



# Responding to Disclosures of Child Abuse



# Agenda

- I. Introduction
- II. Reporting and Investigation
- III. The Types of Disclosure
- IV. What is Taint?
- V. Responses to Avoid When a Child Discloses Child Abuse
- VI. Guidelines to Follow When a Child Discloses Child Abuse



Since this training is approved as a mandated reporter training, the first half of the training is a shortened version of the regular 3-hour training on how to recognize and report suspected child abuse. This is the information that allows you to receive credit for training as a mandated reporter.

The 2<sup>nd</sup> half of the training will cover all the new information regarding how to respond to disclosures of child abuse.

# Objectives

Understand How to Respond Appropriately to Disclosures of Child Abuse by:

- Reviewing the obligations of mandated reporters to report suspected child abuse
- Understanding the process of disclosure
- Learning the definition of "taint" and its legal implications
- Recognizing the responses to avoid when a child discloses abuse
- Demonstrating guidelines to follow when a child discloses abuse



# Reporting and Investigation



## Purposes of the CPSL

- Protective services in each county for the purposes of investigating reports *swiftly* and *competently*
- Provide protection for children from further abuse
- Provide rehabilitative services for children and parents involved to:
  - Ensure the child's well-being, and
  - Preserve, stabilize, and protect the integrity of family life wherever appropriate, OR
  - Provide an alternative permanent family when the unity of the family cannot be maintained



In the Commonwealth of Pennsylvania, child welfare is state supervised and county administered.

The purpose of the Child Protective Services Law (CPSL) is to:

- Establish protective services in each county for the purpose of investigating reports *swiftly* and *competently* – Services are provided on a county basis by Children and Youth agencies. It is the sole civil agency responsible for receiving and investigating reports of child abuse.
  - *Swiftly* refers to various references in the law that dictate time frames for action. For example, the county agency provides 24-hour a day, seven days a week telephone access for people to report suspected abuse. The county agency begins its investigation and sees the child within 24 hours of receiving a report of abuse. The investigation begins, and the child is seen immediately if emergency protective custody has been taken or if it cannot be determined from the report whether emergency custody is needed.

- Competently is outlined in requirements for staff orientation, training, and certification. Direct service caseworkers participate in a minimum of 120 hours of standardized training within the first 18 months of employment. Supervisors must participate in an additional minimum of 60 hours of standardized training beyond their initial certification. Staff must complete a minimum of 20 hours of training annually.
- Provide protection for children from further abuse – When they begin an investigation, the county agency must ensure the immediate safety of the child and other children in the same home.
- Provide rehabilitative services for children and parents involved – One of the primary purposes of the law is to ensure the child’s well-being. It is also the goal of the agency to keep the family intact, whenever possible. However, in some situations, this is not possible and an alternative placement, such as living with a family member or foster care, must be put into place.

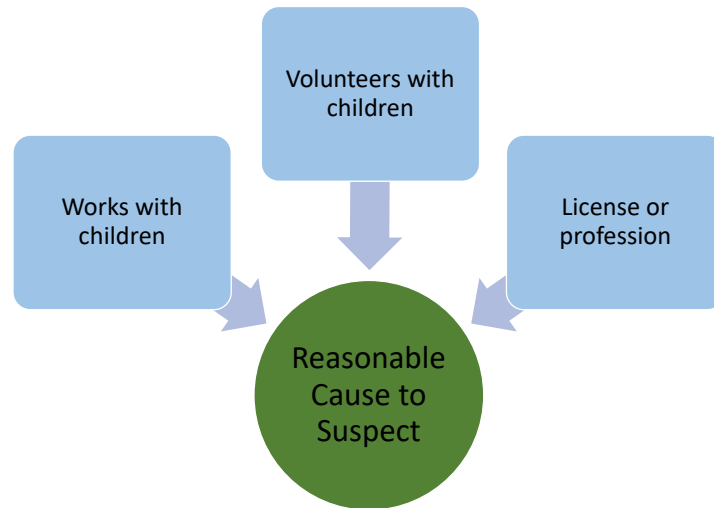
## Purposes of the CPSL

- Encourage more complete reporting of child abuse
- Involve law enforcement agencies in responding to child abuse
- Establish procedures to assess risk of harm to a child



- Encourage more complete reporting of child abuse – The better professionals become at reporting child abuse accurately, the greater the chances are for timely intervention as well as for the better use of resources and funding dollars.
- Involve law enforcement agencies in responding to child abuse – The CPSL is a civil statute that was established to protect children from further harm. The agencies that carry out the law are service agencies. However, law enforcement will sometimes become involved, because they are responsible for investigating individuals whose abuse of a child meets the criteria for criminal prosecution.
- Establish procedures to assess risk of harm to a child – Procedures are needed to ensure that the needs of the child and the child’s family are adequately addressed. Procedures are also established to ensure that children who are at the most risk are given the highest priority.

## Persons Required to Report



Pennsylvania has always had two types of reporters of child abuse:

- Permissive Reporters are those individuals who can report suspected child abuse, and that includes everyone. These reporters, however, are not required to report. Permissive reporters may contact ChildLine, the county children and youth agency or the police to make a report.
- Mandated Reporters are those individuals who are obligated by law to report suspected child abuse. Mandated reporters are those adults who come into direct contact with children in the course of their employment, occupation, or practice of their profession and those whose role as an integral part of a regularly scheduled program, activity or service, accepts responsibility for a child. In essence if a person works or has a volunteer position in which they have direct contact with children, then they must report when they have reasonable cause to suspect that a child has been abused. The one job exception to having direct contact with children is attorneys that are affiliated with an agency, institution, organization or other entity, including a school or regularly established religious organization that is responsible for the care, supervision, guidance or control of children. Such attorneys are considered mandated reporter regardless of having direct contact with



children. Mandated reporters submit over 75 percent of all child abuse reports.

•The enumerated list includes

1)A person licensed or certified to practice in any health-related field under the jurisdiction of the Department of State.

2)A medical examiner, coroner or funeral director.

3)An employee of a health care facility or provider licensed by the Department of Health, who is engaged in the admission, examination, care or treatment of individuals.

4)A school employee.

5)An employee of a child-care service who has direct contact with children in the course of employment.

6)A clergyman, priest, rabbi, minister, Christian Science practitioner, religious healer or spiritual leader of any regularly established church or other religious organization.

7)An individual paid or unpaid, who, on the basis of the individual's role as an integral part of a regularly scheduled program, activity or service, accepts responsibility for a child.

8)An employee of a social services agency who has direct contact with children in the course of employment.

9)A peace officer or law enforcement official.

10) An emergency medical services provider certified by the Department of Health.

11) An employee of a public library who has direct contact with children in the course of employment.

12) An individual supervised or managed by a person listed under paragraphs (1), (2), (3), (4), (5), (6), (7), (8), (9), (10) and (11), who has direct contact with children in the course of employment.

13) An independent contractor.

14) An attorney affiliated with an agency, institution, organization or other entity, including a school or regularly established religious organization that is responsible for the care, supervision, guidance or control of children.

15) Foster parent.

16) An adult family member who is a person responsible for the child's welfare and provides services to a child in a family living home, community home for individuals with an intellectual disability or host home for children which are subject to supervision or licensure by the department under Articles IX and X of the act of June 13, 1967 (P.L.31, No.21), known as the Public Welfare Code.

**Whether a permissive or mandated reporter, we must always ask ourselves, “What is the right thing to do?” If we make the welfare of a child the top priority, then deciding to report becomes an easy decision. By law, all that an individual must have is a reasonable suspicion that a child has been abused. This standard does not require that you obtain proof or that you become 100 percent positive before you decide to report. You only need to have a reasonable cause to suspect.**

# Making a Report

- Reports of suspected child abuse are made immediately
- Reports may be made orally via phone or electronically
  - Oral reports are made to ChildLine at (800) 932-0313, which is available 24/7
    - Remember the CY-47 form!
  - Electronic reports are made via CWIS Self-Service portal-  
[compass.state.pa.us/cwis](http://compass.state.pa.us/cwis)
- Inform the person in-charge that report was made



Mandated reporters who suspect child abuse must make a report immediately by either calling ChildLine or filing an electronic report.

- ChildLine is the statewide registry and can be reached at (800) 932-0313. It is available 24 hours a day, seven days a week
- The electronic report is made using ChildLine's Child Welfare Information Solutions Self-Service Portal. The portal is available 24-hours a day, seven days a week.

Within 48 hours of making the call to ChildLine, mandated reporters must also complete a form called a CY-47 and send it to the Children and Youth Agency where the alleged abuse occurred. Keep a copy for own records in a confidential file. The CY-47 is not required if an electronic report is made in lieu of a phone call to ChildLine. The electronic report serves as both the oral and written report.

After making the report to ChildLine either orally or electronically, the mandated reporter must inform the person in-charge or their designee that the report was made. The person

in-charge will ensure the cooperation of the agency school or institution.

Permissive reporters may make anonymous calls, but mandated reporters cannot.



## When to Report

- You come into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program, activity or service.
- You are directly responsible for the care, supervision, guidance or training of the child through your work or where you volunteer or the child is under the care guidance supervision or training of where you work or volunteer.
- A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse.
- An individual 14 years of age or older makes a specific disclosure to you that the individual has abused a child.



