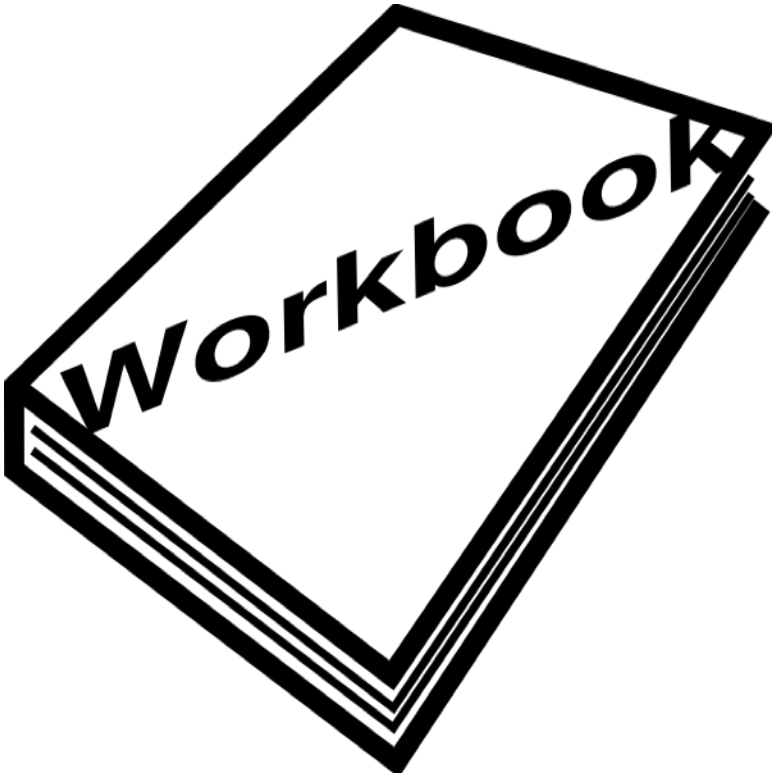
Arizona's Mandated Reporting Laws



Participant Workbook

This training material cannot be changed pursuant to the A.Z Statute 15-245.

Agency Representative

Created by the Arizona Prosecuting Attorneys' Advisory Council (APAAC), pursuant to A.R.S. 15-245.

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COURSE DESIGN

Training Goal

The purpose of this training is to provide an overview of Arizona's mandatory reporting laws. This presentation and slideshow is not legal advice as to any specific situation. For legal advice, you should consult an attorney who represents you or your organization.

Learning Objectives: Bloom's Revised Taxonomy

1. Understand the myths of sexual abuse so that myths do not stand in the way of reporting.
2. Learn how sex offenders operate.
3. Recognize the four types of abuse.
4. Learn who is a mandatory reporter.
5. Know when and how to report.

Assessment Plan: Kirkpatrick Model

1. Learning: New skills/knowledge/attitudes? Participants will complete a post-training quiz to verify acquired knowledge; minimum acceptable score of 80%.
2. Behavior: Participants will demonstrate expected performance criteria as dictated by Arizona Statues.
3. Results: Participants will have knowledge and skills necessary to report all suspected child abuse pursuant Arizona Statues.

SECTION 01: WELCOME AND INTRODUCTION

Created by the Arizona Prosecuting Attorneys' Advisory Council (APAAC) with the assistance of the Arizona Department of Child Safety, pursuant to A.R.S. 15-245.

Presented by

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NOTE: **In this presentation, whenever "child" or "minor" is used, it refers to a person under the chronological age of 18.*

SECTION 02: QUIZ- DEBUNKING PERCEPTIONS

QUIZ

For people to report, they must understand that abuse does not always fit their perceptions. The purpose of this slide is to "debunk" some of the perceptions that might make people disbelieve or discount a report.

Most victims tell right away or soon after the abuse.

- Yes/True
- No/False

Most sexual abuse results in some form of physical evidence.

