

NEW YORK STATE

DEPARTMENT OF SOCIAL SERVICES

40 NORTH PEARL STREET, ALBANY, NEW YORK 12243-0001

SAR A. PERALES
Commissioner



INFORMATIONAL LETTER

TRANSMITTAL NO: 89 INF-7

TO: Commissioners of Social Services

DIVISION: Family and Children Services

SUBJECT: Child Abuse and Maltreatment:
A Guide for Mandated Reporters

DATE: January 24, 1989

SUGGESTED DISTRIBUTION: All Social Services District Staff

CONTACT PERSON: Any questions about this release should be directed to Fred Cantlo, Regional Director, Metropolitan Regional Office, telephone 212-488-3845; John O'Connor, Regional Director, Albany Regional Office, telephone 518-432-2751; Jack Klump, Regional Director, Syracuse Regional Office, telephone 315-428-3230; Frank Petrus, Regional Director, Rochester Regional Office, telephone 716-238-8201; or Linda Brown, Regional Director, Buffalo Regional Office, telephone 716-847-3145.

FILING REFERENCES

Previous ADMs/INFs	Releases Cancelled	Department Regs.	Social Services Law and Other Legal References	Manual References	Miscellaneous Reference
			SSL 413.2		

DSS-329 (R. 1/87)

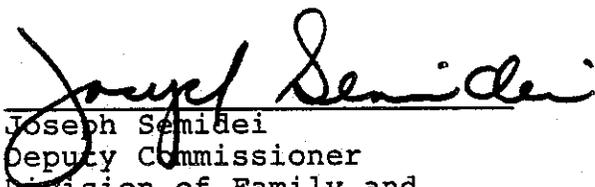
The purpose of this letter is to inform you of legislative changes which are to encourage the fullest degree of reporting of suspected child abuse and maltreatment by individuals mandated to report.

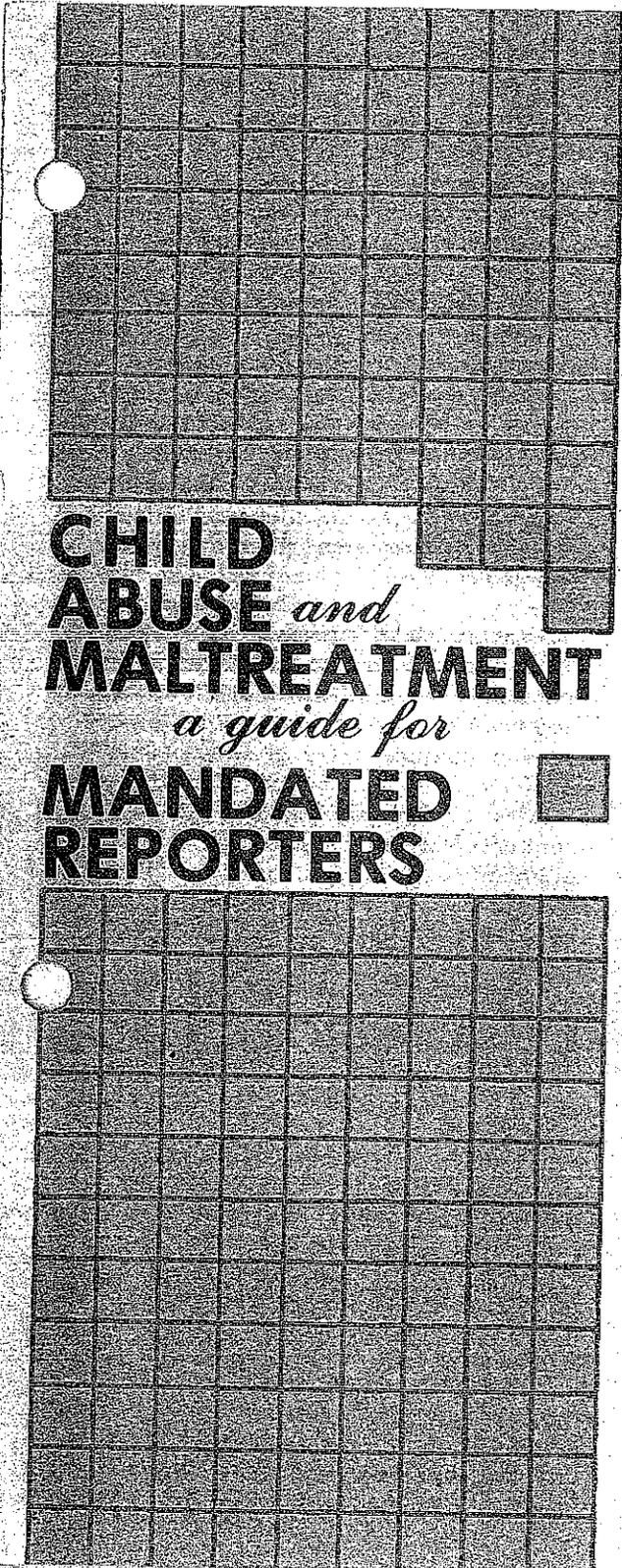
Chapter 544 of the Laws of 1988 amended Section 413 of the social Services Law to require, effective January 1, 1989, any person, institution, school, facility, agency, organization, partnership or corporation which employs persons mandated to report suspected incidents of child abuse or maltreatment to provide such persons with written information regarding their reporting obligations.