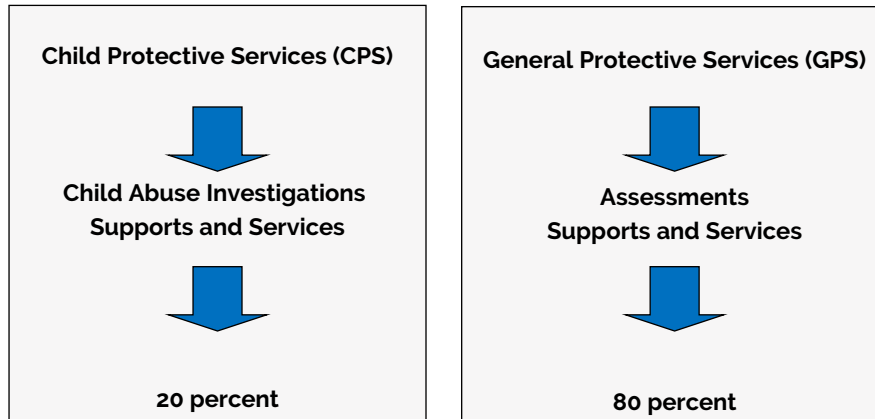
The trigger for reporting is *reasonable cause to suspect*. A mandated reporter must make a report when they have reasonable cause to suspect that a child is a victim of child abuse under any of the following circumstances:

- You come into contact with the child in the course of employment, occupation and practice of a profession or through a regularly scheduled program, activity or service. When you have reasonable cause to suspect that a child you know through work or volunteer activities for children is a victim of abuse you must report.
- You are directly responsible for the care, supervision, guidance or training of the child through your work or where you volunteer or the child is under the care guidance supervision or training of where you work or volunteer. Any child involved with your place of work or volunteer service is your responsibility when it comes to reporting suspected child abuse.
- A person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse. If someone tells you about suspected abuse of a child - regardless of whether or not you know the child- you must report if there is any way to

identify the child. This includes situations where you are not in your work role or your volunteer role. You do not need to have all the identifying information for the child but some piece of information that could lead to locating the child. Some examples of information include: car license plate number, street name, school and relationship to another known person.

- An individual 14 years of age or older makes a specific disclosure to you that the individual has abused a child. If at any time someone tells you information that gives you reasonable cause to suspect that he or she has abused a child you must report. This includes situations where you are not in your work role or your volunteer role.
- In no instance does the child need to come before the mandated reporter for the mandated reporter to make a report of suspected child abuse. This means you do not need to see or talk to the child before making a report. Once you have reasonable cause to suspect, a report must be made.
- You do not need to identify the person responsible for the child abuse to make a report of suspected child abuse. It will be up to the investigation to determine who abused the child. You do not need to know their name or their relationship to the child. Again, all you need is reasonable cause to suspect someone has abused the child.

# Children and Youth Functions



Children and Youth agencies have two major subdivisions in terms of how they support children in the community. These categories are referred to as Child Protective Services (CPS) and General Protective Services (GPS).

CPS deals with issues of child abuse. However, 80 percent of what Children and Youth addresses are concerns that fall under the General Protective Services or GPS arm of protective services. GPS assesses family functioning to determine what if any services or supports are needed to reduce the risk of harm to the children.

It is important to know that, while CPS handles investigations, the provision of services and supports are also part of the process for caseworkers handling CPS investigations. Caseworkers use the same strategies to evaluate the situation and determine the best way to support the child and their family. Based on the investigation and its outcomes, interventions may be more urgent and comprehensive in CPS cases.

Remember, a report only requires that you reach a level of reasonable suspicion that child abuse has occurred. As a reporter, you are not required to investigate, collect evidence, or be certain before you make the call to ChildLine. Once a report of suspected child abuse is



made, the wheels are set in motion for an investigation to begin.

The purposes of General Protective Services are to:

- Protect the safety, rights, and welfare of children, so that they have an opportunity for healthy growth and development – Prevention of child abuse has been shown to be effective through interventions. Children and Youth can assist by protecting children's rights and their welfare, thus increasing the likelihood that they will experience healthy growth and development.
- Assist parents in recognizing and correcting conditions that are harmful to their children and in fulfilling their parental duties more adequately in a manner that does not put their children at risk – Through intervention, Children and Youth can assist parents in correcting situations, which, if left unaddressed, can put a child at risk for harm. There are many reasons that parents may not be adequately addressing the needs of their child, including lack of knowledge, environmental stressors, and limited parenting skills. However, with support, parents can improve their skills and knowledge, reduce stress factors, and provide a home environment that is more conducive to healthy growth and development.

GPS encompasses services to prevent the potential for harm to a child. Potential for harm is something that is likely, if permitted to continue, to have a detrimental effect on the child's health, development, or functioning.

## Elements of Child Abuse

- Child
- Perpetrator
- Act or failure to act



Three elements must be present for child abuse to be substantiated. While these are common words, how they are defined under the CPSL is quite specific.

- Child – Any individual who has not yet reached his or her 18th birthday is considered a child and protected under the CPSL. However, reports may be conveyed to the county Children and Youth and ChildLine until the age of 20 for situations of abuse that occurred prior to the child reaching age 18. After that, a referral to law enforcement may be an option.
- Perpetrator – There are two types of perpetrators defined under the CPSL -those who commit the abuse and those who fail to act. The categories specifically outline who is and who is not a perpetrator under the CPSL.
- Act or Failure to Act – The law considers both commissions and omissions that would harm or potentially harm a child.

As far as the elements of abuse are concerned, the “child” category is the easiest to define

and most clear-cut.

Now, let's look at the next element, the perpetrator.

# Perpetrators

## Acts of Abuse

- Parent of a child
- Persons responsible for a child's welfare
- Paramour (or former) of a child's parent
- Individuals residing in the same home as the child
- Spouse (or former) of a child's parent
- Relatives
- Individuals engaging a child in severe forms of trafficking in persons or sex trafficking



Seven categories are outlined in the CPSL that define who perpetrators of child abuse (acts of abuse) can be.

- Parent of a child – A parent may be a biological parent, adoptive parent, stepparent, or legal guardian. The most frequent abusers of children are from this category, making up more than 60 percent of substantiated abuse cases.
- Persons responsible for a child's welfare – This category includes individuals 14 years of age or older who provide permanent or temporary care, supervision, mental health diagnosis or treatment, training, or control of a child in lieu of parental care, supervision, and control. The term includes any such person who has direct or regular contact with a child through any program, activity or service sponsored by a school, for-profit organization or religious or other not-for-profit organization. Included in this category are babysitters, daycare providers, residential care staff, foster parents and school employees, coaches, youth group leaders and scout leaders.
- Paramour of a child's parent – This category refers to an individual who is engaged in an ongoing intimate relationship with a parent of the child but is not married to the parent.

It is not necessary for this significant other to live with the parent to qualify as a perpetrator. This category also includes former paramour.

- Individuals residing in the same home as the child – Household members in the child's home must be at least 14 years of age to be considered a perpetrator.
- Spouse of the parent – This includes former spouses.
- Relatives – Persons 18 years of age or older related to child within the third degree by blood, marriage or adoption. Relatives to the third degree include parents, siblings, grandparents, great grandparents, aunts, uncles, nephews and nieces.
- Individuals engaging a child in severe forms of trafficking in persons or sex trafficking – Persons 18 years of age or older who engages a child in severe forms of trafficking in persons or sex trafficking. This includes both sex trafficking and labor trafficking of children.

# Perpetrators

## Failure to Act

- Parent
- Paramour (or former) or Spouse (or former) of a child's parent
- Person responsible for the child's welfare 18+
- Household Member 18+



The Child Protective Services Law provides that only adults are accountable for failing to protect children from abuse.

- This is because children should not be responsible for protecting other children from abuse. A fifteen-year-old sibling may be considered a perpetrator by committing abuse. However, the 15-year-old sibling will not be held to the same level as a parent when it comes to protecting a child from abuse.
- The one exception is if the child's parent is a minor. For example, a sixteen-year-old parent could be considered a perpetrator by omission for failing to protect their own child.

Overall, three-quarters of substantiated child abuse is committed by individuals who have a parental relationship with the child or are a family member.

People who abuse children most often are individuals who the child must trust in most for their care and well-being. They are family members, the coach, the favorite babysitter, and, possibly, your family physician. Child abuse knows no borders.

It is important to understand that you are not responsible for determining which category an alleged abuser fits into. In fact, if you suspect that a child has been abused, you must report it regardless of whether you think the abuser fits the CPSL's definition of a perpetrator. Investigators from Children and Youth will sort out the details during the investigation.

## Categories of Child Abuse

- Bodily injury
- Serious mental injury
- Sexual abuse or exploitation
- Serious physical neglect
- Likelihood of bodily injury or sexual abuse
- Medical child abuse
- Per se definitions
- Causing the death of child through an act or failure to act.
- Engaging a child in a severe form of trafficking in persons or sex trafficking



These are the categories of child abuse as defined by the CPSL. The language I will discuss with each of these is reflective of the law itself and is the minimum threshold Children and Youth must use when determining if the abuse can be substantiated.