- Yes/True
- No/False

Offenders who molest males outside of the home tend to have a lower number of offenses.

- Yes/True
- No/False

Offenders hardly ever molest with others present or nearby.

- Yes/True
- No/False

Most sex offenders were child victims of sexual abuse.

- Yes/True
- No/False

Most victims tell right away or soon after the abuse.

- Yes/True
- No/False

Do most abuse victims tell right away after the abuse?

○ Yes

● No

_____ of adults who say they were abused as children said that they did not disclose the abuse during childhood.

Those who disclose while still _____ usually do so after _____ delay.

See, e.g., Disclosure of Child Sexual Abuse: What Does the Research Tell Us About the Ways That Children Tell?
London, Bruck, et al, Public Policy, and Law2005, Vol. 11, No. 1, 194 –226
Copyright 2005 by the American Psychological Association:
"In summary, these data indicate that two thirds of adults who claimed in retrospective surveys to have been abused as children reported that they did not disclose the abuse during childhood."

NOTE: This is not to say that victims of physical abuse or neglect tell right away. Delay is the rule no matter the type of abuse.

Do most molestations result in some form of physical evidence?

○ Yes

● No

Less than _____ % of cases

Likewise, a minor's behavior may or may not change.

“In fact, findings strongly suggestive of sexual abuse were observed in <5% of abused children. Therefore, genital examination is unlikely to support or negate the child’s history. Thus it is critical that legal experts focus on the child’s history as the primary evidence of sexual abuse.”
Berenson et al, “A Case-Control Study of Anatomic Changes Resulting from Sexual Abuse”, Am J ObstetGynecol 2000;182:820-34 (2000

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Do offenders who molest males outside of the home tend to have a lower number of offenses?

○ Yes

● No

	Acts	Victims
Girls within family	81.3	1.8
Males outside of family	281.7	150.2

Study of 561 sex offenders by Dr. Gene Abel discussed in Child Molesters: A Behavioral Analysis for Law Enforcement Officers Investigating Cases of Child Exploitation (1992) Kenneth V. Lanning.

Do offenders molest with other present or nearby?

- ● Yes
- ○ No

_____ % molested with another child present

_____% molested with another adult present

_____% molested with both another adult and another child present

_____% of those who had not molested with others present felt that they may have progressed to that point

Underwood RC, Patch PC, Cappelletty GG, Wolfe RW. Do sexual offenders molest when other persons are present? A preliminary investigation. Sex Abuse. 1999 Jul; 11(3):243-7. doi: 10.1177/107906329901100307. PMID: 10497783.

An immediate reaction to hearing that an offender abused in front of others might be,

"No one in his or her right mind would do such a thing".

Although, offending in front of others really is the mark of a sophisticated abuser. Here are some reasons:

1. Some offenders like the rush of having others see and then getting away with it.
2. It convinces the victim child that others know what is going on and either
   a) The behavior is normal or accepted, or
   b) No one is going to help, making any thought the child might have of reporting seem pointless.
3. It "grooms" the non-abused children to convince them that this behavior is normal or accepted. They also see that no one else, including the victim child, is reporting.

4. Adults second-guess themselves: "Surely no one would be doing that in front of me. I must have misunderstood."
5. It sets up an automatic defense – what juror would believe that someone would do that in front of others?

Were most sex offenders victims of child abuse?

○ Yes

● No

Hindman et al, Polygraph Testing Leads to Better Understanding Adult and Juvenile Sex Offenders, FEDERAL PROBATION 65:3, page 8 (2001).

