any indication of maternal substance abuse leads to an assessment of the mother and child pursuant to Section 123605 of the Health and Safety Code. The assessment is performed by a health practitioner or medical social worker. It is to be performed before the infant is released from the hospital.



In cases of domestic violence when there is a child in the home, is it reportable as child abuse?

While each county handles this issue differently, domestic violence is being reported in some counties as emotional abuse (Penal Code 11166.05). It is generally reported to Child Protective Services when a child is in the home by medical personnel, law enforcement and domestic violence units. Where a child is in "immediate and present danger of abuse by a family or household member, based on an allegation of a recent incident of abuse or threat of abuse by the family or household member" a judge can order an emergency protective order (California Family Code Section 6250).



Friends of mine, with a small child, often drink in their home. At what point is drinking considered abuse?

If you suspect abuse of a disabled child in a home or institution, is it reportable as child abuse?

Is spanking a form of child abuse?

At what age can a child legally be left alone?

Drinking alcohol in and of itself does not constitute child abuse.

By law, drinking is legal for persons 21 years of age and older. However, if drinking leads to neglect, willful cruelty or unjustified punishment (which by definition includes the endangerment of the child's person or health) or the physical injury or death of a child, it can then become a factor in a child abuse case. Infants and small children are particularly vulnerable to neglect and/or become endangered when a parent drinks or uses illegal substances to the point of losing consciousness or are unaware of their children's needs.



Yes. Any suspected child abuse or neglect should be reported. Children with disabilities are 3 to 7 times more likely to be victims of maltreatment than non-disabled children.



While this subject is controversial, under California Welfare and Institutions Code Section 300(a), reasonable and age appropriate spanking to the buttocks where there is no evidence of serious physical injury does not constitute abuse. If in doubt, one should consult their local Child Protective Services agency.



The State of California does not specify any age at which a child can be left at home alone. Generally speaking, when leaving a child at home alone, a parent or caregiver should consider a number of factors, including: maturity level of the child, ability of the child to take care of his/her basic needs, availability of friends or neighbors to assist the child in case of an emergency, ability of the child to use the telephone to call emergency numbers, resources readily available to the child, and length of time the parent or caregiver intends to be away from the home.



What does the law say about sex between minors?

California is one of the few states in the country that mandates reports of intimate partner abuse against adolescents under the age of 18, in addition to abuse perpetrated within the teen's home. Under the state's child abuse reporting statute, mandated reporters can report either to a local Child Protective Services (CPS) or law enforcement agency, and these agencies are required to cross-report to each other.

Statutory laws were first enacted to protect minors from older predators. In California, the age of consent for lawful sexual relationships is 18. California penal Code 261.5 (a) states: "Unlawful sexual intercourse is an act of sexual intercourse accomplished with a person who is not the spouse of the perpetrator, if the person is a minor. For the purposes of this section, a "minor" is a person under the age of 18 years and an "adult" is a person who is at least 18 years of age." Under current law, men are generally the ones to be held criminally liable for the act of sexual intercourse with a minor.



California Penal Code 261.5 (b), (c) and (d) defines the age difference allowed between a minor and sexual partner and whether it is a misdemeanor or a felony.

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It states:

- (b) Any person who engages in an act of unlawful sexual intercourse with a minor who is *not more* than three years older or three years younger than the perpetrator, is guilty of a misdemeanor ...
- (c) Any person who engages in an act of unlawful sexual intercourse with a minor who is *more* than three years younger than the perpetrator is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment in a state prison. . .
- (d) Any person 21 years of age or older who engages in an act of unlawful sexual intercourse with a minor who is under 16 years of age is guilty of either a misdemeanor or a felony, and shall be punished by imprisonment in a county jail not exceeding one year, or by imprisonment in the state prison for two, three, or four years."

In other words, when the age difference between the adult and the minor victim is more than three years; the charge is a felony; if three years or less, it is a misdemeanor. Civil penalties range from \$2,000 to \$25,000, depending on the age differences (P.C. 261.5 (e))

Mandated reports of sexual abuse are required for children under 18 (14 - 17 years) where there is **sexual assault, sexual abuse, or sexual exploitation** (as defined by penal Code 11165.1). (Further information on specific Penal Codes can be found at www.leginfo.ca.gov.



What is not reportable?

- Voluntary sexual activity between children are both under the age of 15 years and who are of similar age and sophistication is not a crime and need not be reported under the Child Abuse and Neglect Reporting Act. (people ex rel. Eichenberger v. Stockton Pregnancy Control Medical Clinic, Inc. (1988) 204 Cal.App.3d 225; Planned Parenthood Affiliates v. Van de Kamp (1986) 181 Cal.App.3d 245.)
- Pregnancy of a minor, does not, in and of itself, constitute the basis of a reasonable suspicion of sexual abuse (P.C. 11166 (1)). Pregnancy may be cause for a report if the pregnancy was conceived by a female under 16 and a male over 21.

Note: There is no law that requires health providers or other professionals who work with adolescents to ask the age of a patient's sexual partner(s).



How do I get training for mandated reporting of child abuse?