**Bodily Injury** – impairment of physical condition or substantial pain within the past two years through an act or failure to act

**Serious Mental Injury** – a psychological condition that is diagnosed by a physician or licensed psychologist that

- o Rendering a child chronically and severely anxious, agitated, depressed, socially withdrawn, psychotic or in reasonable fear that the child's life or safety is threatened; or

- o Seriously interfering with a child's ability to accomplish age-appropriate developmental and social tasks.

**Sexual abuse or exploitation** -



The employment, use, persuasion, inducement, enticement or coercion of a child to engage in or assist another individual to engage in sexually explicit conduct, which includes, but is not limited to, the following:

- a. Looking at the sexual or other intimate parts of a child or another individual for the purpose of arousing or gratifying sexual desire in any individual.
- b. Participating in sexually explicit conversation either in person, by telephone, by computer or by a computer-aided device for the purpose of sexual stimulation or gratification of any individual.
- c. Actual or simulated sexual activity or nudity for the purpose of sexual stimulation or gratification of any individual.
- d. Actual or simulated sexual activity for the purpose of producing visual depiction, including photographing, videotaping, computer depicting or filming.

The above paragraph does not include consensual activities between a child who is 14 years of age or older and another person who is 14 years of age or older and whose age is within four years of the child's age.

Any of the following offenses committed against a child:

- a. Rape as defined in 18 Pa.C.S. § 3121 (relating to rape).
- b. Statutory sexual assault as defined in 18 Pa.C.S. § 3122.1 (relating to statutory sexual assault).
- c. Involuntary deviate sexual intercourse as defined in 18 Pa.C.S. § 3123 (relating to involuntary deviate sexual intercourse).
- d. Sexual assault as defined in 18 Pa.C.S. § 3124.1 (relating to sexual assault).
- e. Institutional sexual assault as defined in 18 Pa.C.S. § 3124.2 (relating to institutional sexual assault).
- f. Aggravated indecent assault as defined in 18 Pa.C.S. § 3125 (relating to aggravated indecent assault).
- g. Indecent assault as defined in 18 Pa.C.S. § 3126 (relating to indecent assault).
- h. Indecent exposure as defined in 18 Pa.C.S. § 3127 (relating to indecent exposure).
- i. Incest as defined in 18 Pa.C.S. § 4302 (relating to incest).
- j. Prostitution as defined in 18 Pa.C.S. § 5902 (relating to

prostitution and related offenses).

k. Sexual abuse as defined in 18 Pa.C.S. § 6312 (relating to sexual abuse of children).

l. Unlawful contact with a minor as defined in 18 Pa.C.S. § 6318 (relating to unlawful contact with minor).

m. Sexual exploitation as defined in 18 Pa.C.S. § 6320 (relating to sexual exploitation of children).

Serious Physical Neglect –endangering a child's life or health, threatening a child's wellbeing, causing bodily injury or impairing a child's health, development or functioning due to:

(1) A repeated, prolonged or egregious failure to supervise a child in a manner that is appropriate considering the child's developmental age and abilities.

(2) The failure to provide a child with adequate essentials of life, including food, shelter or medical care.

Likelihood of bodily injury or sexual abuse – creating the likelihood of sexual abuse or bodily injury to a child through any act or failure to act

Medical Child Abuse - Fabricating, feigning or intentionally exaggerating or inducing a medical symptom or disease which results in a potentially harmful medical evaluation or treatment to the child through any recent act.

Per se Definitions – Engaging in any of the following recent acts: (i) Kicking, biting, throwing, burning, stabbing or cutting a child in a manner that endangers the child. (ii) Unreasonably restraining or confining a child, based on consideration of the method, location or the duration of the restraint or confinement. (iii) Forcefully shaking a child under one year of age. (iv) Forcefully slapping or otherwise striking a child under one year of age. (v) Interfering with the breathing of a child. (vi) Causing a child to be present at a location while a violation of 18 Pa.C.S. § 7508.2 (relating to operation of methamphetamine laboratory) is occurring, provided that the violation is being investigated by law enforcement. (vii) Leaving a child unsupervised with an individual, other than the child's parent, who the actor knows or reasonably should have known: (A) Is required to register as a Tier II or Tier III sexual offender under 42 Pa.C.S. Ch. 97 Subch. H (relating to registration of sexual offenders), where the victim of the sexual offense was under 18 years of age when the crime was committed. (B) Has been determined to be a sexually violent predator under 42 Pa.C.S. § 9799.24 (relating to assessments) or any of its predecessors. (C) Has been determined to be a sexually violent delinquent child

as defined in 42 Pa.C.S. § 9799.12 (relating to definitions). (g) Causing the death of the child through any act or failure to act.

Causing the death of a child – causing the death of a child through an act or failure to act

Engaging a child in a severe form of trafficking in persons or sex trafficking – includes both instances of sex trafficking and labor trafficking of children

“Severe form of trafficking in persons” is defined in the Trafficking Victims Protection Act of 2000 as:

- “Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age: or
- The recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.”

#### Sex Trafficking

- Any child under the age of 18 who is induced to engage in commercial sex is a victim of sex trafficking.
- Examples of sex trafficking of children includes prostitution, stripping, pornography, and sex tourism.

#### Labor Trafficking

- The use of force, fraud, or coercion for the purpose of subjection in involuntary servitude, peonage, debt bondage, or slavery.
- Examples of where labor trafficking can occur:
  - Agricultural or domestic service workers
  - Selling of items (e.g., magazines or illegal drugs)
  - Businesses such as hair and nail salons & restaurants
  - Beggars
  - Au pairs & Nannies

## Plans of Safe Care

- A health care provider shall immediately give notice or cause notice to be given to the Department if the provider is involved in the delivery or care of a child under one year of age and the health care provider has determined, based on standards of professional practice, the child was born affected by:
  - Substance use or withdrawal symptoms resulting from prenatal drug exposure; or
  - A Fetal Alcohol Spectrum Disorder.
- Notification to the Department can be made to ChildLine, electronically through the Child Welfare Portal or at 1-800-932-0313.
- Purpose is for a multidisciplinary team of professional to develop a Plan of Safe Care addressing the needs of the infant and family
- This notification is for the purpose of assessing a child and the child's family for a Plan of Safe Care and shall not constitute a child abuse report.



A health care provider shall immediately give notice or cause notice to be given to the Department if the provider is involved in the delivery or care of a child under one year of age and the health care provider has determined, based on standards of professional practice, the child was born affected by:

- Substance use or withdrawal symptoms resulting from prenatal drug exposure; or
- A Fetal Alcohol Spectrum Disorder.

Notification to the Department can be made to ChildLine, electronically through the Child Welfare Portal or at 1-800-932-0313.

This notification is for the purpose of assessing a child and the child's family for a Plan of Safe Care and shall not constitute a child abuse report.

More information about Pennsylvania's Plan of Safe Care can be found at: <http://www.keepkidssafe.pa.gov/resources/PlansSafeCare/index.htm>. What follows below is for your reference to answer any additional questions participants may have. This information is also provided in the handout

participants receive.

The federal Child Abuse Prevention and Treatment Act (CAPTA) authorizes funding for state grants when a state has "policies and procedures" ensuring that health care providers refer infants that are identified as affected by substance abuse, experience withdrawal symptoms or have Fetal Alcohol Spectrum Disorders in order for a multidisciplinary team of professionals to develop a Plan of Safe Care addressing "the health and substance use disorder treatment needs of the infant and affected family or caregiver". Act 54 of 2018 updates Pennsylvania law (23 Pa. C.S. § 6386), consistent with CAPTA, to require health care professionals, including those involved in the delivery or care of an infant or encountering an infant up to age one outside a hospital setting, to notify the Pennsylvania DHS so that a Plan of Safe Care can be developed. State law stipulates that this notification by health care providers "shall not constitute a child abuse report".

Supplementary Definitions:

*Health care provider* – a licensed hospital or health care facility or person who is licensed, certified or otherwise regulated to provide health care services under the laws of this Commonwealth, including a physician, podiatrist, optometrist, psychologist, physical therapist, certified nurse practitioner, registered nurse, nurse midwife, physician's assistant, chiropractor, dentist, pharmacist or an individual accredited or certified to provide behavioral health services.

*Department* – The Department of Human Services of the Commonwealth

#### Plan of Safe Care

After notification of a child born affected by substance use or withdrawal symptoms resulting from prenatal drug exposure or a fetal alcohol spectrum disorder:

- A multidisciplinary team meeting must be held prior to the child's discharge from the health care facility.
- The meeting will inform an assessment of the needs of the child and the child's parents and immediate caregivers to determine the most appropriate lead agency for developing, implementing, and monitoring a Plan of Safe Care.
- The child's parents and immediate caregivers must be engaged to identify the need for access to treatment for any substance use

disorder or other physical or behavioral health condition that may impact the safety, early childhood development and well-being of the child.

- Depending upon the needs of the child and parent(s)/caregiver(s), ongoing involvement of the county agency may not be required.