"

1. Among the material findings of this study are:
2. Adults will lie and understate by a factor of five to six the number of sexual crimes they have committed.
3. Adults will lie and under report their history as a juvenile sex offender.
   Adults will lie and over report their history of childhood sexual victimization.
4. With polygraphs, they disclose six times as many victims and most confess that they were sexually offending as juveniles. "

Two tables referenced in the Hindman study follow:

TABLE E

Comparing the Histories of Juvenile Offenders in Residential Care Before and After Polygraph Testing

	Pre-Polygraph	Post-Polygraph
Average number of victims reported	2.1	11.6
Reported being sexually abused as a child	83%	17%

TABLE F

Comparing the Histories of Adult Offenders Before and After Polygraph 1994–1999

	Pre-Polygraph	Post-Polygraph
Average number of victims reported	2.9	11.6
Percent reporting being sexually abused as a child	61%	30%
Percent reporting sexually abusing others as a child	27%	76%

Process of Victimization

Victim Selection:
If there is one word to learn, it is “vulnerability”. Vulnerability has many faces: Troubled child, child with reputation for not telling the truth or getting in trouble, drug or alcohol use, a child who acts up, or a child who has absent or disengaged parents are examples. Sometimes victims are chosen because they fit the offenders’ desires: By gender, age, appearance. However, this is not always true. Offenders can offend across many lines including gender, age, and appearance. Rapists can molest. Molesters can expose themselves to adults. By choosing a child who is vulnerable, the offender is hoping that the child will not be believed or that no one will care.

Engagement:
This is the psychological breaking down of boundaries. Giving gifts or special privileges, sharing secrets, convincing the child that the relationship is special. It can also have a more aggressive tone: I am the only one who cares, no one else will help you.

Grooming:
This is the physical breaking down of boundaries. It can include sexually inappropriate jokes, showing the child adult pornography, wrestling, back rubs, close hugging initiated by the adult. This is why it is critical for organizations to have policies that define concerning but non-criminal behavior.

Assault:
This is the criminal act itself.
Concealment: This is what the offender does to keep the child from telling. It can be a threat, but it is not always that overt. If an offender is good at victim selection, engagement, and grooming, he or she does not have to do much concealment – it is built into the relationship. The threat does not have to involve violence. “If you tell, I’ll go to jail” can be terrifying to a child who knows that the offender is the breadwinner. It can also be terrifying to a child who likes the offender better than the other parent.

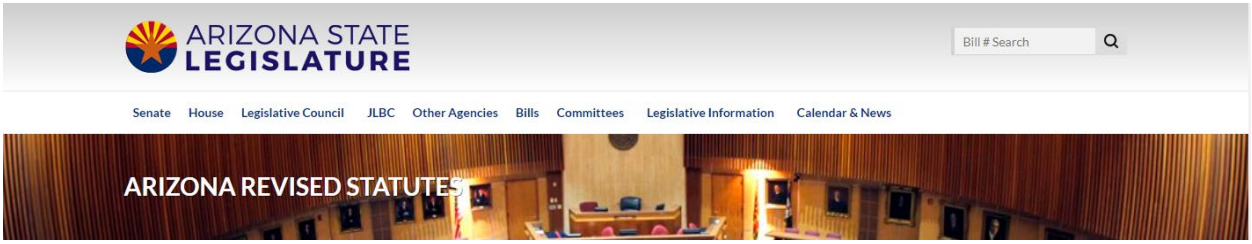
Suppression:
This is what the offender does to destroy the child’s credibility so if the child does tell, he or she is automatically discounted. The offender’s efforts at this phase are aimed at those around the child. An example of this is a

person who spends a great deal with a child “to get him or her on the right path”, but repeatedly stresses to others how dishonest the child is.

One caveat:
Some of the acts discussed above can be very harmless and normal. It’s okay to hug a child. The question is why. Did the child initiate or look uncomfortable? Did the hug comport with reasonable boundaries? Again, a “yes” answer to these questions does not alone signify that the person is planning to assault the child. That is why policies are so important. A normal person who is counseled that he or she has stepped outside of normal boundaries typically will never do that again.