Training is often given by one's employer if you are considered a mandated reporter (i.e. teacher). Mandated reporters are those who are required by law to report known or suspected instances of child abuse. This includes a wide variety of jobs (public positions, health care personnel, public protection, and public contact). The specific positions are listed in Penal Code 11165.7.

Other opportunities or contacts for training can be found through one's professional organization, the Child Abuse Training & Technical Assistance Centers (CATTAC) www.CATTACenter.org, local Child Abuse Prevention Councils, and in some colleges. Online training in English and Spanish can be accessed at www.sonoma.edu/cihs/mr.



I reported an incident to CPS about my neighbor.

It appears that nothing has been done.

What do I do?

Will CPS tell me what they are doing?

Due to the laws of confidentiality, CPS will not share information about their investigation with you. However, if you are a mandated reporter, they will send you general information as to the status of the case, once it is investigated. If you are aware of another incident of child abuse that is life threatening you should report it immediately. If you believe there is a new incident of abuse or neglect, you should report it to CPS or law enforcement.



As a child care worker, I work alone. Is there someone who can answer my questions about reporting suspected child abuse?

Are there similarities between animal abuse and child abuse?

What if more than one mandated reporter sees an incident of child abuse, who reports it?

Are volunteers mandated reporters of child abuse?

Yes. You can call your local CPS office with your questions.



Yes. A publication by the National Clearinghouse on Child Abuse and Neglect ([Animal Abuse and Youth Violence](#), Ascione, F.R.) states:

"Although there is no standard definition of animal abuse, animal cruelty is illegal in all 50 states and research from the psychology and criminology fields have found a link between animal abuse and conduct disorder or youth violence. Studies of incarcerated men and women have found a higher prevalence of animal cruelty among violent offenders than nonaggressive inmates or nonincarcerated individuals. Correlations also have been found between animal abuse and corporal punishment, physical abuse, sexual abuse, and exposure to domestic violence."



When two or more persons who are required to report, have joint knowledge of a known or suspected instance of child abuse or neglect, and there is agreement among them, the telephone report may be made by the selected team member. A single written report may then be made by the reporting team member. Where there is a failure by the designated team member to make the report, any team member who knows shall then be responsible to make the child abuse report.



No. Penal Code 11165.7 (f) states: "Public and private organizations are encouraged to provide their volunteers whose duties required direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect." In instances where mandated reporters, such as a physician, nurse, or teacher are volunteers, being a mandated reporter supercedes the status of being a volunteer. An example is a teacher who volunteers at a kid's camp for the summer. In the event they should suspect possible child abuse in a given situation, they would be required to report the suspected abuse as a mandated reporter.



What happens if the abuser is someone outside the household?

A report about an abuser not living in the child's home is made in the same way as any other report.

- ◆ Once the child protective services agency determines that the child is not subjected to harm within the home and the parents did not contribute to the abuse or neglect, referrals for counseling or medical care can be made and the case is closed by the social services or probation department.
- ◆ Law enforcement will conduct its own, separate criminal investigation. Charges may be filed and the abuser prosecuted.
- ◆ Suspected abuse or neglect in a child day care facility, or foster home or other residential facility, is referred to the appropriate community care licensing office or to county licensing, which investigates separately or in conjunction with the other investigating agencies. An administrative proceeding to revoke the facility's license and/or to exclude a perpetrator from employment in a facility may follow.



I am a mandated reporter. Where can I get a Suspected Child Abuse Reporting form?

They can be printed out from the California Attorney General's Office online at: <http://ag.ca.gov/childabuse/forms.htm>.



As a mandated reporter, can I fax or electronically submit a Suspected Child Abuse Report?

Yes. Effective January 1, 2006, the written report can be sent, faxed or electronically transmitted. Mandated reporters are still required to call immediately to report suspected abuse or neglect to the local CPS or law enforcement agency. However, if they are unable to do so after reasonable efforts have been made, California law permits the initial report to be submitted via fax or electronic submission. Reporters using this alternative method should state the reason(s) why they were unable to make their initial report by telephone. After faxing or emailing they should be available for a follow-up call by the agency they reported to. Protocols may vary from county to county. You should contact your local CPS or law enforcement agency for details.

Although not mandatory, you should do your best to make sure your electronic or faxed transmission is sent to the correct party and received. Emails or faxes sent to the wrong address or phone number can result in confidential information (including your own) being publicly released. If the information is not received by CPS or law enforcement due to a transmission error or faulty equipment, it could have serious consequences for the child involved. (One option is emailing or faxing the Suspected Child Abuse Report is to include a statement that the information sent is confidential and should be destroyed if it is unintentionally received by the wrong party)



I have a question regarding an uncle of my grandchildren, who is a registered sex offender. Is he allowed to be around my grandchildren?

Even though viewpoints may differ greatly, it is not automatic that because someone is a “sex offender” that they are to have absolutely no contact with any child, regardless of the circumstance or relationship. A sex crime, while very offensive, can vary widely in degree. For example, a college student who “streaks” can be charged with a sex crime as well as a serious pedophile that preys on children. Both are considered sex offenders but there is a vast difference between the two. What is important in the law is the safety of the children while maintaining families whenever possible.

