

# Making a Mandatory Child Abuse Report: Best Practices

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Domestic violence advocates' communications with survivors are privileged. That means advocates must maintain confidentiality with a few exceptions – reporting child abuse being one of them.

*This document focuses on ONE exception to confidentiality: **your obligation to report child abuse or neglect.***

Reporting child abuse is a serious step to take with significant impacts on the survivor and the children. Consult with other staff if you are unsure about the necessity of reporting. Alternatively, call the child abuse reporting line and discuss the situation with them without identifying yourself or the survivor and find out if they think it meets their criteria for child abuse or neglect. Use this information to plan your next steps.

## *What is child abuse?*

State definitions of child abuse and neglect should guide decision-making about what to report:

- Child abuse: sexual abuse, sexual exploitation, or injury of a child by any person that causes harm to the child's health, welfare, or safety.<sup>1</sup>
- Neglect: an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, that evidences a serious disregard of consequences of such magnitude as to constitute a clear and present danger to a child's health, welfare, or safety...<sup>2</sup>
- Exposure to domestic violence....that is perpetrated against someone other than the child does not constitute negligent treatment in and of itself.<sup>3</sup>

Caution! Be sure to distinguish between abuse and neglect vs. mediocre parenting or normal parenting challenges. When survivors' parenting is weak, but you are not sure it rises to the level of abuse or neglect, be sure to do the following:

- Make sure you are providing the survivor the best support possible around her parenting
- Consult with other advocates, and local parenting experts about how to support the survivor
- Identify resources and offer them to the survivor
- Get help from colleagues and experts around making the distinction between poor parenting vs. abuse and/or neglect

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<sup>1</sup> [RCW 26.44.020](#)

<sup>2</sup> [RCW 26.44.020\(15\)](#)

<sup>3</sup> [RCW 26.44.020\(15\)](#)

## *What about peer-on-peer dating violence?*

Washington law<sup>4</sup> is fundamentally unclear regarding mandatory reporting obligations in the case of peer-on-peer dating violence. If you have “reasonable cause” to believe that a child has experienced abuse or neglect, you must make a report to Child Protective Services (CPS) and/or law enforcement within 48 hours.<sup>5</sup> WSCADV consulted with DSHS/Children’s Administration staff, law enforcement, and others and concluded that in most cases teen dating violence<sup>6,7</sup> will not trigger an advocate’s mandatory reporting duties. That said, if you reasonably believe your client experienced serious physical abuse resulting in actual injury, and particularly if that serious physical abuse is ongoing, you should report it. Your job is to be the most effective advocate possible, even when you are also a mandatory reporter. Many of your advocacy skills can be used to ensure your client understands the process, receives essential support, and is empowered to make informed choices. See [this document](#) for more information.

## *Who do I report to and by when?*

*Child abuse can be reported to law enforcement or the Division of Children and Family Services (DCFS).*

In most cases, it is appropriate to call DCFS. (Unless it is peer-on-peer dating violence. In this case, a report to law enforcement makes more sense since it is beyond the scope of CPS who focuses on abuse by parents and caregivers.) First choice is to call your local office directly. Alternatively you can call DSHS’s toll free hotline: 1-866-ENDHARM (1-866-363-4276). If a non-biologically related adult has harmed or sexually abused a child, Law Enforcement should be notified.

If you do identify abuse or neglect, you must report it within 48 hours. “At the first opportunity, but in no case longer than 48 hours after there is reasonable cause to believe that the child has suffered abuse or neglect. The report must include the identity of the accused if known.”<sup>8</sup>

## *What do I report?*

**Only limited information** (contact information and what you think happened that is reportable). It is important to know that CPS can request relevant records related to the child during their investigation (but NOT everything you know about the survivor or the survivor’s records). See [this document](#) for more explanation.

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<sup>4</sup> If your program receives any VAWA funding, there are even stricter confidentiality expectations and you should only make a report if: your client consents to you making the report, or you believe you must report it, because you are certain that in your jurisdiction, your local CPS or law enforcement office would consider it sufficiently serious to require a report.