SECTION 03: ARIZONA’S MANDATED REPORTING LAW

A.R.S.§ *13-3620*



A.R.S. § 13-3620

Arizona’s Mandated Reporting Law

NOTES:_____
_____
_____
_____

Educational mandatory reporting law: A.R.S. 15-514

- Similar to A.R.S.*§ 13-3620*
- Provides protection from liability as long as report is made in good faith
- Prohibits reprisals for such reporting

A.R.S.§15-514

A governing board or school district employee who has control over personnel decisions and who has or receives a reasonable allegation that a person certificated by the state board of education has engaged in conduct subject to the reporting requirements of section 13-3620 shall not accept the resignation of the certificate holder until these suspicions or allegations have been reported to the state board of education.

Educational mandatory reporting law is very similar to A.R.S. 13-3620. A.R.S. 15-514 also provides protection from liability as long as report is made in good faith. Likewise, it prohibits reprisals for such reporting.

Applies if the mandatory reporter reasonably believes that a minor is or has been the victim of:

- _____ abuse
- Physical abuse
- _____
- Emotional abuse

As used in this presentation, “child” or “minor” means anyone under 18. This refers to the chronological age. An adult who has the mental age of someone under 18 is still considered an adult. Arizona has a very similar law that requires certain persons to report the abuse, neglect, or exploitation of vulnerable adults. *See* A.R.S. 46-454.

Reporting is not mandatory if the child abuse victim is an adult when the mandatory reporter finds out about the abuse. However, even though reporting is not mandated, you still <u>may</u> report. If the accused still has contact with children (in other words, if they are still alive), seriously consider reporting. Certainly, consult with a civil attorney that represents your organization since failing to report may result in civil liability

Reasonable Belief

Reasonable belief means:

- "That if there are ANY facts from which one could reasonably conclude that a child had been abused, the person knowing those facts is required to report."
    - These facts can come from third party.

L.A.R. v. Ludwig, 170 Ariz. 24, 27 (App. 1991)

A reasonable belief is not the same as the criminal trial standard of beyond a reasonable doubt. "Reasonable belief" is a much lower standard. It is a lower standard than probable cause. Ask yourself this: Would you feel comfortable testifying in a lawsuit and telling a jury "based on what I knew, I did not report". If you would not feel comfortable telling people, you did nothing, then report.

Mandatory Reporters

Two primary categories of Mandatory Reporters:

Persons who develop "_____ belief" while working.

Persons who develop "reasonable belief" at _____ _____.

Persons who must report based on reasonable belief developed while working:

- _____ Personnel (even if the victim does not attend the same school)
- _____ _____ Victim Advocate

NOTES:_____
_____
_____
_____

“School personnel” is not limited to teachers.

The school personnel must report…

-If a student reports to school personnel that a sibling who does not attend the same school is being abused, the school personnel must report.

-What about a teacher who runs into a student in the grocery store, and the child discloses abuse? Technically the teacher did not learn of the abuse “in the course of his/her duties”. Who cares if the law does not technically require a report? A child may be being abused.

REPORT

This is not a must / can’t law (i.e., it doesn’t prohibit reporting that is not required). It is a must / may law – if you don’t have to report, you still may.

Persons who must report based on reasonable belief developed while working continued (Fill in the blank):

Treating a Patient:

Nurse _____

Social Worker _____

Physician _____

Osteopath _____

Chiropractor

Podiatrist

Behavioral _____ Professional

NOTES:_____

_____

_____

_____

Persons who must report based on reasonable belief developed at any time:

- Peace Officer, OCWI, _____
- Member of the Clergy
- _____
- Christian Science Practitioner
- _____, stepparent, or guardian of the minor believed to have been abused
- Any other person who has responsibility for the care or treatment of the minor

Day care worker or babysitter are clear examples of the last bullet point. Some may wonder about other positions such as a Bible study teacher, camp counselor, or someone who gives the child music lessons, or a sports coach. The answer is this:

REPORT A child may be being abused.

Anyone with Reasonable Belief May Report!

You do not have to be a mandatory reporter to report.