By law, a person who is a registered sex offender is not barred from having contact with children because he or she is a registered sex offender. What California law does provide is that persons convicted of specified sex crimes are required to register as sex offenders with a local law enforcement agency. Prior to release from prison, jail, a mental hospital, or on probation, sex offenders are notified in writing of their duty to register. A copy of the notification form is forwarded to the California Department of Justice (DOJ). When a sex offender is released into the community, the agency forwards the registration information to DOJ who lists that information on a public web site.

While the person is not barred from having contact with children because he or she is a registered sex offender, if they are on parole after being convicted of a crime, they may have parole conditions that limit or bar contact with other persons including children. (This may include that another adult be present to supervise when they are with children and/or that they maintain a certain distance from schools, parks, etc.). A person who violates conditions of their parole may be sent back to prison. To find out if a parolee has conditions that govern the parolee's contact with your children, or if you want to request that a parolee's conditions for parole include limitations on contact with your children, you should contact that person's parole agent.

If the person is not on parole but is a registered sex offender, or if the person is on parole but the terms of that person's parole allows contact with your children, you should exercise good judgment in deciding whether to allow that person to contact your children.

If you have not already done so, you may want to express your concerns to your son or daughter to discuss the situation. If you have observed inappropriate behavior that concerns you, you should call your local CPS office. Keep in mind, a report should not be made simply because you are unhappy that this person is a registered sex offender. It should be based on reasonable conclusions that there is something to be concerned about.



IF YOU HAVE BEEN ACCUSED . . .

I am in a child custody battle and my ex-spouse has falsely accused me of child abuse to gain custody. Are there laws to protect me?

A child abuse investigator called to meet with me. Am I required to comply?

Why does CPS have to come to my home to meet with me?

Yes. This involves a court determining, based on an investigation, that an accusation of child abuse or neglect made during a child-custody proceeding is false and the person making the accusation knew it to be false at the time. If so, the court may impose money sanctions on that person. These sanctions can include all costs incurred by the party accused as a result of defending themselves and reasonable attorney fees incurred. (Family Code 3027.1)



Yes. It is in your best interest to cooperate with an investigation of child abuse. If you refuse, the investigator (CPS worker) has no choice but to be more cautious to make sure your child is safe. The CPS worker may ask the police to accompany them for a second attempt to interview you. It is in your best interest to cooperate with an investigation of child abuse. Becoming enraged, yelling, and possibly threatening will only reinforce the viewpoint that the child is possibly being abused. Keep in mind that in the majority of cases reported to CPS, the child is not removed from the home. It is the role of CPS to protect the child but also to preserve and support the family as much as possible.



Although this is not routine, the CPS worker may want to see the environment that the child is living in for an overall picture of the family. Are the child's basic needs being met (i.e. food, clothes, housing)? Does the CPS worker need to refer the family for other services? The CPS worker may be able to help the family with services that they know are available in the community (i.e. food, housing, parenting classes, counseling, etc).



***Why won't CPS
tell me who
made a report
against me?***

***"I believe
I am innocent."***

***I have been
accused of child
abuse. CPS has
interviewed me
and my child and
now I have to go
to court. Is there
anyone who can
help me fight
this case?***

By law, the confidentiality of the reporter is maintained to protect the person reporting to ensure that children are protected. In the Child Abuse and Neglect Reporting Act, Penal Code 11167(d)(1) states: "The identity of all persons who report under this article shall be confidential and disclosed only among agencies receiving or investigating mandated reports...".



At this point you are involved in the legal process. An attorney familiar with juvenile dependency law is the best person to offer help and advice.

General information from the Judicial Council of California states that:

"If your child is taken out of your home because of abuse or neglect, you have the right to have a lawyer represent you in court. If you need time to hire one, you can postpone the first court hearing for one day so you can get a lawyer. If you don't have enough money to hire a lawyer, you can ask the court to assign a lawyer to your case. (You may have to pay part or all of the costs for your lawyer if you earn enough money.)

A child in a juvenile dependency case is given a lawyer unless the court says it wouldn't be beneficial. The court can also appoint a Court Appointed Special Advocate, called "CASA," to help the child. When you go to court you will be appointed an attorney if you cannot afford one."

The Judicial Council of California provides a free self-help website. The following links offer useful information and assistance for parents accused of abuse and neglect:

<http://www.courtinfo.ca.gov/selfhelp/>

<http://www.courtinfo.ca.gov/selfhelp/family/juv/index.htm>



What is “Failure to Protect?”

Parents or caretakers who willingly place a child in serious danger or illness may be judged as failing to protect that child.

**FAILURE TO PROTECT
California Welfare Institutions Code 300**

The criteria is if the child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness.

- as a result of the failure or inability of his or her parent or legal guardian to supervise or protect the child adequately.
- as a result of the willful or negligent failure of the child's parent or legal guardian to supervise or protect the child adequately from the conduct of the custodian with whom the child has been left.
- by the willful or negligent failure of the parent or legal guardian to provide the child with adequate food, clothing, shelter, or medical treatment.
- by the inability of the parent or legal guardian to provide regular care for the child due to the parent's mental illness, developmental disability, or substance abuse.



Can a child abuse investigator interview a child without the parents' consent?

Can they go to a child's school without parental permission?