To assist employers in complying with the new requirement we have developed the enclosed pamphlet entitled: Child Abuse and Maltreatment: A Guide for Mandated Reporters (Publication #1159). You may have already received a sample under a separate cover as a result of our plan to make the pamphlet available to all programs/employers that employ mandated reporters. We have started to mail to programs licensed by the Department and will, in conjunction with other appropriate state agencies, be mailing to other programs (e.g. police, schools, hospitals) through February.

The pamphlet will also inform mandated reporters of Chapter 545 of the Laws of 1988, which amended Section 422 of the Social Services Law to provide, effective January 1, 1989, that a special unlisted express telephone number be instituted for use only by mandated reporters and makes available a telephone number to facsimile reports to the State Central Register.

Districts may order copies of the attached pamphlets by requesting them by name and number from the Department's Forms and Publications Unit, 40 North Pearl Street, Albany, New York 12243.


Joseph Semidei
Deputy Commissioner
Division of Family and
Children Services



**CHILD
ABUSE *and*
MALTREATMENT**
a guide for
**MANDATED
REPORTERS**



MANDATED REPORTERS

Mandated reporters are those individuals who must report, or cause a report to be made, whenever they have reasonable cause to suspect that a child coming before them in their professional or official capacity is abused or maltreated, or when they have reasonable cause to suspect that a child is an abused or maltreated child where the parent, guardian or custodian or the person legally responsible for the child comes before them in their professional or official capacity and states from personal knowledge, facts, conditions, or circumstances which, if correct, would render the child an abused or maltreated child.

An abused child is one who is under 18 years of age whose parent or other person legally responsible for his care inflicts or allows to be inflicted upon the child or creates or allows to be created a physical injury or a substantial risk thereof by other than accidental means which causes or creates a substantial risk of death, serious or protracted disfigurement, or protracted impairment of physical or emotional health or protracted loss or impairment of the functions of a bodily organ.

An abused child also is one whose parent or other person legally responsible for his care commits or allows to be committed a sex offense as defined in Article 130 of the Penal Law, commits incest; allows, permits or encourages such child to engage in prostitution; or allows such child to engage in acts or conduct which constitute a sexual performance.

A maltreated child is one who is under 18 years of age whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of the parent or other person legally responsible for his care to exercise a minimum degree of care: 1) in supplying the child with food, clothing, shelter or compulsory education, or medical, dental, optometrical or surgical care

though financially able to do so or offered financial or other reasonable means to do so; or 2) in providing the child with proper supervision or guardianship by unreasonably inflicting or allowing to be inflicted harm or a substantial risk thereof, including the use of excessive corporal punishment, or by misusing drugs or alcohol to the extent that he or she loses self-control of his actions, or by abandoning the child.

In addition, Social Services Law specifically defines abuse and maltreatment as it relates to a child who is living away from his or her home in a residential care program.

If you suspect child abuse or maltreatment while acting as a staff member of a medical or other public or private institution, school, facility or agency, you must immediately notify the person in charge of such institution, school, facility or agency or his or her designee. That person then also becomes responsible for reporting or causing a report to be made to the SCR. The law, however, does not require more than one report from any institution, school, facility or agency on any one incident of suspected abuse or maltreatment.

THOSE PERSONS MANDATED TO REPORT ARE:

- Physicians
- Surgeons
- Medical Examiners
- Coroners
- Dentists
- Osteopaths
- Optometrists
- Chiropractors
- Podiatrists
- Social Service Workers
- Day Care Center Workers
- Child Care Workers
- Family or Group Family Day Care Providers

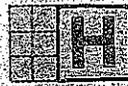
- Peace Officers
- School Officials
- Employees or Volunteers in Residential Care Facilities
- Residents
- Interns
- Registered Nurses
- Hospital Personnel engaged in admission, examination, care or treatment
- Christian Science Practitioners
- Foster Care Workers
- Mental Health Professionals
- Psychologists
- Police Officers
- Other Law Enforcement Officials
- District Attorney or Assistant District Attorney
- Investigators Employed in the Office of District Attorney



PURPOSE OF REPORTING

The purpose of the mandatory reporting statute is to identify suspected abused or maltreated children as soon as possible, so that such children determined to be abused or maltreated can be protected from further harm and, where appropriate, can be offered services to assist their families. The intervention of the appropriate local child protective service cannot begin until a report is made. Consequently, as a mandated reporter you play a critical role in preventing any future abuse or maltreatment to a child.