<sup>5</sup> [RCW 26.44.030\(1\)](#)

<sup>6</sup> Criminal sexual assault against a minor of any age is reportable

<sup>7</sup> [RCW 9a.44](#)

<sup>8</sup> [RCW 26.44.030\(1\)\(e\)](#)

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## *What are some best practice advocacy tips?*

### **Keep your empowerment-based advocacy skills central when talking with the survivor about reporting child abuse.**

- Whenever possible, talk directly with the survivor about the need to report child abuse before the report is made.
- If possible, help the survivor report the abuse herself. Or make the report in her presence.
- Assure the survivor of your support and advocacy throughout the process. Be calm and compassionate.
- Explain how improving parenting and increasing the children's well-being connects with her goals for herself and her children
- Validate the difficulty of parenting in the context of abuse.
- Help her see the situation through the child's eyes.
- Help her anticipate the potential outcomes and consequences of various courses of action.
- Educate the survivor about the positive resources DCFS may be able to provide (for example, support for counseling for her and her kids, or money to change locks or move into safer housing.)
- Tell the survivor about how DCFS works, what the likely outcomes are, and how you can support her.

### **Safety plan with the survivor**

- Help her anticipate how the child abuse report, investigation and intervention may impact her safety.
- Anticipate the abuser's response to DCFS intervention.
- Depending on the abuser's likely response, she may be safer staying at shelter, friends' or relatives homes.
- Work with her to weigh the costs/benefits of petitioning for a protective order **versus** asking the DCFS worker to file an order for the child's protection, or creating another plan for safety altogether.
- Help her plan how to talk to children about what may happen in a way that minimizes their fears and trauma.
- As the case unfolds, advocate on the survivor's behalf to inform DCFS workers about the dynamics of DV and the safety issues related to DCFS requirements of the survivor.

### **As part of safety planning, help the survivor think through what the DCFS social workers can do to help her increase her safety. Help the survivor know what DCFS workers can do.**

Survivors can make the following requests of social workers:

- Ensure that the survivor's physical location or address are NOT recorded in the case file for safety reasons.
- Let the survivor know when the abuser will be contacted.
- Call the survivor before or after contacts with the abuser.

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- Let the survivor know when communications are likely to come from DCFS to the abuser (so the survivor can plan for her potential increased danger at these times).
- Under [RCW 26.44.063](#), DCFS workers can petition for a Protective Order barring the abuser's presence in the home (rather than the survivor asking the courts for an order).

**Make sure the DCFS social worker knows:**

- the survivor's strengths,
- how the survivor has sought to protect and/or nurture the children,
- the survivor's thinking on what will help to increase safety for the children,
- and how the abuser's pattern of violence and control contributed to the concerns that brought about the child abuse/neglect report.

**Remember your obligations around confidentiality:**

As an advocate, you are permitted to break confidentiality in the course of fulfilling your legal obligation to make a mandatory report of child abuse.

- This means you may share limited information about the names and contact information of the parties involved, and information about the suspected abuse and/or neglect.
- After making a report, DCFS may request additional information from you or your program as part of their investigation. They are entitled to receive the child's written records,<sup>9</sup> but nothing else, unless the survivor has given you written permission to share it.

**A note about telling survivors about the need to report:**

There may be times when informing the survivor of the need to report abuse may lead to her fleeing your program with the children before DCFS can investigate, and you are gravely concerned for the children's safety with the survivor.

- In these cases, it is acceptable to make the report *before* alerting the survivor to your need to do so, and to wait to tell the survivor about the DCFS intervention until the social worker arrives at the program to see the children. (But keep in mind this is *not* ideal, and should be avoided if at all possible.)
- DV programs have had success being calm, matter of fact, and compassionate at these times.
- Continue to provide advocacy to the survivor and offer her choices (e.g.: meet with the social worker on her own, or have you accompany her).

**Additional Resources:**

Model Release of Information and model Notice of Participants Right to Confidentiality, Model Protocol on Confidentiality When Working with Battered Women-2007 WSCADV, Model Protocol for Advocates Working with Battered Women Involved in the Child Protection System which can all be found at

<http://wscadv.org/resources/>

[Advocacy Matters: Helping Mothers and their Children Involved in the Child Protection System](#)

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<sup>9</sup> [RCW 26.44.030\(11\)](#)

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