The answer to both questions is “yes”. If the parent is the alleged perpetrator, by law, a CPS investigator can interview the child at school without the parent's consent or prior permission. This is to ensure that the child is able to tell someone about the abuse, without being pressured by a parent, if in fact a parent is abusing them.



Does a report mean a child will be taken away?

Most reports of child abuse do not result in children being removed from their families. The first goal is to enable the child to remain safely in his or her own home. When the child is taken away, it can be because your child wasn't taken care of or watched over; was neglected, abuse, or molested; or was left with someone who didn't take good care of them. If it is necessary in order to protect the child, the agency is authorized to arrange for emergency temporary foster care.



Are children taken away forever?

California has strict rules about removal of children from their families. However, because children are vulnerable, the law also affords them significant protection.

Peace officers are authorized to take an endangered child into protective custody, and to place the child in the care of the social service department. This initial, emergency removal is allowed by law, without a warrant, for up to 48 hours, not counting holidays and weekends.

Should the child protection agency decide the child cannot be safely returned home, the agency must formally request the Juvenile Court to hold a hearing to determine if continued removal is necessary. This is accomplished by submitting a dependency petition outlining the allegations that brought the child to the attention of the child protection agency.



What happens if the court orders removal of a child from his or her home?

Several options are available if the Juvenile Court decides it is necessary to remove a child from his or her home. The child may be placed with the other parent if the parents are separated or divorced, with relatives, or in a foster family home or group home. Where the child goes will depend on the child's needs. The court will order the parent(s) and the child protection agency providing child welfare services to work together to reunite the family as quickly as possible. Court hearings must be held at least every six months if a child is removed, to make sure all possible efforts are being made to bring the child safely back home. They may be held more often if needed.



What happens if a child is not returned to his or her parent(s)?

If needed in order to provide a stable, permanent home, and if it is not possible to return a child safely to his or her parents, parental rights may be terminated. A hearing to make a determination regarding the future status of the child must be conducted no later than 12 months after the original dispositional hearing in which the child was removed from parental custody.



If children are placed in foster care, do parents see their children?

Yes! Parents are expected to visit regularly, except in unusual circumstances. The parent-child relationship must be maintained if at all possible. It is very hard for children to be separated from their parents, even when the parents have harmed the child. No one can easily replace a child's parents.



*My child was
taken by CPS...
Where is my
child now?*

*Will I get my
child back?
What about
relatives?*

*What happens
now?
Where can
I get more
information?*

*Do I have to
come to the
hearing about
my child?*

Your child may be in a shelter or foster home. The social worker will tell you more or give you a phone number to call to find out more.



As stated by The Judicial Council of California:

"Maybe. The social worker will find out about you, your home, and your child. They will make recommendations based on the investigation and how to keep your child safe. For now, your child can be sent to live with the other legal parent (if you don't live together), with a relative, or in a foster home or shelter.

Giving information about relatives, with names, addresses, and phone numbers may allow for your child to stay with a relative. It will be up to the social worker to determine if they can provide a safe place to live. Relatives, such as a grandparent to the child, may sometimes be able to contact the social worker to offer placement, depending on the situation."



If the social worker thinks your child isn't safe, he or she will file petition papers to ask the court to make the child a "dependent of the court". The social worker then has two workdays after taking your child to file a petition. If your child isn't taken away, they have more time to file with the court. You need to talk to the social worker or court for more information.



Yes. You must come to court as the judge will make orders about the care, custody, and supervision of your child. It is in your best interest and your child's best interest. If you don't show up for court, it could be detrimental to both you and your child regarding the judge's final opinion. Not showing up for court may give the impression that you don't care about your child.



What is CACI?

How do I find out if I've been reported?

CACI is the Child Abuse Central Index, maintained by the California Department of Justice (DOJ). Agencies investigating suspected child abuse or severe neglect are required to forward their reports to DOJ after an investigation. Substantiated reports are kept permanently. Unsubstantiated and inconclusive reports are kept 10 years unless another child abuse case is filed, starting the 10 years process again. Unfounded reports are not kept in the database.

At the time an agency forwards a report to DOJ, the department notifies the known or suspected child abuser that he or she has been reported to CACI.

Information regarding a known or suspected abuser is disclosed to agencies inquiring about a potential employee or volunteer who will have potential supervisory or disciplinary power over a child or children (i.e. school employee). The information is considered confidential and given out under strict guidelines.

Further information can be found about the Attorney General's Child Protection Program at <http://www.ag.ca.gov/>



I was accused of child abuse... Am I on CACI?

Any person can determine if they are listed in in the Child Abuse Central Index (CACI) by making a request in writing to the California Department of Justice (DOJ). This information is confidential. The requesting person can only obtain information on themselves and not someone else.

The request should be notarized, including the person's name, address, date of birth, and either a social security number or a California identification number. The requestor should also include counties they have resided in. Upon receipt of the notarized request, the DOJ shall make available to that person information identifying the date of the initial report and the submitting agency.

