Arizona's Mandatory Reporting Laws

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.

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.

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

Learning Objectives/ Agenda

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.

Quiz

- Most victims tell right away or soon after the abuse.
- Most sexual abuse results in some form of physical evidence.
- Offenders who molest males outside of the home tend to have a lower number of offenses.
- Offenders hardly ever molest with others present or nearby.
- Most sex offenders were child victims of sexual abuse.

Do most abuse victims tell right away or soon after the abuse?

- No.
- 2/3 of adults who say they were abused as children said that they did not disclose the abuse during childhood.
- Those who disclose while still children usually do so after a substantial delay.

Do most molestations result in some form of physical evidence?

- No.
- Less than 5% of cases.
- Likewise, a minor's behavior may or may not change.

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

- Offenders who molest girls within family:
  - 81.3 acts with 1.8 victims
- Offenders who molest boys outside of family:
  - 281.7 acts with 150.2 victims

Do offenders molest with others present or nearby?

- 54.9% molested with another child present
- 23.9% molested with another adult present
- 14.2% molested with both another adult and another child present
- 63% of those who had not molested with others present felt that they may have progressed to that point

Were most sex offenders victims of child sexual abuse?

- No.
- Reports of their own childhood sexual victimization fall significantly when polygraphed

Process of Victimization
Victim Selection
Engagement
Grooming
Assault
Concealment/ Suppression

Arizona's Mandatory Reporting Law

A.R.S. § 13-3620

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

- Sexual abuse
- Physical abuse
- Neglect
- Emotional abuse

Reasonable Belief is a Low Standard

- 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 3rd party.

Two Primary Categories of Mandatory Reporters

- Persons who develop “reasonable belief” while working.
- Persons who develop “reasonable belief” at any time.

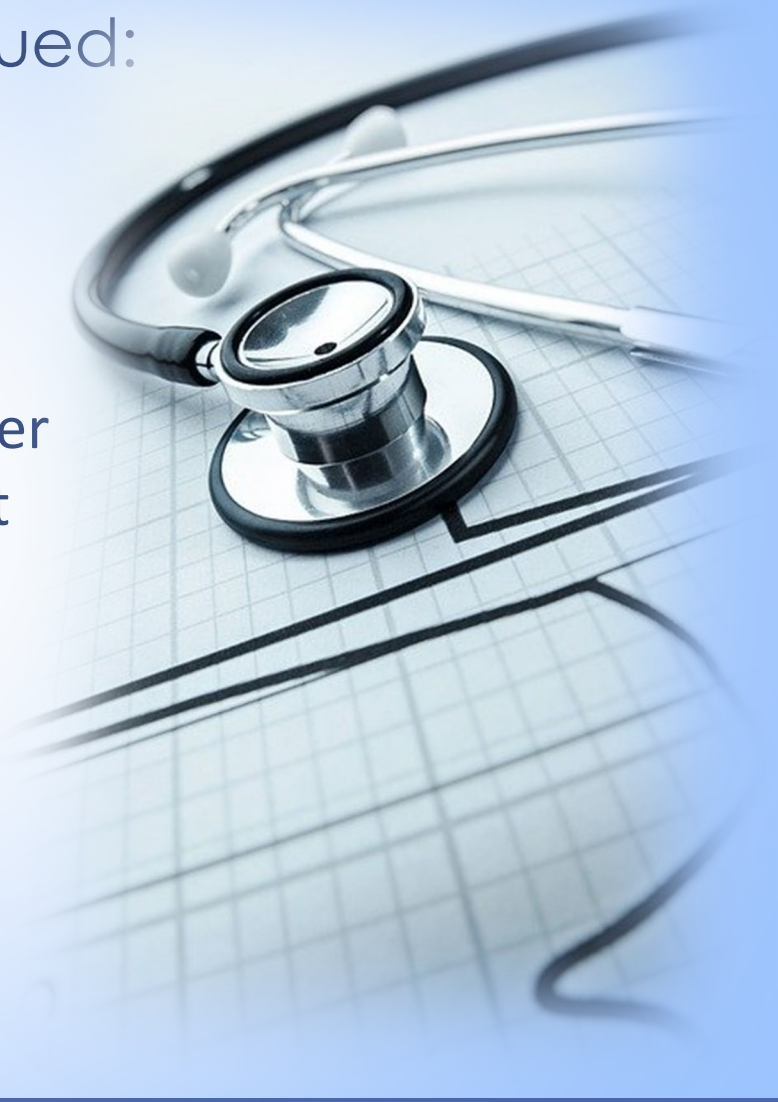
Persons who must report based on reasonable belief developed while working:

- School Personnel (even if the victim does not attend the same school)
- Domestic Violence Victim Advocate

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

Treating a Patient:

- Nurse
- Psychologist
- Physician
- Dentist
- Chiropractor
- Behavioral Health Professional
- Counselor
- Social Worker
- Optometrist
- Osteopath
- Podiatrist



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

- Peace Officer, OCWI, DCS
- Member of the Clergy
- Priest
- Christian Science Practitioner
- Parent, 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

Anyone MAY Report

Who has a reasonable belief.

Do Not Investigate.

"[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

To Whom?

- If suspect has care, custody, or control of minor - law enforcement or DCS. We recommend both.
- If suspect does not have care, custody or control of minor - law enforcement only.

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.

You must report immediately.

- By phone or electronically.
- Discretionary Reporters
  - No time limits – but why wait?

The report must contain:

1. Names & addresses of the minor and the parents or custodians of the minor.
2. The minor's age and the nature and extent of the abuse, physical injury or neglect (including evidence of prior abuse, physical injury or neglect).

*You should not investigate if you do not have this information.

The report must contain

3. Any other information the person reporting believes might be helpful in establishing the cause of the abuse, physical injury or neglect.

Failure to report is a crime.

- 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.

- Reporting to supervisor, principal, school nurse, pastor, etc., does NOT excuse your own responsibility to report (regardless of organization's policy).

- Suggestion: When you report, get a police report number, or DCS intake number.

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

- Unless the person acts with malice.

Exceptions to Reporting

A report is not required if

- BOTH parties are 14, 15, 16, or 17 years old and
- There is nothing to indicate conduct is other than consensual and
- Conduct involves
  - Intercourse, oral sexual conduct, anal sex
  - Touching breasts
  - Masturbatory conduct
  - Touching of genitals

Other Exceptions to Reporting

- Some confessions if recognized by the church
  - Applies only to communications, NOT observations.
  - If third party present, communication may not be privileged.
- Attorney/Client privilege

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

Other Exceptions to Reporting

- Disclosures made in sex offender treatment
  - Court ordered treatment: Therapist must report, but the information cannot be used by prosecution.*
  - If offender voluntarily attends treatment and makes statements: Therapist may report, but we can use the information to prosecute.**

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

Playground Injury Exception

- Minor is elementary school age and the physical injury
  - Occurs accidentally 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

- 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 unsupervised.
  - Leaving drugs/needles in a child's reach.
  - Leaving a loaded gun 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.

Child Abuse

- 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 health is endangered.

- This also would include
  - Leaving a child with someone who presents a danger to the child, such as a known abuser.
  - Allowing a child to be in a drug house.

"Physical Injury": Impairment of physical condition, including

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

Emotional Abuse

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

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.

Sexual Offenses

- Indecent 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.

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

Thank You!