


| | | |
|---|--|--|
| <p>California Department of Justice DIVISION OF LAW ENFORCEMENT Edward Medrano, Chief</p>  | <p>INFORMATION BULLETIN</p> | |
| <p><i>Subject:</i></p> <p>Reporting Obligations Under the Child Abuse and Neglect Reporting Act</p> | <p><i>No.</i></p> <p>2020-DLE-17</p> | <p><i>Contact for information:</i></p> <p>Edward Medrano, Chief Division of Law Enforcement (916) 210-6300</p> |
| | <p><i>Date:</i></p> <p>December 30, 2020</p> | |

TO: ALL CALIFORNIA LOCAL LAW ENFORCEMENT AGENCIES

The Child Abuse and Neglect Reporting Act (CANRA) pursuant to California Penal Code, § 11164 et seq., seeks to protect children and youth from abuse and neglect in any aspect of their lives (including but not limited to their home, school, religious worship, and extracurricular activities such as sports, scouting, etc.). To accomplish this, CANRA requires that mandated reporters immediately notify one of the following agencies of suspected child abuse so that those agencies can take timely action to investigate the allegations and protect abused children and youth:

- Police or sheriff’s departments (not including school district police or security departments);
- County probation departments (if designated by the county to receive mandated reports); or
- County welfare departments.

(Pen. Code, § 11165.9.)

The purpose of this bulletin is to ensure that law enforcement agencies have information regarding: (1) the type of conduct covered by CANRA; (2) the categories of individuals who qualify as mandated reporters; (3) the required content of a mandated report; and (4) the scope of law enforcement agencies’ responsibility to accept reports of known or suspected child neglect or abuse, including those arising in youth sports, regardless of whether the report is made by a mandated reporter or another person. This bulletin is being circulated to ensure that law enforcement agencies across the state continue being effective partners in the detection and investigation of abuse of children and youth.

Section A provides a summary of the conduct and situations covered by CANRA. Section B summarizes the CANRA provisions relating to law enforcement agencies’ responsibilities to accept reports.

A. MANDATED REPORTER OBLIGATIONS UNDER CANRA

1. What Type of Conduct Must Be Reported?

CANRA requires mandated reporters to report known or reasonably suspected abuse or neglect of children under the age of 18. (Pen. Code, §§ 11165, 11166(a).) Mandated reporters must make a report to the agencies specified below in section (B)(1) whenever they, in their professional capacity or within the scope of their employment, have knowledge of or observe a child whom they know or reasonably suspect has been the victim of child abuse or neglect. (Pen. Code, § 11166, subd. (a).)

“Reasonable suspicion” does not require certainty, or a specific medical indication, that the abuse or neglect has

taken place. (Pen. Code, § 11166, subd. (a)(1).) Instead, the reporting obligation is triggered when an objectively reasonable person, based on the facts and drawing on their experience or training, suspects child abuse or neglect. (*Ibid.*) Any “reasonable suspicion” is sufficient to report suspected abuse or neglect. (*Ibid.*)

Child abuse or neglect includes physical injury or death, sexual abuse or exploitation, neglect, the willful harming or injuring of a child or the endangering of the person or health of a child, and unlawful corporal punishment. (Pen. Code, §§ 11165.1-11165.4, 11165.6.)

Additionally, any mandated reporter may, but is not required to, make a report if they reasonably suspect that a child is suffering—or is at a substantial risk of suffering—serious emotional damage, evidenced by states of being or behavior, including, but not limited to, severe anxiety, depression, withdrawal, or untoward aggressive behavior toward self or others. (Pen. Code, § 11166.05.)

2. Who Qualifies as a Mandated Reporter?

Mandated reporters are individuals who are legally bound to make reports of known or suspected child abuse or neglect. They include numerous categories of persons who, because of the nature of their position, are more likely to become aware of child abuse or neglect. A full list of mandated reporters is contained in California Penal Code section 11165.7. The list includes, but is not limited to:

- Coaches or assistant coaches;
- Teachers, instructional aides, or teachers’ assistants;
- Administrators of a day camp;
- Administrators or employees of youth recreation programs; and
- Administrators, board members, or employees of public or private organizations whose duties require direct contact and supervision of children.

The list of mandated reporters contained in California Penal Code section 11165.7 does not exclude persons who are located out-of-state. (Pen. Code, § 11165.7.)

Importantly, CANRA also allows persons who are not mandated reporters under California law to report known or suspected cases of child abuse or neglect, and law enforcement agencies are legally required to accept reports from these individuals. (Pen. Code, § 11165.9.)