Written requests can be mailed to:

California Department of Justice
Bureau of Criminal Information & Analysis
Child Protection Program
P.O. Box 903387
Sacramento, CA 94203-3870

Phone numbers:

(916) 227-3285 OFFICE
(916) 227-3253 FAX

As previously stated, unfounded reports are not kept in the database. By law inconclusive and unsubstantiated reports are deleted from CACI after 10 years. Substantiated reports are kept permanently unless the submitting agency changes its findings. Efforts to have one's name removed should be directed to the reporting agency. The reporting agency must ask DOJ to remove the listing or a court order must direct DOJ to remove the listing.



I've been falsely accused of child abuse

No child abuse was found by the CPS worker. How can I defend myself against the person who is making these FALSE Accusations?

“No one has the right to tell me how to raise my children.”

CPS is coming to talk to me about an incident where I got angry and hit my child. I am afraid they are going to take my child and destroy our family.

The best defense is that an investigation found no child abuse (i.e. that the alleged child abuse was unfounded). Given the possible outcomes, it is good when a CPS worker investigates, you cooperate with them, and they find no child abuse. The worker then makes a report that the alleged abuse is unfounded.



It is against the law to file a false report; however, it may be difficult to prove. The law states: "Penal Code 11172 (a) No mandated reporter shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a known or suspected instance of child abuse or neglect shall not incur civil or criminal liability as a result of any report authorized by this article unless it can be proven that a false report was made and the person knew that the report was false or was made with reckless disregard of the truth or falsity of the report, and any person who makes a report of child abuse or neglect known to be false or with reckless disregard of the truth or falsity of the report is liable for any damages caused."

Beyond this, you may wish to seek an attorney for advice. Keep in mind that being the best parent you know how to be, in a supportive and loving manner, is the best defense against someone who falsely reports you.



The intent of the law is to uphold the rights of child rearing by parents. However, child abuse is against the law. The State can intervene on behalf of the child to keep them safe. Therefore, when an allegation of child abuse is made, an investigation needs to determine if child abuse does exist. It is in the interest of yourself and your child to work with law enforcement or CPS in an investigation.



The police or child protective services will investigate to make sure your child is safe. Whenever possible, CPS works with families to protect children and enable families to stay together. It is not automatic that your child will be taken from the home.



*“I use drugs,
which is my
choice, and am
still a good
parent.*

*How do I get
my kids back?*

*Don't I have
rights as a
parent?”*

Depending on your willingness to change, it may be difficult to get your kids back. You may feel it is your right to do drugs.

However, if children are involved and it's been determined they are being abused or aren't safe due to your drug use; and you can't change or refuse to change, then you run the risk of losing your children.

Drug use is detrimental to you, but is especially detrimental to children. Someone who uses drugs may not be aware of the impact on their children, such as not providing food, shelter and clothing on a daily basis; leaving their young children to fend for themselves; or placing them in dangerous situations.

California law recognizes that families should be maintained whenever possible. However, the rights of the child take precedence over the rights of the parent when the welfare of the child is at stake. The CPS worker can work with you to develop a plan to reunify you with your children. (This is called a reunification plan.) In some circumstances, such as abandonment, severe abuse, or certain felony convictions, there may not be a reunification plan.

If the plan is to reunify your family, the court and CPS worker will work with you. The goal is to ensure the safety and well being of your children on an ongoing basis. You will have a specified time period to resolve the issues that led to your children being taken away. At the same time that your CPS worker develops a reunification plan, they are also required to plan for your children to live permanently with another family in case the reunification plan doesn't work out. (This process is called “Concurrent Planning”. It came about because past children in foster care lingered for years with no resolution.) You can ask your CPS worker to explain the time limits specified by law. Following through with this plan is how you will be reunited with your children.

Drug abuse issues are very difficult and take time to work through. Therefore, it is extremely important to get involved in treatment as soon as possible. If you have a serious drug problem, your children have been taken away, and you decide you want to continue to parent your children, then you need to do your best to work on the reunification plan.

However, each situation is different. Therefore, you should discuss your situation with the CPS worker assigned to your case.

Some website resources for getting help include:

<http://www.na.org/index.htm> Narcotics Anonymous (local meetings)

<http://www.drugabusehelp.com> Drug Abuse Help
(information and referral resources)

<http://www.24houraddictionhelp.com> or call their 24 Hour Drug
Abuse Helpline at
1-800-396-9389

Note: There are drug abusing parents who realize that their children would be better off without them and choose to have their children either temporarily or permanently raised by a relative or someone else. Some may choose to put their children up for adoption for the sake of the children. If this is your choice, the CPS worker can advise you regarding this issue.



*What is the
role of
foster parents?*

Related questions regarding placement of a child:

FOSTER PARENTS

Foster parents provide a supportive and stable family for children who cannot live with their birth parents until family problems are resolved. In most cases, foster parents work with social services staff to reunite the child with birth parents. Foster parents often provide care to many different children.

Further information can be found at:

http://www.childsworld.ca.gov/FosterPare_350.htm



*What are the
laws regarding
kinship care?*

KINSHIP CARE

When a child is placed in foster care by a county, the county social worker and court must give preferential consideration to certain relatives, such as a grandparent, aunt, uncle or sibling. (**kinship care**).

“Relative” means an adult who is related to the child by blood, adoption, or affinity within the fifth degree of kinship, including stepparents, stepsiblings, and all relatives whose status is preceded by the words “great,” “great-great,” or “grand,” or the spouse of any of these persons, even if the marriage was terminated by death or dissolution. However, only the following relatives shall be given preferential consideration for the placement of a child: an adult who is a grandparent, aunt, uncle, or sibling.