NOTES:_____
_____
_____
_____

"[W]e do not believe our legislature intended persons with knowledge of alleged child abuse to conduct their own investigation to decide whether enough evidence of abuse exists to warrant a report."

-Arizona Court of Appeals

L.A.R. v. Ludwig, 170 Ariz. 24, 28 (App. 1991)

DO NOT INVESTIGATE

— Leave the investigation up to DCS and law enforcement.

EXAMPLE

Mary says to you, "Susie told me that her dad is touching her privates at night". Your duty is not to call Susie in and interview her. Your duty is not to call Susie's mom. Your duty is not to confront Susie's dad. Your duty is to report.

In a physical abuse case, you may ask four questions if you do not already know the answers:

? Who (did it)?

? What happened?

? Where did it happen?

? When did it happen?

This last question does not mean, “Tell me every time that something happened”. It is to find out the most recent or last time so authorities can determine whether there is a need for an immediate medical examination. If the child tells another person who then tells you, get this information from the other person so you do not have to ask a question to get information that the child already has provided.

To Whom?
If suspect has care, custody or control of the minor, you should (but not must) report to both _____ or _____.

If suspect does not have care, custody or control of the minor report to _____ _____ only.

We highly recommended that you report to both. Each agency serves a different purpose.

Law enforcement primarily is concerned with the abuser.
DCS is focused on a safe placement for the child.

While the agencies must inform each other of the allegation, the sooner they both can be notified, the better for the child.

Common Situation
People report to DCS that one sibling is abusing another sibling. Since the abuser sibling does not have “care, custody, or control” of the victim sibling, DCS does not have the jurisdiction to act. However, if the parents are aware of the abuse and are not protecting the victim, DCS may become involved. In such cases, it is critical for the reporting party to notify the DCS Hotline that the parents are not protecting.

NOTES:_____
_____
_____
_____

How to Report

Police:
Call the police in the city / town where the crime occurred.
If the crime occurred in an unincorporated area, call the sheriff.
If you are not sure where the crime occurred or which agency to call, call the police in the city / town where you are.

DCS: 1-888-SOS-CHILD (1-888-767-2445)

Childhelp Hotline: 1-800-4-A-CHILD or 1-800-422-4453.

If the crime occurred out of state, you can attempt to call the proper police agency in the other state, but your local law enforcement also can help you.

Not Sure and Want to Talk?
Call the Childhelp Hotline:
1-800-4-A-Child or 1-800-422-4453

This hotline is staffed 24/7/365. This will not satisfy the reporting requirement, but it will get you to a trained professional who can help you decide whether you have to or should report.

You must report immediately.

— If you do not report immediately and the child goes home, abusers have an uncanny way of finding out that the child reported.

Discretionary reporter is everyone outside of mandated reporters.

What should the report contain?

The Report must contain:

1. _____ & Addresses of the minor and the parents or custodians of the minor.
2. The minor's _____ and the nature and extent of the abuse, physical injury or neglect (including evidence of prior abuse, physical injury or neglect).
3. Any other information the person reporting believes might be helpful in establishing the cause of the abuse, physical injury or neglect.

If you do not have all of this information, report the information, you do have. You do not have to investigate to find out.

Do not be afraid of telling the authorities about past observations. Sometimes it takes a series of events (multiple injuries with unlikely explanations) to realize that abuse or neglect is occurring.

Failure to Report

- Failure to report a sex-related offense is a class 6 felony.
- Failure to report all other offenses is a class 1 misdemeanor.

The duty to report is a personal responsibility.
An organization's policy does not trump state law. If your organization has a policy that requires you to report to someone, that is fine. If you do tell them, you simply make them an additional mandatory reporter. If a teacher, *e.g.*, tells a principal, the ideal is for the two of them to report together.

Reporters are civilly immune even if the abuse turns out to be not true.

- Unless the person acts with _____.

Malice means that the person knew the allegation was not true or was reckless about whether it was true.