3. What Information Must Mandated Reports Contain?

Mandated reporters must provide the following information pursuant to Penal Code section 11167, subdivision (a):

- The mandated reporter’s name, business address, and telephone number. If the person making the report is not a mandated reporter, as defined in Penal Code section 11165.7, their name is not required as part of the report (Pen. Code, §§ 11166 subd. (g), 11167, subd. (f).);
- The capacity that makes the person a mandated reporter;
- The information that gave rise to the reasonable suspicion of child abuse or neglect; and
- The source or sources of that information.

The following information, if known, is also required:

- The child’s name;
- The child’s address;
- Present location, and if applicable, school, grade, and class;

- Names, addresses, and telephone numbers of the child's parents or guardians; and
- The name, address, telephone number, and other relevant personal information about the person or persons who might have abused or neglected the child.

(Pen. Code, § 11167, subd. (a).)

However, law enforcement agencies must accept reports even if some of this information is unknown or uncertain to the person making the report. (Pen. Code, §§ 11165.9, 11167, subd. (a).)

4. When and How Must Mandated Reports be Filed?

Immediately, or as soon as is practicably possible, when there is reasonable suspicion that sexual abuse or neglect occurred, a mandated reporter must make a telephone report to the local law enforcement agency, county welfare agency, or, if applicable, to the county probation department. (Pen. Code, § 11166, subd. (a).) Further, the reporter must make a written follow-up report by mail, fax, or electronic means within 36 hours of receiving the information about the incident. (*Ibid.*)

B. RESPONSIBILITIES OF LAW ENFORCEMENT AGENCIES

1. Which Agencies Must Accept CANRA Reports?

The following agencies must accept reports of suspected child abuse or neglect:

- Police or sheriff's departments (not including school district police or security departments);
- County probation departments (if designated by the county to receive mandated reports); and
- County welfare departments.

(Pen. Code, § 11165.9.)

2. Must Agencies Lacking Subject Matter or Geographical Jurisdiction Accept Reports?

Yes. Agencies outlined above in Section (B)(1) must accept reports of child abuse or neglect even if they lack subject matter or geographical jurisdiction to investigate the reported case. (Pen. Code, § 11165.9.) After taking the report, the agency lacking jurisdiction must immediately refer the case (by telephone, fax, or electronic transmission) to an agency with proper jurisdiction. (*Ibid.*)

Agencies that are required to receive reports may not refuse to accept reports and must keep a record of all reports received. (*Ibid.*) An agency is only exempt from its obligation to accept a report when it can immediately transfer the call electronically to an agency with proper jurisdiction. The agency, however, cannot escape this obligation by simply directing the person attempting to make the report to call the agency with jurisdiction. (*Ibid.*)

3. From Whom Must Agencies Accept Reports of Known Or Suspected Abuse or Neglect?

Agencies are required to accept reports of child abuse or neglect made by a mandated reporter or any other person. (Pen. Code, § 11165.9.) CANRA does not require that the person making the report be the victim or a relative of the victim, or that the reporter be located in California.¹ (*Ibid.*)

¹For example, staff from out-of-state agencies sometimes make reports of abuse against children. One of these agencies is the U.S. Center for SafeSport, which is an independent national sports organization that Congress created to receive and investigate allegations of sex abuse against youth amateur athletes and others involved in Olympic and Paralympic sports. (36 U.S.C. § 220541.)

4. Can Agencies Reject a CANRA Report When the Report is Not Made in Person?

No. CANRA does not require that reports be made in person. Mandated reporters are required to make the initial report immediately by telephone and follow up with a written report within 36 hours. (Pen. Code, § 11166, subd. (a).) The written report must be submitted on form “[BCIA 8572](#)” adopted by the Department of Justice.² (Pen. Code, § 11168.)

5. Are Persons Making CANRA Reports Entitled to Confidentiality?

Yes. The identity of persons who make CANRA reports must be kept confidential and disclosed only as follows:

- Among agencies receiving or investigating mandated reports, to the prosecutor in a criminal prosecution or in an action initiated under section 602 of the Welfare and Institutions Code arising from alleged child abuse;
- To counsel appointed pursuant to subdivision (c) of section 317 of the Welfare and Institutions Code;
- To the county counsel or prosecutor in a proceeding under Part 4 (commencing with section 7800) of Division 12 of the Family Code or section 300 of the Welfare and Institutions Code;
- To a licensing agency when abuse or neglect in out-of-home care is reasonably suspected;
- When the person making the report waives confidentiality; or
- When ordered by a court.

(Pen. Code, § 11167, subd. (d)(1).)

The identity of persons who make CANRA reports cannot be disclosed to that person’s employer, except when the person making the CANRA report gives consent or when ordered by a court. (Pen. Code, § 11167, subd. (d)(2).)

6. Are CANRA Reports Confidential?

Yes. CANRA reports are confidential, except as outlined in California Penal Code section 11167.5, subdivision (b).

² The BCIA 8572 form can be found at: https://oag.ca.gov/sites/all/files/agweb/pdfs/childabuse/ss_8572.pdf.