Furter information can be found at:

http://www.childsworld.ca.gov/KinshipCar_343.htm



*What is
guardianship?*

GUARDIANSHIP

Guardianship is a court proceeding in which a judge gives someone who is not the parent:

- Custody of a child, or
- The power to manage the child’s property, or
- Both.

The child, called “the minor” or “the ward,” is any person under 18.

There are two types of guardianship. Most cases go to probate court. But if the child is a dependent or a ward of the juvenile court, guardianship must be decided in juvenile court.

Furter information can be found at:

<http://www.courtinfo.ca.gov/selfhelp/family/guardianship/>



*What is
adoption?*

ADOPTION

Adoption is a legal process which permanently gives parental rights to adoptive parents. Adoption means taking a child into your home as a permanent family member. It means caring for and guiding children through their growing years and giving them the love and understanding they need to develop their full potential.

Further information can be found at:

http://www.childsworld.ca.gov/AdoptionFA_359.htm



*What is
emancipation?*

EMANCIPATION

Emancipation is a legal way for children (usually in late teens) to become adults before they're 18. Once a child is emancipated, his or her parents don't have custody or control of him or her anymore.

An emancipated child can do some things without their parent's permission, like:

- Get medical care;
- Apply for a work permit;
- Sign up for school or college; and
- Live where you want to.

Once emancipated, the child gives up the right to be supported by their parents.

Further information can be found at:

<http://www.courtinfo.ca.gov/selfhelp/family/emancip/emanga.htm>



In cases of child abuse, what can the juvenile court do?

In California, more than one type of prosecution may result from a report of child abuse or neglect.

JUVENILE COURT

When it is a parent or guardian or other person in the child's home who appears to bear the responsibility for the abuse or neglect, the issues of whether the child should be removed from the home and of whether services should be ordered in the interest of the child and family are heard in the Juvenile Court. The proceedings are confidential, and ordinarily only parents, involved family members and others whose presence is required by the court will be in the courtroom. Since the primary purpose of these proceedings is the protection of the child, the legal standards and rules of evidence differ from those in criminal court, where the defendant's constitutional rights are foremost. The Juvenile Court is a department of the Superior Court.

CRIMINAL COURT

All criminal prosecutions are initiated in Municipal Court. Misdemeanor cases will remain in that court, but felony cases will frequently wind up in Superior Court. The issue in a criminal prosecution is whether it can be proved beyond a reasonable doubt that a particular person abused or neglected the child. The same incident of maltreatment may lead to both a dependency case and a criminal case.

ADMINISTRATIVE HEARING

If a child is abused or neglected in a child day care facility, or a foster home or other residential placement, a proceeding may be brought to revoke the facility's license, and/or to exclude a perpetrator from employment in such a facility. If the case goes to hearing, an administrative law judge presides. The legal standards and rules of evidence are similar to the dependency case rather than the criminal case, since the emphasis is on the health, welfare and safety of children. A similar proceeding can result from maltreatment by a schoolteacher or other licensed or certified professional. The same maltreatment may result in both an administrative proceeding and a criminal case. On occasion, the same maltreatment may lead to both an administrative proceeding and a dependency case. Rarely, all three types of case may arise from the same incident.



What does the court do?

The child protection agencies, acting on their own, can remove a child from his or her home for up to 48 hours. Subsequently, the Juvenile Court must be involved and decide if continued removal is necessary. In some instances, the social services department may initiate court proceedings on behalf of a child without the child being removed from the home. If the Juvenile Court determines a child has been abused, it can order the child to be placed under court jurisdiction and supervision. A decision will then be made on where the child will live.

1. The court may order the child to be supervised at home by the child welfare agency and the parents to participate in specific activities, such as counseling or a parent education class.
2. The court can remove the child from his or her home if it finds that:
 - There is substantial danger to the physical health of the child or the child is suffering severe emotional damage, and there are no reasonable means by which his or her physical or emotional health may be protected without removing the child from the parents' or guardians' home
 - or
 - The child indicates an unwillingness to return home, if he or she has been sexually molested by a person residing there
 - or
 - The child is left without provisions for his or her support
 - or
 - The parents or guardians are unwilling to have physical custody of the child.

It is a very serious step for the Juvenile Court to order removal of children. Before the Juvenile Court can remove an abused child from his or her home, it has to make certain the child protective agency has done everything reasonable to prevent the need for this drastic action. The family is vitally important to society and the child's overall development. Child protection laws, while providing intervention, are designed to keep families together if this can be done safely.



IF YOU ARE A VICTIM . . .

Where can a victim of child abuse get help?

In California there are many resources to help the victim of child abuse. Victim/witness assistance centers provide emergency and long-term support, including counseling. The toll-free number is 1-800-VICTIMS (1-800-842-8467).

For those who qualify there may be compensation for unreimbursed monetary loss as a result of the crime. More information can be found at the California State Board of Control, Victims of Crime Program (800) 777-9229 or (www.boc.ca.gov) or

California Department of Justice,
Office of Victims Services at 1-877-433-9069.