Supplementary Definition:

*Multidisciplinary Team* – for the purpose of informing the Plan of Safe Care may include:

- Public health agencies;
- Maternal and child health agencies;
- Home visitation programs;
- Substance use disorder prevention and treatment providers;
- Mental Health providers;
- Public and private children and youth agencies;
- Early intervention and developmental services;
- Courts;
- Local education agencies
- Managed care organizations and private insurers; and
- Hospitals and medical providers.

## Exclusions to Child Abuse



- Culpability
- Environmental Factors
- Religious Beliefs
- Ensuring Safety
- Rights of a Parent
- Participation in Events



There are some situations where, as an investigation proceeds, an incident of suspected abuse would be determined to be an exclusion to child abuse. Once again, it is not your responsibility to determine what is and is not an exclusion. This information is provided so that you can gain a better understanding of why a report of suspected child abuse might not be determined to be abuse.

- Culpability – The Child Protective Services Law states that the person who harmed or created a risk of harm to the child must have acted intentionally, knowingly or recklessly. In other words the person should have known the risk, was aware a risk existed or set out to harm or put the child at risk of harm. This would not include injuries sustained by playing sports and extracurricular activities. Serious harm caused to children or putting children in situations where it is likely that serious harm could have occurred could be considered abuse when the actions of the perpetrator were committed knowingly, recklessly or intentionally.
- Environmental factors – Environmental factors that are beyond the control of the caretaker are the second exclusion. This would include conditions such as inadequate housing, furnishings, income, clothing, and medical care. This exclusion does not apply

to child care staff such as foster parents and residential facility staff.

- Religious beliefs – If, during the investigation, the county agency finds that a child has not been provided with necessary medical or surgical care because of the family’s religious beliefs, the child would not be considered physically or mentally abused. However, the beliefs must be seriously held beliefs that are consistent with bona fide tenets of a bona fide religion. This concept does not refer to “spare the rod, spoil the child.” Even in these circumstances, the county agency must closely monitor the situation and petition the court for medical intervention if the child’s life or long-term health is threatened. The exclusion includes adoptive parents and relatives within the third degree provided the child resides with the relative. The religious belief exclusion does not apply if the child dies from lack of medical or surgical care.
- Ensuring Safety – The use of force is permitted provided the force was reasonable and was used to protect the child or others. Also excluded are fights between children where both the children are willing participants. Child on child contact which includes harm or injury to a child that results from the act of another child is not considered child abuse and does not need to be reported unless the child that caused the injury meets the definition of perpetrator or the harm involves sexual acts that would constitute a crime. However, if there is any indication that there is an imbalance of power a report should be made.
- Rights of a Parent – The CPSL should not be construed to restrict the rights of parents to use reasonable force on or against their children for the purpose of supervision, control and discipline. This reasonable force is not child abuse.
- Participation in Events – participation in events that involve physical contact with a child such as interscholastic sports, physical education, recreational activity or extracurricular activity does not constitute contact in and of itself that must be reported.



## Protections for Mandated Reporters

- Immunity from civil or criminal liability, if you
  - Make a report
  - Cooperate with an investigation
  - Testify in proceedings, if necessary
  - Take photographs or preform medical tests, x-rays
  - Remove a child in accordance with the law
- Confidentiality



Several protections are in place to safeguard individuals who report child abuse. The law presumes that a reporter is acting in good faith.

- Immunity from civil or criminal liability – Anyone who reports suspected child abuse and who does so in good faith is protected from civil or criminal liability. Despite the litigious history of our country, there has never been a civil or criminal case that has been successfully filed against a mandated reporter. Even if the report is unfounded, an alleged perpetrator will not be able to sue you because of the protections that the law provides. As long as you make the report and cooperate with the investigation, you will be protected.
- Mandated reporters may take or cause to be taken photographs of the child who is subject to a report and, if clinically indicated, cause to be performed a radiological examination and other medical tests on the child. Medical summaries or reports of the photographs, X-rays and relevant medical tests taken are required to be sent to the county agency at the time the written report is sent or within 48 hours after a report is made by electronic technologies or as soon as possible. The county agency shall have access to actual photographs or duplicates and X-rays and may obtain them or duplicates of them upon request. The medical summaries or reports of the photographs,

X-rays and relevant medical tests must be made available to law enforcement in the course of investigation.

- Confidentiality – The name of the referral source is kept confidential and is not released to family or most other people. Obviously, the Children and Youth worker will have your name from the CY-47 or your electronic report, but they will not share that information with anyone, **except for** law enforcement. If a report meets the criteria for referral to law enforcement officials, then the name of the mandated reporter along with other case details will be shared. However, the mandated reporter is treated as a confidential informant. The CPSL prohibits the release of information that would identify the mandated reporter by DHS, the county children and youth agency, the mandated reporter's organization or the designee. This also applies to releasing identifying information of anyone who cooperates with the investigation. Even in situations where you are required to testify, your identity as the mandated reporter is not revealed. Information that is shared with a defense attorney, such as a copy of the CY-47, would have all details pertaining to the mandated reporter's identity redacted.

# Failing to Report

2nd degree misdemeanor	First violation
3 <sup>rd</sup> degree felony	Suspected continued abuse of child or contact with other children
3 <sup>rd</sup> degree felony	Abuse is 1 <sup>st</sup> degree felony or higher and direct knowledge
3 <sup>rd</sup> degree felony	Subsequent Failures
2 <sup>nd</sup> degree felony	Continued abuse of child and the abuse is a 1 <sup>st</sup> degree felony
2nd degree felony	Subsequent failures if abuse is 1 <sup>st</sup> degree felony or higher



A mandated reporter who willfully fails to report child abuse is subject to liability under the law.

A second degree misdemeanor carries a penalty of up to two years in jail and a fine up to \$5,000.

Felony of the third degree carries a penalty of up to seven years in prison and a fine up to \$15,000.

Additional penalties for failure to report

- Felony of the third degree if the child abuse is a first degree felony or higher and the person has direct knowledge of the abuse. Examples of first degree felony crimes are rape, involuntary deviate sexual assault and aggravated assault of a child under age 13 by an adult.
- Third degree felony if the person has a reasonable cause to suspect a child is being subjected to child abuse by the same individual, or while knowing or suspecting that same individual has direct contact with children through

employment, program, activity or service.

- Multiple offenses where the child abuse is a first degree felony or higher are graded as a felony of the second degree (10 years and \$25,000 fine)
- More severe or ongoing abuse for the child results in a higher penalty for a willful failure to report abuse
- Such charges also apply when a person fails to cooperate with the county Children and Youth agency investigating a report of suspected child abuse, or when assessing safety or risk.

In addition to fines and imprisonment, a mandated reporter who fails to report also puts their job, reputation, and, where applicable, their license, at risk. The worst consequence, however, is that a child continues to be at risk for harm.

In addition to penalties for willful failure to report, knowingly making a false report of child abuse is also graded as a second degree misdemeanor. A false report is one in which the reporter knows that the information they are providing is not truthful. This is not same as the reporter receiving inaccurate information.

If a mandated reporter makes a report to law enforcement or the appropriate county agency in lieu of reporting to ChildLine, this is not an offense for failure to report, as long as the report was made in a good faith effort to comply with the requirements to report.

# Privileged Communications

Privileged communications between a mandated reporter and a patient or client of the mandated report does not:

- Apply to a situation involving child abuse
- Relieve the mandated reporter of the duty to make a report of suspected child abuse



Privileged communications between a mandated reporter and a patient or client of the mandated reporter that involves suspected child abuse must be reported.

## Confidential Communications

- Confidential Communications made to a member of the clergy are protected under 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen)
- Confidential communications made to an attorney are protected so long as they are within the scope of 42 Pa.C.S. §§ 5916 (relating to confidential communications to attorney) and 5928 (relating to confidential communications to attorney), the attorney work product doctrine or the rules of professional conduct for attorneys



The only privileged communications which are exceptions to being mandated to report child abuse are the confidential communications made to members of the clergy and to an attorney, as those confidential communications are defined in 42 Pa.C.S. § 5943 (relating to confidential communications to clergymen), §§5916 (relating to confidential communications to attorney) and 5928 (relating to confidential communications to attorney), or the attorney work product doctrine or the rules of professional conduct for attorneys.

## Responding to Reports of Child Abuse

- Available 24/7 to Receive Reports of Abuse
- Investigation Begins
- Risk and Safety Assessment
- Visit to Child's Home
- Emergency Protective Custody
- Interviews
- Photos
- Evidence Collection
- Services
- Referral to Law Enforcement



Once a report of suspect child abuse is made to ChildLine, the investigation process begins. First, under the provisions of the Child Protective Services Law, the child welfare agency in each of the sixty-seven counties is mandated to investigate the allegation.

- Available 24/7 to receive reports of abuse – All 67 county agencies have mechanisms in place to ensure that a caseworker is available to accept reports and calls 24 hours a day, seven days a week. When relaying a report of child abuse, be sure to speak with a live person at the county agency, especially when you believe that a child is in immediate danger. Do not just leave a message on voice mail. If efforts to reach a live person during non-business hours are unsuccessful, call ChildLine back and let them know that it is urgent for you to speak to a caseworker. ChildLine has contact information that will enable them to reach someone from the Children and Youth office, who can contact you.
- Investigation Begins – The start of the clock for the investigation begins when the report of suspected child abuse is made to ChildLine. Within 24 hours of the call or electronic report to ChildLine, a caseworker from Children and Youth must physically meet with the child. When it is communicated that the child may be in immediate danger or at risk for continued harm or there is insufficient information in the report to indicate that the child is safe, the caseworker will see the child immediately. Mandated reporters' responsibilities include cooperating with the investigation, which involves allowing an investigator from Children and Youth to interview the

child privately.

- Safety and Risk Assessment – When the investigator meets with the child, an assessment of safety and risk to the child using the forms? we spoke about earlier will be done. The agency staff will also assess the threat of safety and risk to other children in the home and ensure their safety as well.
- Visit to Child's Home – During the investigation, at least one visit must be made to the child's home. Such a visit helps the investigator determine key components related to the child's overall risk for maltreatment as outlined on the Risk Assessment form.
- Emergency Protective Custody – In situations where the investigator has determined that the child's safety is at risk, the caseworker can set into motion the process for obtaining emergency protective custody. The county agency does not have the authority to remove the child from the home. Emergency custody can only be taken by the court, a physician or director of a medical institution, or by a law enforcement official. The criterion is that custody is immediately necessary to protect the child from further abuse. Typically, the child is removed from the caretaker and placed in an alternative setting, such as foster care or in the home of a relative. Children and Youth must obtain a court order from a judge to remove a child from his or her home. When the agency concludes that the child is in danger of further maltreatment, it must accept the case for services, provide direct case management, and monitor the provision of services.
- Interviews – As part of the investigative process, the caseworker will conduct interviews with all subjects of the report and any persons who are known to have or may reasonably be expected to have information about the incident of alleged child abuse. These persons may include the child, the child's parents or other person responsible for the child's welfare, the alleged perpetrator, the reporter of suspected abuse, eyewitnesses to the abuse, neighbors and relatives who may have knowledge of the abuse, and daycare providers and/ or school personnel.
- Photos – The caseworker will take photos of the child and all the children in the home for the purpose of identification.
- Evidence Collection – Depending on the circumstances and the type of abuse, photographs would be taken. Photographs of visible injuries such as bruises, cuts, and abrasions would be some items that might be photographed. In some situations, a medical examination, medical tests, or other expert consultations will be required. Some counties in Pennsylvania have Child Advocacy Centers that specialize in interviewing, performing medical examinations, and evidence collection, so that further trauma to the child is minimized.
- Services – The agency will provide services to keep the child and all other children in the home safe during the investigation.
- Referral to Law Enforcement – In certain situations, the report of suspected child abuse is also



referred to law enforcement officials by the county agency.

As discussed earlier, one of the purposes of the CPSL is to involve law enforcement in responding to abuse. The CPSL outlines specific circumstances under which the county agency must make a referral.

## Referrals to Law Enforcement



- Homicide
- Sexual Abuse and Exploitation
- Bodily Injury
- Serious Bodily Injury
- Non-CPSL perpetrator
- Crime against a child
- Severe forms of trafficking in persons or sex trafficking



Since 1982, county agencies have been required to refer certain cases of child abuse to law enforcement officials. When the initial inquiry by the county agency provides evidence that one of the above types of offenses has occurred, the county agency ensures the safety of the child and then immediately contacts law enforcement.

- Homicide – Any instances of child abuse that result in the death of a child are automatically referred to law enforcement.
- Sexual Abuse and Exploitation –The definition of sexual abuse and exploitation under the CPSL mirrors the definition under the criminal code. Whenever sexual abuse or exploitation is suspected, law enforcement would become involved in a joint investigation with the county agency.
- Bodily Injury – If the information suggests that the child suffered substantial pain or impairment then a law enforcement referral must be made.
- Serious Bodily Injury – Any bodily injury that creates a substantial risk of death, serious

physical disfigurement, or protracted loss or impairment of an organ or other bodily member would be referred to law enforcement officials.

- Non-CPSL Perpetrator – Other than the instance previously discussed any child abuse that is committed by someone whose relationship with the child does not fit one of the types of perpetrator defined by the Child Protective Services Law.
- Crimes against a child – When ChildLine receives information that would suggest a crime was committed against a child, ChildLine will refer the information to law enforcement.

An emphasis on prompt reporting to law enforcement was implemented through Act 151. It allows for law enforcement to be involved from the beginning of a case. The Children and Youth caseworker must make the decision to involve law enforcement within the first 24 hours of the investigation. The county agency and law enforcement to work cooperatively and to coordinate their efforts.

The county agency and the district attorney must develop a protocol for convening multidisciplinary investigative teams for cases involving certain crimes against children. The protocol must outline certain standards and procedures, including receiving and referring reports, coordinating investigations, and sharing information obtained from interviews.

Now that we have reviewed the primary components to a child abuse investigation, let us discuss the last step. Status determinations are the final conclusions, based on the evidence available, as to whether child abuse did, in fact, occur.

## Status Determinations

- UNFOUNDED
- INDICATED
- FOUNDED
- PENDING  
JUVENILE COURT ACTION
- PENDING CRIMINAL COURT ACTION



In consideration of the county agency's investigation, available medical evidence, or an admission of the abuse by the perpetrator, a status determination of the report is made. A determination is made within 30 days of the report. However, the time frame can be extended up to 60 days with appropriate justification. The criteria used for making the decision is substantial evidence, which is evidence that outweighs inconsistent evidence and that a reasonable person would accept as adequate to support a conclusion. The county agency submits a written report to ChildLine, noting its decision regarding the report of child abuse. The final options are:

- **Unfounded** – An unfounded report means that the report could not be substantiated as child abuse under the CPSL. An unfounded report does not necessarily mean that the allegation was incorrect or that the child was not maltreated. It means that there was not enough evidence to support the allegation. In addition, if Children and Youth does not complete its investigation within 60 days, and it is not pending court action, the report would also be deemed unfounded. The report will be kept on file for one year from the date of the report. After a year, the report is expunged as soon as possible, but no longer than 120 days after the one year period. When the report is expunged, all information about the report is struck out completely, so the expunged information cannot be stored, identified, or later recovered by any means, including mechanical or

electronic.

- Indicated – When a report is indicated based on medical evidence, CPS investigation, or perpetrator admission, the county agency will determine that substantial evidence of the alleged abuse exists. The details in the report pertaining to the child will remain in the ChildLine Child Abuse Registry until the child reaches age 23 and are then expunged. However, the name of the perpetrator is retained on file indefinitely, if the individual's Social Security number or date of birth is known. All indicated reports must be approved by the agency administrator or designee and reviewed by the solicitor. If the investigation was conducted by the regional office, the Secretary of the Department of Human Services, or their designee must approve the indicated status and the Office of General Counsel must review the indicated status.
- Founded – A founded report is one in which the county agency determined that substantial evidence of the alleged abuse exists (aka meets Indicated criteria) AND there has been a court determination that a child was abused. Founded reports are kept on file in that same way that indicated reports are.
- Pending Juvenile Court Action – A status of pending juvenile court action is assigned to a report when the county agency cannot complete the investigation within 30 days because of court action that has been initiated. At a later time, a status of unfounded, indicated, or founded will be assigned.
- Pending Criminal Court Action – A status of pending criminal court action is assigned to a report when the county agency cannot complete the investigation within 30 days because of court action that has been initiated. At a later time, a status of unfounded, indicated, or founded will be assigned.

## Follow Up Results

- Child Abuse Clearances
- Mandated Reporter's Right to Know



Once the investigation is completed, the information may be obtained, but access to the records is restricted. Two ways to obtain information about the results of the investigation are:

**Child Abuse Clearances** – Organizations that work with children are required to obtain both criminal background checks and Child Abuse Clearances for prospective employees. Child Abuse Clearances are obtained through ChildLine's child abuse registry. Failure of the organization to submit clearances is punishable by law. Organizations may hire individuals on a provisional basis while the clearances are being processed; however, if the prospective employee was named as a perpetrator of a founded report, employment must be denied. The same prohibition does not exist for indicated reports. Clearances must be updated every 60 months.

**Mandated Reporter's Right to Know** – A mandated reporter who made a report of suspected child abuse will receive information on the report from the Department once the investigation is completed. The information is limited to the final status of the report and whether it is indicated, founded, or unfounded and any services provided or arranged for by the county agency to protect the child. ChildLine will send the information to the

mandated reporter who made the report within three days of receiving the status determination from the county children and youth agency.

Some medical professionals are permitted to receive additional information. A physician examining or treating a child or on behalf of the director or a person specifically designated in writing by the director of any hospital or other medical institution where a child is being treated, where the physician or the director or a person specifically designated in writing by the director suspects the child of being an abused child may receive from the county children and youth agency information regarding the existence of prior reports of suspected child abuse or reports alleging a need for general protective services.

# Types of Disclosure



When a child discloses abuse, it is important to the child and it is important to society. This section will review the importance to both. Further, children often present with a wide variety of apparently conflicting statements over time and with different people. It is important for you to understand the types of disclosures to respond appropriately.



