

Mandatory Reporting and Domestic Violence

California Law

Under California law a mandated reporter must report, among other things, willful child endangerment or the willful infliction of unjustifiable physical pain or mental suffering on a child. See Penal Code § 11165.3. In the context of domestic violence, a mandated reporter must consider whether there is a risk of physical or emotional harm to the child.

The fact that a child's parent or guardian has been the victim of domestic violence is not in and of itself a sufficient basis for reporting suspected child abuse or neglect. Further, a child's exposure to a domestic violence incident in and of itself is not a sufficient basis for reporting suspected abuse or neglect. Other factors must exist which lead the mandated reporter to reasonably suspect that the child's physical or emotional health **is endangered** as the result of domestic violence. Mandated reporters in Santa Clara County may consult with a screener at the CPS Hotline at 408-299- 2071 to determine whether a report is required. *L. Michael Clark, Lead Deputy County Counsel, Santa Clara County*

If you make a call:

Make sure to hold the correct person accountable. If a woman discloses abuse, do not use terms like "the alleged abuser." Show that you believe what she is saying and give her an opportunity to talk about how it feels to know that her children have been harmed. Make sure to validate her parenting and do not blame her for abuse if someone else has abused her children. When you call the hotline, make sure you identify who the abuser is and specifically state who should be held accountable for the abuse. This will be documented in her case file and may help her in the future.

The following section is adapted from *Advocacy Matters: Helping Mothers and Their Children Involved With Child Protection* (Lonna Davis)

* This article was written for mothers already involved in CPS at the time that you begin your work with her. However, you can also adapt these strategies when working with women who will become involved with CPS as a result of a hotline call that you make.

Creating a Safety Plan: Mothers involved with CPS have complex safety needs that require attention. Increased or decreased risk depends on multiple factors including, but not limited to, the abuser's agenda, how dangerous the abuser is and the level of safe practice by other providers. It's critical to understand the current level of involvement the abuser has with CPS. It's also crucial to know whether the woman thinks his involvement is helpful or hurtful to her and her children. Questions you should ask include:

- Does your abuser know CPS is involved? How has he reacted?
- Has anything made you more afraid? If yes, what?
- Are you worried your abuser will find out what you've told your CPS caseworker?
- How would you like CPS to work with you? Your abuser? Your children? Why?

Pay careful attention to the following when safety planning with women about the CPS response:

- If the mother is in a shelter or in hiding, is her address written anywhere in the case record? How will the system protect it?
- Is it necessary to have separate CPS service plans so the abuser does not see the woman's plan?
- If the abuser is engaging in services to change his violent behavior, how does the mother feel about this?
- Will the children tell the abuser information that may increase risk for the woman and her children?
- Does it increase risk to have mail sent from CPS or other systems to her house?
- What interventions/services are in the service plans? Do they fit the woman's safety needs? Are they culturally appropriate?

Each woman's situation is different and by collaborating with women and making careful assessments you can more effectively advocate for appropriate interventions.