Additionally there may be community resources you are eligible for through your local sexual assault, child abuse prevention, or domestic violence programs. Your local CPS office may also be able to refer you to resources in your community. Websites that offer possible services include:

- local Child Abuse Prevention Councils
www.caltacentes.org,
- Family Service agencies
www.familyresourcecenters.net
- Parent Outreach 800-901-4565,
www.parentoutreach.org
- National and statewide resources are listed in the glossary section.



PREVENTION . . .

How can I help prevent child abuse?

There are several things you can do to prevent child abuse.

- Learn more about child abuse and how it is treated.
- Become active in your community's efforts to reduce child abuse.
- Be supportive and helpful to families having problems.
- Don't ignore child abuse. **Report** it to the proper authorities.
- If you or any member of your family needs help coping with children, don't let your pride keep you from asking for it. Social service agencies staff are there to help you and they understand that it is a difficult job to be a parent.



Are there proven ways to stop child abuse?

Factors that affect abuse vary. Child abuse affects all socioeconomic levels. While each individual is different, some risk factors, such as social isolation, poverty, past abuse and increased stress are known contributors to the potential for abuse. However, there are no perfect answers to always knowing who will and who won't abuse their children. What is known is that early intervention programs can have a positive impact (home visiting or family resource centers). Child Protective Service agencies throughout California are adopting the philosophy of Differential Response. This means that depending on the family circumstances there are different responses.

- Those needing community resources but not CPS services will be referred to outside agencies.
- Those needing higher levels of care and follow-up will be overseen by CPS

This is a preventative effort to help people at all levels of need (www.cwsredesign.ca.gov)



Sometimes I get very angry at my child. How do I get help?

It is positive to acknowledge that you need help. There are several resources in your community that may be able to help you, such as a parenting class.

www.positivepositiveparenting.com

There may also be resources in your community, such as Parents Anonymous

In California:

AminaKata@parentsanonymous.org

www.parentsanonymous.org

your local Child Abuse Prevention Council

www.cattacenter.org

or a Family Service agency.

www.familyresourcecenters.net

There is also a 24-hour Parental Stress hotline available for parents under stress (1-800-422-4453). Respite care programs can offer a break when needed to a parent under stress

<http://www.chtop.com/NRC.htm>. Your local Child Protective Services office can offer help with referrals to services in your area. Making that call will not only help you but your children as well.



Reporting suspected child abuse or neglect by parent or other caretaker having custody

If you suspect that a child's health or safety is jeopardized due to abuse or neglect by parents or other caretaker who has custody of the child, contact your local CPS agency.



Child custody and visitation issues

Concerns about child custody and visitation orders issued by the Family Court must be directed to the Family Court Services Office in the county where the orders were issued. Family Court Investigators, Child Custody Evaluators, and Family Court mediators are available to provide dispute resolution in each of the 58 counties. The telephone number for Family Court Services is in the County Government section of the local telephone directory under "Courts" or you may also find custody-related information and county contact telephone numbers at www.courtinfo.ca.gov



*What is
“Kid’s Plate”?
Is it connected
to child abuse
prevention?*

The California Department of Motor Vehicles (DMV) has a program that sponsors specialty license plates featuring symbols which support child health and safety programs, including child abuse prevention. As stated on their website:

"Proceeds from the plates fund programs that benefit California's child injury prevention efforts, such as bicycle safety, drowning prevention, fall prevention, fire and burn prevention, motor vehicle occupant protection, pedestrian safety, poisoning prevention, firearm safety, and sudden infant death syndrome; child abuse prevention and, child care health and safety training."

For more information, go to <http://www.kidsplates.org/>



*What is the
California
STATE
CHILDREN'S
TRUST FUND?*

The California State Children’s Trust Fund (CSCTF) directs the Office of Child Abuse Prevention to utilize private funds for child abuse and neglect prevention and intervention programs. The funding sources may be from grants, gifts, bequests, and tax form contributions. These funds may also be used for research, providing information to the public, increasing public awareness about child abuse and neglect, and seeking contributions.



“I HAVE A COMPLAINT . . .”

Complaints about County Child Welfare Services Agencies

Complaints about county agencies in California that provide Child Welfare Services (CWS) should be sent to the Children’s Services Operations Bureau (CSOB) only after efforts have been made to resolve problems directly with county management. To do this, you must send the County agency a letter explaining your concerns with a request that they respond to you in writing. If there is no resolution after working with the county, a letter can be written to the CSOB specifically describing the CWS issues involved, why it is felt that the county agency handled the situation inappropriately, what efforts were made to resolve the problems directly with the county, and provide a copy of your letter(s) you sent to the county and their response(s).

Information should also be provided regarding the names, ages or dates of births, and addresses of all the children involved; the names of the parents or other caretakers; and the names and office location of county CWS agency staff already familiar with the case.

The Children’s Services Operations Bureau (CSOB), is responsible for providing statewide oversight of county Child Welfare Services (CWS) programs. The mission of the CSOB is to protect children who are at risk, safeguard the rights of those who receive CWS and maintain the integrity of families by assisting and supporting counties’ compliance with uniform implementation of laws and regulations governing the provisions of CWS.