# Types of Disclosure

- DENIAL
- TENTATIVE DISCLOSURE
- ACTIVE DISCLOSURE
- RECANTING
- REAFFIRMING



Children disclose abuse to many different people – friends, parents, teachers, and counselors, to name a few. They may make these disclosures in a private counseling session or in a group discussion in class. They may choose to tell verbally or by writing in a journal or as part of a research paper. Whatever the mechanism or the timing of the disclosure, the goal is for you to strike the critical balance of allowing the child to say what they want to say and, at the same time, not taint the child’s memory or interfere with the investigation that may follow the disclosure.

It is very important to the child that they have told someone. Children who are victimized often feel very isolated and, at the same time, very vulnerable. They may have decided to tell of the abuse because an event may have just happened and the child is in shock. They may not feel safe and the telling is designed to get your help. Other children disclose after the abuse has stopped or the abuser has left the area because they now feel safe enough to disclose. Still others may be continually victimized but for some reason decide to disclose now. Whatever the circumstances, it is important to the child’s sense of safety and to their sense of self that their disclosure be received sensitively and seriously.

The child’s disclosure is also important to society. We have criminal laws that prohibit

abusing children. We also have child protection laws that protect children in abusive situations and seek help for them and their families. However, in order to seek assistance from the legal system, it is critical that the child's statements be clearly the child's, and not coerced, manipulated, or changed because of statements by interviewers.

Disclosure is often a process - not a single event. There are five generally recognized types of disclosure. We may encounter children who disclose their abuse using several of these types. It is important to note, however, that every disclosure does not follow a specific process. While some children may exhibit all of these types, others may not.

It is important to understand that disclosure is a process because these children are working through their own trauma. We need to take disclosure seriously and never discount what the child is saying.

**Denial.** When circumstances prompt an inquiry, children may deny probable abuse or may attribute their abuse to another. They may deny it by:

Forgetting: "I don't remember what happened."

Distancing: "It happened to a friend."

Minimizing: "It only happened once. It wasn't that bad."

Empowerment: "He tried, but I got away."

Disassociation: "I was sleeping. It was a dream."

Discounting: "I was only kidding. It didn't really happen."

A student may disclose to a teacher and then minimize – "It only happened once. I am sure it will never happen again." This is an example of "Denial." The first disclosure should not be discounted because the child minimizes. The teacher should let the investigator decide whether what happened is child abuse.

**Tentative Disclosure.** Children may provide very limited information, but enough to get your attention.

Although some children actively disclose - that is, tell the event in its totality- others disclose in stages, often referred to as "Tentative Disclosure."

An example is that a child may say her mother's boyfriend wants her to look at magazines she doesn't like. This may be an attempt by the child to disclose that she is being forced to see pornography. You should ask an open-ended question in this situation to ascertain what the child doesn't like about the magazines. At the point when the child simply says "magazines she does not like," you as the mandated reporter do not have reasonable cause

to suspect child abuse. Perhaps the magazines are of cars, or trucks, or something just not to the liking of the child - or, perhaps, it is a “tentative disclosure” of child abuse in which the child is seeing if they have “permission” to go further in their disclosure.

Mandated reporters are allowed to ask open-ended questions when they are uncertain if there is suspected abuse. Open-ended questions are broad and do not insinuate the answer in the question. Examples of open-ended questions are “What do you mean by that?” or “Can you tell me more?” Mandated reporters must stop asking questions, however, once they have a reasonable cause to suspect abuse. We will learn why during our discussion about Taint later in this training.

**Active Disclosure.** Some children just state the abuse directly, giving comprehensive information and specific details. Follow up, open-ended questions are not needed in this situation since you will have enough information to have a reasonable cause to suspect abuse and make that required report to ChildLine.

**Recanting.** Children tell you about the abuse and then take it back, saying it didn’t really happen.

“Recanting” is not uncommon when children disclose abuse. Children may recant a disclosure because they are frightened, have been subjected to family pressures, fear negative consequences for themselves or the perpetrator, or have not yet come to terms with what has happened to them. For example, a child may disclose and then see chaos ensue within their family. In this situation, the child may take back the disclosure in an attempt to end the chaos.

A perfect (real life) example is of a child who disclosed abuse and by the end of the day was in a room with the school nurse, guidance counselor, school social worker, assistant principle, and principle. The child feels so much pressure from the school staff that they recant to get themselves out of the situation. The school personnel may have thought this was a good way to “test” the veracity of the child’s statements. However, it is not the responsibility of school personnel to validate a disclosure. Such practices are also not in the best interest of the child.

Another example of recanting is a child who discloses to a staff person, and then later says it didn’t happen to a different staff person. The staff person who received the disclosure is a mandated reporter and must make a report of suspected abuse to ChildLine. The child does not need to repeat the allegation to another person.

The law says that mandated reporters must report when they have a reasonable cause to

suspect abuse. Mandated reporters must use their knowledge and experience with children to establish “reasonable suspicion” for themselves. So, for example, if the staff person asks how the captain of the baseball team got a black eye and the captain jokes by saying, “My mother was unhappy that we lost the game and let me have it,” and then immediately recants and admits that the black eye is from a ball hitting him, the mandated reporter must use their knowledge and experience with that child to discern if they have a reasonable cause to suspect abuse. If the staff person has no doubt that this child was joking when he said his mom “let him have it”, a report of suspected child abuse should not be made because they do not have a reasonable cause to suspect abuse. If there is any doubt or suspicion that the allegation could be true, then reasonable cause to suspect has been met and a report must be made.

**Reaffirming.** A child recants then returns and admits that what was recanted actually happened. The child may reaffirm much later, after they have allayed the fears that prompted them to recant in the first place.

For example, a child may tell a staff person, recant to the administrator, but then tell the casework investigator that it did happen. This is not uncommon. Mandated reporters should be aware that this may occur.

Mandated reporters do not need a disclosure to report their suspicion. If mandated reporters suspect abuse, despite denials or recanting, it is their legal obligation to report their suspicions and allow the case investigator to determine whether or not abuse occurred. If the mandated reporter does not have enough information to establish a reasonable suspicion of abuse, they should reassure the child that they continue to care and support them and make themselves available to assist the child when they are ready to discuss the situation. You should neither discount their suspicions, nor force a child to disclose.

# Types of Disclosure

## Activity



### Poll Questions:

- 1) A 10-year-old child tells a friend that her stepfather has been touching her in places she doesn't like.
- 2) This friend tells her own mother this information. The friend's mother confronts the child and asks if someone has been touching her. The child responds she was never touched.
- 3) The friend's mother reports to ChildLine. The next day, a caseworker asks the child if she said someone touched her. The child starts to cry & says that her stepfather has been touching her and points to her vagina. The child does not say anything else.
- 4) The caseworker contacts mother, who says the stepfather is no longer living in the house. The caseworker sets up an appointment at the local child advocacy center for a forensic interview. At the interview, the child discloses details of the sexual abuse.
- 5) Once home, mother says to the child "Why did you have to say anything? Now he'll never come back." When the child meets with the DA for the preliminary hearing, the child says that her stepfather did not touch her, and she never said he did.
- 6) Two years later, after receiving therapy for several months, the child tells her therapist that the abuse really did happen.

Answer Key:

- 1) Tentative: This is tentative due to the lack of information. It is unknown where he is touching her.
- 2) Denial: The child denies any abuse when there is an inquiry.
- 3) Tentative: The child is making a partial disclosure. The child may be too upset to disclose more or is waiting to assess a reaction to this information before further disclosing.
- 4) Active Disclosure: The child has disclosed details of the abuse.
- 5) Recanting: The child is saying the abuse did not happen.
- 6) Reaffirming: The child is admitting that what was recanted actually happened.

# What is Taint?



In 2003, the Supreme Court of Pennsylvania, in the case of *Commonwealth v. Delbridge*, No. 150 MAP 2001, 2003 Pa. LEXIS 1754 (PA. September 25, 2003), held that the competency of a child witness may be called into question when it is suspected that their testimony in court has been “tainted” by multiple interviews or by coercive or suggestive techniques by adults when a child discloses child abuse. The case before the Court was one in which two children had alleged sexual abuse by their father. This holding by the Supreme Court allows offenders to call into question whether a child should be allowed to testify in a legal proceeding in that they may have been rendered legally incompetent by inappropriate questioning.

In this section, we will review this case to help you understand the importance of responding in an appropriate manner and to assist you in beginning to identify the responses to children that may be suggestive or coercive.

# What is Taint?

## Supreme Court Case: *Commonwealth of Pennsylvania v. Gerald John Delbridge*

- Gerald Delbridge was convicted of sexually assaulting his children between June 1997 and January 1998
- The victims of the assault were his daughter and son, ages six and four, respectively, at the time of the event
- Mr. and Mrs. Delbridge did not share the same bedroom.
- The victim daughter was sleeping with her father in the master bedroom
- Mrs. Delbridge arranged for the child to see a psychologist.
- Other events resulted in Mrs. Delbridge filing for a Protection from Abuse Order, and Mr. Delbridge was evicted from the family home.
- In May 1998, the daughter told her mother that, "Daddy touched my 'tee-tee'."
- The psychologist saw the child the next day and asked the child what she had said to her mother. She responded, "Daddy touched my 'tee-tee' and his friend touched me in the butt."
- A state trooper interviewed the child and her brother in the presence of another state police officer whom the children knew and trusted.