Exceptions to Reporting

A report is not required if (Fill in the blanks)

- BOTH parties are _____, 15, 16, or _____ years old and
- There is nothing to indicate conduct is other than _____ and
- Conduct involves
    - Intercourse, oral sexual conduct, anal sex
    - Touching breasts
    - Masturbatory conduct
    - Touching of genitals

A common question is…
"What if one party is 18 and the other is 17, do I have to report?"

The answer under this statute is **"yes"**.
However, please know that there are other statutes that govern what can and cannot be prosecuted. Sometimes all of the laws do not exactly mesh up.

For example, A.R.S. 13-1407(E) says: "It is a defense to a prosecution [for Sexual Conduct with a Minor and Aggravated Luring a Minor for Sexual Exploitation] if the victim is fifteen, sixteen or seventeen years of age, the defendant is under nineteen years of age or attending high school and is no more than twenty-four months older than the victim and the conduct is consensual.

The bottom line is this: Your job is to report. Just because you report, does not mean that the police will submit the case for charges or even conduct a full investigation. In addition, even if the police do submit for charges that does not mean that the prosecutor will file charges.

BEWARE: It is not uncommon for a victim to say that the other person is also a teenager to shield him or her from trouble.

Other Exceptions to Reporting (fill in the blanks using the next two slides)

- Some _____ if recognized by the church
  - Applies only to communications, _____ observations.
  - If third party present, communication may not be privileged.
- _____/Client privilege
- Disclosures made in sex offender treatment
  - Court ordered treatment: _____ must report, but the information cannot be used by prosecution.*
  - If offender voluntarily attends treatment and makes statements: Therapist <u>may</u> report, but we can use the information to prosecute.**

**See* A.R.S. 13-4066 concerning sex offender treatment.

**Under A.R.S. 13-3620(C):
If a physician, psychologist or behavioral health professional receives a statement from a person other than a parent, stepparent, guardian or custodian of the minor during the course of providing sex offender treatment that is not court ordered or that does not occur while the offender is incarcerated in the state department of corrections or the department of juvenile corrections, the physician, psychologist or behavioral health professional may withhold the reporting of that statement if the physician, psychologist or behavioral health professional determines it is reasonable and necessary to accomplish the purposes of the treatment.

Playground Injury Exception (fill in the blank)

- Minor is elementary school age and the physical injury
  - Occurs _____during typical playground activity during a school day
  - Occurs at the school that the minor attends
  - Is reported to the legal parent / guardian, and
- School maintains a written record of the incident

What Acts are Included?

Child Abuse (fill in the blanks using the next two slides)

- Not all child abuse is an intentional act, such as deliberately hitting a child.
- Abuse can be reckless or negligent, such as
  - Leaving a young child_____.
  - Leaving _____/needles in a child's reach.
  - Leaving a loaded _____ in a child's reach.
  - Driving under the influence of drugs or alcohol with a child in the car.
  - Allowing a child to live in filthy conditions.
- If a child is in a person's care or custody, that person may not cause/permit the child to be
  - Injured
  - Placed in a situation where the child's person or _____ is endangered.
  - This also would include
  - Leaving a child with someone who presents a danger to the child, such as a _____ _____.
  - Allowing a child to be in a _____ house.

Drug houses not only have drugs in them – the chemicals to make drugs often are dangerous in and of themselves.

NOTES:_____
_____
_____
_____

Physical Injury (Fill in the blanks)

- Skin _____
- Pressure sores
- Bleeding
- Failure to _____
- Malnutrition
- Dehydration
- Burns
- _____ of any bone
- Subdural hematoma
- Soft tissue swelling
- _____ to any internal organ
- Any physical condition that imperils health or welfare

Please note that Arizona law does not prohibit corporal punishment. However, if that punishment is unreasonable, report it.
Use common sense:

- How old is the child?
- How frequent is the "punishment"?
- Where was the child hit (buttocks vs. head)?
- Was an implement used? (Using an implement alone does not make the conduct illegal, but there is a difference between a rolled up newspaper and a thick wooden paddle).
- Were marks left?
- Is the child experiencing ongoing pain from the "punishment"?
- Do you have information that the parent was out of control?