Complaints about law enforcement officers

Complaints about sheriff deputies and police officers should be directed to the complaint department of the appropriate law enforcement agency, which can provide details about how to file a complaint.



***Complaints about
California Judges
for misconduct
or wrongdoing***

Complaints about California judges should be made in writing to the Commission on Judicial Performance. Written complaints should be sent to:

State Commission on Judicial performance
455 Golden Gate Avenue, Suite 14400
San Francisco, CA 94102
(415) 557-1220
Website address: www.courtinfo.ca.gov

Please note that the Commission does not have authority to direct a judge to take legal action, or to review a case for judicial error, mistake or other legal grounds. These functions are for the State's appellate courts.



***Child Support
issues***

The California Department of Child Support oversees California's Child Support Program. For additional information, please contact them at (916) 464-5050 or (866) 249-0773 or visit them at: www.childsup.ca.gov



***Complaints
regarding
County Social
Worker conduct***

Concerns about possible inappropriate actions of county employees and requests to change assigned social workers should be addressed to the Director of the county CWS agency for resolution.



***Non child
welfare
complaints***

For a complaint involving non-child welfare services issues, please contact the CDSS Public Inquiry Response Unit at **1-800-952-5253**.



***For additional
Child Services
Information:***

California Department of Social Services
Children's Services Operations Bureau
744 P Street, M.S. 3-90
Sacramento, CA 95814
(916) 651-8100



GLOSSARY OF TERMS

CACI	Child Abuse Central Index
CDSS	California Department of Social Services
CPS	Child Protective Services
CSOB	Children's Services Operations Bureau
CWS	Child Welfare Services
DOJ	Department of Justice



Community Resources

Parents Anonymous

Parents Anonymous. Self-help groups for potentially abusive or abusive parents. Facilitators consist of a professional and a formerly abusive parent. Usually no fee/low fee, child care and transportation provided.

<http://www.parentsanonymous.org>

In California: aminaKata@parentsanonymous.org

Parents United

Parents United. Self-help groups for sexually abusive families. Consists of groups for offenders, children, and mothers. Also have groups for Adults Molested as Children (AMAC). Comprehensive child sexual abuse program.

Parental Stress Hotlines

Parental Stress Hotlines. Provide 24-hour crisis telephone assistance for persons under stress. Primarily telephone counseling, but can also provide home visiting program and respite care. Usually offer parent rap groups and other services. **(1-800-422-4453)**

Respite Care Programs

Respite Care Programs. Licensed homes which provide care for children when their parents “need a break.” Not a baby-sitting service. Designed for high-risk parents.

Parent-Infant Bonding

Parent-Infant Bonding (Perinatal Programs). Provides parent education designed to help new parents to provide for children’s needs.

Child Abuse Councils

Child Abuse Councils. Provide information and referral; educational services including book and film library. Usually are multidisciplinary in nature, and help coordinate service delivery. Provide visibility to the problem of child abuse.

www.cattacenter.org

Parent Education Classes

Parent Education Classes. Designed to help parents gain better understanding of child development, and to learn skills for disciplining their children in a safe way.

Parent Education Classes

Parent Discussion Groups. Provide a forum in which parents may discuss child-rearing problems, gain peer support and minimize their isolation.

Community Mental Health Departments

Community Mental Health Departments. Provide low-fee therapeutic services to families and children. Available in every community. Frequently serve a broad range of abusive families.

Child Care Resource Centers

Child Care Resource Centers. Provide valuable child care information to parents who may be overwhelmed by the demands of parenting. Information and referral. Education,.

Private Mental Health Clinics/Therapist Groups

Private Mental Health Clinics/Therapist Groups. There are many private therapists who now specialize in working with child abuse cases. Child abuse councils or child protective agencies are usually familiar with good referral possibilities.

Parent Outreach Project

Parent Outreach Project. The Parent Outreach project is designed to encourage parents to access parenting resources in their local community via an extensive resource directory. Each California county lists local resources to assist children and families.

www.parentoutreach.org **(800-901-4565)**



Statewide Resources

Statewide Resources

Office of Child Abuse Prevention (OCAP)
State Department of Social Services
744 P Street, M.S. 19-82
Sacramento, CA 95814
(916) 651-6960

Prevent Child Abuse California
4700 Roseville Road, Ste 102
North Highlands, CA 95660
(916) 244-1923

California Child Care Resource and Referral Network
111 New Montgomery Street, 7th Floor
San Francisco, CA 94105
(415) 882-0234

Parents Anonymous
675 W. Foothill Blvd., Suite 220
Claremont, CA 91711
(909) 621-6184

CATTA Center
1801 East Cotati Avenue
Rohnert Park, CA 94928
(707) 284-9547

Child Abuse Mandated Reporter Online Training (Free)
(English and Spanish)
www.sonoma.edu/cihs/mr

National Resources

National Resources

National Clearinghouse on Child Abuse and Neglect (NCCAN)
330 C Street SW
Washington, D.C. 20447
(800) FYI-3366
Web Site: <http://www.calib.com/nccanch>

Prevent Child Abuse America
200 South Michigan Avenue, 17th Floor
Chicago, Illinois 60604
(312) 663-3520
Web Site: <http://www.childabuse.org>



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