On September 25, 2003, the Supreme Court of Pennsylvania filed its opinion in the case of *Commonwealth of Pennsylvania v. Gerald John Delbridge* (hereinafter "*Delbridge*") in which it addressed the question of "taint." The Court defined "taint" as the implantation of false memories or distortion of actual memories through improper and suggestive interview techniques. If, in fact, the child has been tainted, they are rendered legally incompetent to testify in a proceeding involving the prosecution of their alleged offender.

### Facts of the Case

The facts of the case were essentially as follows. Gerald Delbridge was convicted of sexually assaulting his children between June 1997 and January 1998.

The victims of the assault were his daughter and son, ages six and four, respectively, at the time of the event.

Although Gerald Delbridge was residing with his wife, the mother of the children, during the time of the assaults, there were marital problems, and Mr. and Mrs. Delbridge did not



share the same bedroom.

The victim daughter was sleeping with her father in the master bedroom, and Mrs. Delbridge slept either on the couch or in her son's bedroom.

In January 1998 Mrs. Delbridge received a telephone call from her daughter's kindergarten teacher. The child had a speech disorder and developmental delays. The teacher called to inform Mrs. Delbridge that her daughter was regressing in motor skills and academics and had become aggressive toward her classmates. Mrs. Delbridge had also noticed some behavioral problems in the home with her daughter and therefore arranged for the child to see a psychologist.

While the child's behavioral problems were being addressed, other events resulted in Mrs. Delbridge filing for a Protection from Abuse Order, and Mr. Delbridge was evicted from the family home.

Later in the spring of 1998, Mrs. Delbridge moved with her children out of family home into an apartment unit. The children became friends with their neighbors, children of similar ages, and spent time regularly in the neighbor's home. In May 1998, the daughter told her mother that, "Daddy touched my 'tee-tee.'" Mrs. Delbridge repeated her daughter's statement to the neighbor, who told Mrs. Delbridge that the child had also said similar things to her on other occasions. Mrs. Delbridge called the psychologist who was treating her daughter and repeated the statement made by the child to her.

The psychologist saw the child the next day and asked the child what she had said to her mother. She responded, "Daddy touched my 'tee-tee' and his friend touched me in the butt."

The allegations were referred to the Pennsylvania State police. A state trooper interviewed the child and her brother in the presence of another state police officer whom the children knew and trusted. The daughter spoke freely with the police. The son at first denied any misconduct but later made allegations against his father.

# What is Taint?

## Supreme Court Case: *Commonwealth of Pennsylvania v. Gerald John Delbridge*

- Both children stated that they watched movies with their father in which people were naked and kissing. They also told the police their father had touched them and had inserted his fingers into their "butts." The daughter further alleged that she had showered with her father and that his "tee-tee" was hard.
- Charges were filed against Mr. Delbridge for criminal conduct involving both children, and he was convicted of those charges.
- In pre-trial motions, Mr. Delbridge challenged the competency of his children to testify and wanted the trial judge to explore the nature of the interviews through which the children revealed the information of their abuse and determine if the children had been "tainted" by suggestive interviewing strategies and techniques
- Mr. Delbridge was convicted and appealed his conviction and challenged, among other things, the trial court's refusal to broaden the competency hearing to explore "taint."
- The case went to the Supreme Court of Pennsylvania.
- The Court ruled that it is proper for a trial court to examine whether children are incompetent to testify because interview techniques of law enforcement, social service personnel and other adults were so unduly suggestive and coercive as to implant false memories or distort real ones. The Supreme Court directed that if the trial court finds that a child has been tainted, his testimony cannot be used.



## Facts of the Case

Both children stated that they watched movies with their father in which people were naked and kissing. They also told the police their father had touched them and had inserted his fingers into their "butts." The daughter further alleged that she had showered with her father and that his "tee-tee" was hard.

Charges were filed against Mr. Delbridge for criminal conduct involving both children, and he was convicted of those charges.

In pre-trial motions, Mr. Delbridge challenged the competency of his children to testify and wanted the trial judge to explore the nature of the interviews through which the children revealed the information of their abuse and determine if the children had been "tainted" by suggestive interviewing strategies and techniques. Specifically, Mr. Delbridge challenged some statements made to the neighbor by his daughter in that the statements reflect that the child thought she was touched when she was still in diapers, the presence of the second state trooper who was presented as a "guardian angel for the children" who would protect them from their father, the motivation of Mrs. Delbridge in going to the police, and

her influence upon the children specifically because she was a victim of childhood sexual abuse herself, and the fact that the daughter had been taken to a Children and Youth agency when she was two years old for sexually acting out. At that time, the child never revealed any abuse. The trial judge rejected Mr. Delbridge's request to explore these issues and, instead, limited the competency hearing to more traditional lines of questioning, such as the ability of the children to understand the difference between a truth and a lie, their general capacity to remember, and their ability to communicate their memories.

Mr. Delbridge was convicted and appealed his conviction and challenged, among other things, the trial court's refusal to broaden the competency hearing to explore "taint."

The case went to the Supreme Court of Pennsylvania.

The Court ruled that it is proper for a trial court to examine whether children are incompetent to testify because interview techniques of law enforcement, social service personnel and other adults were so unduly suggestive and coercive as to implant false memories or distort real ones. The Supreme Court directed that if the trial court finds that a child has been tainted, their testimony cannot be used.

### **Activity: Factors That May Contribute To Taint**

Some possible issues are

- Number of interviews
- Children being interviewed in a police department (not child centered environment)
- Suggesting that Mr. Delbridge was "bad" and that the children needed police protection from him
- Preconceived ideas by the mother of the children
- We don't know the training of the police investigators, and don't know if they asked developmentally appropriate questions
- We don't know what the neighbor told the daughter when the child revealed sexual abuse to her

On remand, the trial court found that the children's memories had not been tainted. The conviction was sustained.

The Supreme Court's ruling in the case, however, applies to all future criminal prosecutions of child abuse. Because of this, the competency of a child witness may be called into

question when it is suspected that their testimony in court has been “tainted” by multiple interviews or by coercive or suggestive techniques by adults. If the defendant in a criminal trial sets forth some facts that allege that the child’s memory has been tainted by suggestive or coercive techniques, or by multiple interviews, the trial Court will schedule a Pre-Trial hearing to review the process of disclosure with the child and all of those who conducted interviews. The Court will then reach its conclusions and rule. If the Court finds that the child’s memory has been tainted, it may find that they are incompetent to testify and not permit their testimony.

The question of taint will also arise in Juvenile dependency proceedings and indicated findings of child abuse that are appealed to Administrative Courts.

We cannot control when children disclose abuse. We also can’t know what children have been told by members of their family or their family’s friendship group. What we can do is learn how to respond appropriately when the child discloses to us.

## What is Taint?

Interviewing techniques of interested adults are

- UNDULY SUGGESTIVE
- COERCIVE
- REPEATED

That the memory of the child has been affected.



In summary, Taint is interviewing techniques that are unduly suggestive, coercive and repeated, that the memory of the child has been affected.

# Responses to Avoid



Since most of us do not encounter disclosures of abuse often, we cannot rely upon past experiences to know how to handle the disclosure. We may be caught off guard and find ourselves unsure of how to respond in the moment when a disclosure of child abuse happens. In this section, we will review clear rules on what not to do at the time of a disclosure. This section will serve as preparation for the next section, which will focus on guidelines we should follow when responding to a disclosure.

## Responses to Avoid

### Do Not:

- Force the Child to Talk
- Require the Child to Tell Others
- Be Suggestive
- Teach Body Parts
- Challenge Child's Honesty
- Ask "Why"
- Try to "Prove" Child Abuse



**1. Do not force the child to talk if they have not disclosed abuse.** If you are suspicious about a child's behavior, you may inquire about their well being, or tell them you are available if they want to talk, but do not put pressure on the child to talk.

**2. Do not ask the child to discuss the abuse with other staff members.** All of the mandated reporters are required by law to report when they have a "reasonable cause to suspect abuse." If you are not sure, you may consult with others, but ultimately it is up to you to make the report if you suspect abuse. Insisting that the child tell another individual what they have already disclosed is unnecessary and may further traumatize the child and compromise the investigation.

**3. Do not ask questions that suggest what happened.** Questions such as "Did your mother do this to you?" are leading questions because it gives a suggested answer within the question. This could lead the child to give an untrue answer in an attempt to please you and could taint the child's memory.

**4. Do not teach the child body parts when a child is disclosing abuse.** Use the same words the child uses instead of substituting an anatomically correct word.

**5. Do not challenge the child's honesty.** Questions such as, "Are you sure this happened?" implies a lack of trust and support. When the child has presented sufficient facts, in a demeanor that fits the seriousness of the facts being disclosed, you have sufficient information to report child abuse.

**6. Never ask a child "Why?" questions.** Children feel blamed when they are asked "Why" (e.g., "Why didn't you tell someone?" or "Why do you think he did that?")

**7. Do not keep asking questions because you want to prove child abuse.** Your object is to receive the child's statement and report it to the authorities. It is the responsibility of the authorities to verify abuse.