Again, you should not investigate, but this information may be disclosed to you by the child or observable.

Emotional Abuse (Fill in the blanks)

- Serious _____ damage that is diagnosed by a medical doctor or psychologist
  - *E.g.*, severe anxiety, depression, withdrawal or untoward aggressive behavior
- Can be caused by _____or omissions

Emotional Damage:
You do not have to have a diagnosis of such conditions to report. If you see a child being emotionally abused and you see the resulting anxiety, depression, withdrawal or acting out, you should report. Remember: If a parent is engaging in emotional abuse in front of you, you may be seeing only the tip of the iceberg.

Neglect

- Not providing basic needs (*e.g.*, supervision, food, clothing, shelter or medical care) that causes substantial risk of harm to the child's health or welfare,
- UNLESS inability to meet the needs of a child with a disability or chronic illness is solely because reasonable services are not available.

Common examples of neglect include:

- ✓ *A parent who is under the influence of a substance who does not supervise a child, and that child is found wandering outside near a pool, on a busy street, or in an apartment complex parking lot.*
- ✓ *A malnourished child or a child who is not properly dressed for the weather.*

Sexual Offenses (fill in the blanks)

- _____ Exposure or Public Sexual Indecency or Admitting Minors to Public Displays of Sexual Conduct
- Touching or penetrating a child's genitals or female breast or causing a child to do the same to the offender, the child him or herself, or to another.

This list shows that not all offenses involve the "hands on" abuse of a child. A person who exposes himself to a child or lets a child observe sexual activity must be reported. This does not mean that a parent who allows a younger child to see him or herself naked is committing a reportable offense. Nor does it mean that you must report if a child accidentally walks in on two adults engaged in sexual activity. Use common sense. Was the child "offended or alarmed" by the act? If so,

REPORT

NOTES:_____
_____
_____
_____

Also, keep in mind that many offenders "accidentally" allow a child to see him or her naked or engaged in sexual activity as a form of grooming. Context is important. If the child is telling you about it and seems bothered by the situation, report it. If it seems like it really was not an accident, report.

Sexual Offenses

- Possessing, exchanging, or producing images of child sexual abuse
- Luring a Minor for Sexual Exploitation
- Voyeurism
- Secretly Photographing, Videotaping, Filming or Digitally Recording of a Minor
- Child Sex Trafficking
- Female Genital Mutilation

The first two offenses involve **possessing, producing, or sending images of child sexual abuse**. People sometimes are confused about what constitutes images of child sexual abuse. Remember the picture of the 9-year-old Vietnamese girl fleeing after her village had been napalmed? While the photograph does show full frontal nudity, it is not an image of child sexual abuse. Why not? Because there is 1) no sexual activity in the photograph, and 2) the photograph does not sexually exploit her: Her entire body is shown (*i.e.*, there is no attempt to focus the viewer on the genitalia), the clear intent of the picture was to show the horrors of war, and there was no posing – this was an extremely candid photo.
Images of child sexual abuse are extremely disturbing. They are not victimless – they show real children who are being abused and exploited. Exploitation can include focusing on the genitalia, posing the child in a provocative manner, or having the child touch his or her own genitalia. There is a correlation between possessing such images and actually abusing children. Anyone who possesses such images must be reported.

The crime of **Luring** involves asking a child to engage in sexual behavior. This often happens via text or other digital media.

Furnishing often involves showing a child adult pornography, providing a child with sexual items, such as a dildo. This type of behavior can be for "grooming" the child.

Secretly Photographing often involves secretly taping a child changing, showering, or using the restroom.

NOTES:_____

_____

_____

_____

_____

_____

_____

_____

Thank You!

Name:

Signature:

Date Completed: