

**WHEN TO CONTACT CHILD PROTECTIVE SERVICES (CPS) IN DOMESTIC
VIOLENCE CASES: A GUIDE FOR MANDATED REPORTERS**
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1. Under California law a mandated reporter must report, among other things, willful child endangerment or the willful infliction of unjustifiable physical pain or mental suffering on a child. See Penal Code § 11165.3. In the context of domestic violence, a mandated reporter must consider whether there is a risk of physical or emotional harm to the child. The fact that a child's parent or guardian has been the victim of domestic violence is not in and of itself a sufficient basis for reporting suspected child abuse or neglect. Further, a child's exposure to a domestic violence incident in and of itself is not a sufficient basis for reporting suspected abuse or neglect. Other factors must exist which lead the mandated reporter to reasonably suspect that the child's physical or emotional health **is endangered** as the result of domestic violence. Mandated reporters in Santa Clara County may consult with a screener at the CPS Hotline at 408-299-2071 to determine whether a report is required.

2. A mandated reporter must report suspected child abuse or neglect to Child Protective Services (CPS) in the following domestic violence cases:
 - a. **A domestic violence incident which caused physical injury to the child or created a serious risk of physical injury to the child.**

Factors to consider in determining whether a domestic violence incident created a serious risk of physical injury to the child include, but are not limited to the following: Were objects thrown or broken in the presence of the child? Did the perpetrator threaten to harm or conceal the child? Did the perpetrator strike a victim who was holding a child or did the perpetrator hold a child while striking the victim? Did the child physically intervene in the domestic violence? Did the perpetrator threaten to kill or commit suicide? Did the perpetrator threaten the victim with a gun, knife or other weapon? Did the perpetrator kick or bite or hit the victim with a fist? Did the perpetrator hit or attempt to hit the victim with an object? Did the perpetrator choke or strangle the victim? Did the perpetrator stalk the victim or child?

OR

- b. **A domestic violence incident which caused serious emotional damage to the child or created a substantial risk of serious emotional damage to the child.**

Serious emotional damage (SED) in the context of child protection law means the child exhibits severe anxiety, depression, withdrawal, untoward aggressive

behavior toward self or others, as the result of the conduct of a parent or whose parent is incapable of providing appropriate care. (See Welfare and Institutions Code § 300, subd. (c).) A report should be made if the child's SED was caused by domestic violence perpetrated by a parent. Regardless of who the perpetrator is, a report also should be made if the parent who is a victim of domestic violence is: (a) incapable of providing for the child's treatment or care for SED caused by domestic violence; or (b) unable to protect the child from repeated exposure to domestic violence even with the assistance of community and child welfare services.

3. A report to CPS does not mean that the child will be removed from the domestic violence victim's home. The CPS social worker must consider the complexities of each case and determine the impact of the domestic violence incident (and other indications of maltreatment) on the child. The law requires that CPS make a reasonable effort to prevent the need for removal of any child and keep the child in the care of a non-offending parent whenever possible. The child's safety will be assessed in terms of "the nature and severity of past violence, the risk of violence in the future, the child's degree of exposure and resilience, the presence of protective factors in the immediate and extended family, and available support from the community." (See *Effective Intervention in Domestic Violence and Child Maltreatment Cases: Guidelines for Policy and Practice* ("Green Book"), National Council of Juvenile and Family Court Judges, 1999, p. 64.)

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