## Responses to Avoid

### Do Not:

- Demand Details
- Use Words That Imply Judgment
- Use Dolls or Stuffed Animals
- Try to Change the Child's Mind
- Not Touch the Child Without Asking
- Not Make Promises You Cannot Keep
- Prohibit the Child's Return Home



**Do not demand details.** You do not have to know them. Please remember that demanding details may embarrass the child, compromise your future relationship with the child, and violate the integrity of the subsequent investigation.

There is no bright line other than your good judgment to direct your decision as to when the child has told you enough to trigger your mandated reporting requirements, however you should not question the child past the point that you have a reasonable cause to suspect abuse. Also keep the child in mind. If you are the child's teacher, or counselor in a school, that child may feel embarrassed. They will have an easier time returning to a normal relationship with you if they do not have to provide you with all of the details of their victimization. They will also have an easier time regaining their composure and dignity if their privacy has not been violated by intrusive questions or multiple interviews by other staff members.

**Do not use words that imply a judgment like "good and bad."** Children are often confused by what they have experienced and have conflicting emotions about the people involved. A touch is neither "good nor bad," rather it is appropriate or not. Children often love the person who is abusing them and simply want the abuse to stop. Do not be judgmental

about the child or the alleged abuser.

**Do not use dolls, stuffed animals, or drawings.** Such props can be very suggestive and many lead to story telling and fantasy. They are also unnecessary. Just talk with the child.

**Do not try to change the mind of a child who has recanted or changed their disclosure.** In most situation, you should still make a report of suspected abuse once a child recants because a recanting does not mean the original disclosure was inaccurate. Seek consultation from the local child welfare authorities if you are uncertain as to whether you still have met the legal requirement of “reasonable cause to suspect” now that the child has recanted or changed their initial disclosure.

**Do not touch the child without asking the child’s permission.** Children who have been abused are often very sensitive to touch. Asking permission before touching or hugging a child is always a good practice and helps to teach the child appropriate physical boundaries and actions with others.

**Do not make promises to the child you cannot keep.** Do not tell the child you will keep their secret or that they won’t be removed from their home. Assure the child they have done the right thing by speaking with you, and that you will do everything you can to support them through the process and keep them safe.

**After the child discloses, do not prohibit the child from returning home.** Under the law, the only people who can take custody of a child are the police, a physician, a court official, or the administrator of a hospital. When you report abuse to the authorities, as required, they will see the child promptly and notify the parents on the timelines set by law. The legislature has been very mindful in setting guidelines to balance the potential interests. The guidelines are written to protect the child and safeguard the due process rights of parents. If you have concerns for the safety of the child, be sure to mention those when making the report.

# Guidelines to Follow When a Child Discloses



Now that we have covered what NOT to do when a child discloses, let's talk about what guidelines to follow at the time of a disclosure.

## Guidelines to Follow When a Child Discloses

### CONTROL YOUR EMOTIONS

- How you react emotionally impacts the child
- Respect the child's need for privacy & speak with the child alone
- Talk with the child without the presence of the caregiver



**Disclosures are critical to the child and to the investigation.** When there is a disclosure, there are five key guidelines to follow. It is important to remember that how you handle a disclosure may have a critical impact on the child and the outcome of the case.

#### **Guideline 1: Control Your Emotions**

A child's disclosure may be very upsetting. It is important that you control your emotions. A child wants to tell you something; otherwise, they would not have disclosed at the time that they did. If they suspect that you are upset, they will try to shield you and will not tell you anymore. At the same time, it is important not to be overly solicitous of the child. Statements such as "How awful for you," or "How could anyone hurt you, you are so wonderful," while true, are not helpful in the situation.

When a child discloses it is advisable to speak with the child in a private place, away from their classmates, friends, or other staff. If this requires taking the child to another room, do so. Respecting the child's need for privacy may be the first step in gaining trust.

Never talk to a child in the presence of his parents or caretakers. Such interviews are immediately susceptible to taint.

## Guidelines to Follow When a Child Discloses

### LISTEN TO THE CHILD

- Use age-appropriate language to frame inquiries.
- Ask open-ended questions.



### Guideline 2: Listen to the Child

Let the child talk to you at their own pace. Do not push or force them to speak. Ask only open-ended questions if you need clarification and use age-appropriate language.

An open-ended question or statement is one that allows the child to explain, such as “Tell me more about what happened.” If you need to ask any questions, use the language back to the child that they used in their disclosure. For example, if the child says someone touched her in her “privates,” use the word “privates” in any subsequent question you think you need to ask. Remember, however, that questions should stop once you have enough information to have a reasonable cause to suspect abuse.

## Guidelines to Follow When a Child Discloses

### REASSURE THE CHILD

- Be honest
- Never make a promise you cannot keep



### Guideline 3: Reassure the Child

After a disclosure, reassure the child that they have done the right thing by bringing this issue to your attention. Please do not offer any reassurances before the disclosure. It may serve to coax the child, and that is not your purpose. Let the child know that you want to help them and that these kinds of situations must be reported to people who can help. Explain to them that you will report to a caseworker who will come to see them and will make sure that they are safe.

It is important that you are honest with the child. Never tell them that you will keep their secret. You cannot and will not.

Never make any promises to the child that you cannot keep. For example, never promise the child that they will not be placed outside of their family home. Child Protective Services agencies do not want to place children but will if it is required for their safety.

## Guidelines to Follow When a Child Discloses

### DOCUMENT

- Document all conversations, actions, observations and circumstances.
- Document any questions you asked the child and the child's response.



#### Guideline 4: Document

Carefully document the date, time, place, and any other specifics of the disclosure. Who was present when the child disclosed? What room did you go to? What was happening immediately before the child disclosed? What did you say? What did the child say? As much as possible, write the child's own words. Note any observations you made of the child and their demeanor.

Document any questions you asked the child and the child's response.



## Guidelines to Follow When a Child Discloses

### REPORT

- Cooperate with the investigation.
- Allow the investigator to interview the child alone.



### Guideline 5: Report

You are required to report suspected child abuse to ChildLine by calling or using the portal to submit the report electronically immediately when you suspect abuse. You may make a courtesy call to your local Child Protection Agency, indicating that you have just called ChildLine and that they will be hearing from ChildLine soon. Calling the local agency will improve relationships and facilitate a faster response to your report.

Your role as a mandated reporter is to report as soon as you have reasonable cause to suspect child abuse, then allow the professional investigators conduct the investigation.

# Activity: Practice Responding to Disclosures



## LET'S PRACTICE RESPONDING TO DISCLOSURES

### Poll Questions:

- 1) An eight-year-old tells you that his mother's boyfriend is touching him, and he doesn't know what to do. How do you respond?
  - A: "Thank you for letting me know. What do you mean by he is touching you?"
  - B: "Well, that isn't nice. Did you tell him to stop?"
  - C: "Why do you think he is doing that?"
  
- 2) Foster mother tells you she caught the five-year-old foster child touching another child's privates in the home. This foster child is standing next to the foster mother and hears her tell you this information. What do you do?
  - A: Demand the foster child apologize to the foster mother for touching the other child.

B: Ask the foster child to chat with you in a quiet area, away from the foster mother and other children.

C: Question the child in front of the foster mother.

- 1) A ten-year-old student has begun isolating herself and her grades have dropped. When you ask the child if anything is wrong, the child reports that she is having problems at home with her stepfather. How do you respond?
  - A: "What have you been doing to make him upset?"
  - B: "Is he abusing you?"
  - C: "Can you tell me more about these problems?"
  
- 4) An eleven-year-old boy tells you that he and his mother play a "secret game." How do you respond?
  - A: "How do you play this game?"
  - B: "Why are you telling me this if it is a secret?"
  - C: "Is she making you do bad things?"
  
- 5) A four-year-old child has a large bruise on her cheek. You have been noticing bruises on this child for several weeks. What do you do?
  - A: In a group setting with other children, ask the child how she got her bruise.
  - B: During one-on-one time, ask the child if she can tell you about the bruise.
  - C: Immediately ask the child if someone is hurting her.

Answer Key:

- 1) A: "Thank you for letting me know. What do you mean by he is touching you?" – This affirms the child and asks an open-ended question to get further details.
- 2) B: Ask the foster child to chat with you in a quiet area, away from the foster mother and other children. – This child is too young to be considered a perpetrator but could be a victim of abuse herself. Chatting away from foster mother and the other children will respect her privacy and allow her space to talk if she wants.
- 3) C: "Can you tell me more about these problems?" – This question is open-ended and invites the child to talk about it further.
- 4) A: "How do you play this game?" – This response engages the child to tell you more so you can determine if there is cause for concern.

- 5) B: During one-on-one time, ask the child if she can tell you about the bruise. – This response is best because it allows for natural dialog between you and the child.

## Conclusion

- ✓ Questions?
- ✓ Post-Training Survey and Evaluation
- ✓ For CEU's under Act 31 or Act 48, fill out the form at [training.pa-fsa.org](http://training.pa-fsa.org)
- ✓ Certificates will be emailed within 2 weeks
- ✓ Resources- [www.pafsa.org](http://www.pafsa.org)
- ✓ Email questions after today's training to [training@pafsa.org](mailto:training@pafsa.org)



# Thank you!

You have received training from Pennsylvania's  
leader on mandated reporter training,  
**Pennsylvania Family Support Alliance.**