You may become aware of a family's circumstances where, in your professional judgment, you do not suspect that child abuse or maltreatment yet exists, but believe that there is future likelihood of it occurring. In those situations, you should consider making a referral to the local social services department for preventive or other needed services.



HOW TO REPORT

Reports should be made immediately — at any time of the day and on any day of the week — by telephone or by a telephone facsimile machine to the State Central Register of Child Abuse and Maltreatment (SCR). The telephone numbers are:

— **Statewide Toll Free State Central Register**
1-800-635-1522

— **Facsimile Line: 1-800-635-1554**

(users should contact the SCR to obtain forms and applicable instructions)

— **Onondaga County: (315) 422-9701**

— **Monroe County: (716) 461-5690**

You should provide the following information, if known, when making an oral report:

- the names and addresses of the child and his parents or other person responsible for his care; family composition; the name and address of the residential care facility or program in which the child resides or is receiving care;
- the child's age, sex and race;
- the nature and extent of the child's injuries, abuse or maltreatment, including any evidence of prior injuries, abuse or maltreatment to the child or his siblings;
- the name of the person or persons responsible for causing the injury, abuse or maltreatment;
- the source of the report;
- the actions taken by the reporting source, including the taking of photographs or X-rays, removal or keeping of the child, or notifying the medical examiner or coroner; and
- any additional information which may be helpful.

A signed, written report (DSS-2221A) must be filed within forty-eight hours of an oral report. You should submit written reports to the appropriate local child protective services except that a written report involving a child cared for away from his or her home (i.e. foster care, residential care) should be submitted to the State Central Register (SCR), New York State Department of Social Services, 40 North Pearl Street, Albany, New York 12243.



BLIGATIONS OF CERTAIN MANDATED REPORTERS

1. Photographs and X-Rays

You may take color photographs or arrange for them to be taken at public expense. The purpose of these photographs is to preserve evidence of any areas of trauma visible on a child named in a report. You may also ask the local CPS to take photographs when appropriate. If medically indicated, you may arrange for x-rays to be taken at public expense.

Whenever you are on the staff of an institution, school, facility, or agency you must immediately notify the designated person in charge and that person must take or arrange for, at public expense, color photographs of visible trauma and must, if medically indicated, arrange for x-rays to be taken. Any photographs or x-rays taken must be sent to the child protective services at the time the written report (DSS-2221A) is sent, or as soon thereafter as possible.

2. Protective Custody

Certain mandated reporters shall take all appropriate measures to protect a child's life and health including, when appropriate, taking protective custody of a child without the consent of a parent or guardian if such mandated reporter has reasonable cause to believe that the circumstances and condition of the child are such that continuing at home or in the care and custody of the parent or person legally responsible for the child's care presents an imminent danger to the child's life or health.

Those persons having the authority and responsibility to take a child into protective custody are: (a) peace officers; (b) police officers; (c) law enforcement officials; (d) agents of a Society for the Prevention of Cruelty to Children; (e) child protective caseworkers of a city or county department of social services; (f) persons in charge of a hospital or similar institution. In addition, when a physician (i.e. private practice) treating a child has reasonable cause to believe that the child is in imminent danger, the physician shall notify the local department of social services or appropriate police authorities to take custody of the child.



MANDATORY REPORTING OF DEATHS TO MEDICAL EXAMINER OR CORONER

You must notify the appropriate medical examiner or coroner when you have reasonable cause to suspect that a child has died as a result of child abuse or maltreatment.

The medical examiner or coroner must investigate the matter and report his findings to the police, the appropriate district attorney, the local child protective service and, if the institution making the report is a hospital, to the hospital.



IMMUNITY OF THE REPORTER

To encourage prompt and complete reporting of suspected child abuse and maltreatment, the Social Services Law, Section 419, affords you certain legal protections from liability. Any persons, officials or institutions who in good faith make a report, take photographs and/or take protective custody, have immunity from any liability, civil or criminal, that might be a result of such actions. All persons, officials or institutions who are required to report suspected child abuse or maltreatment are presumed to have done so in good faith as long as they were acting in the charge of their official duties and within the scope of their employment and so long as their actions did not result from the willful misconduct or gross negligence of such person.



PENALTIES FOR FAILURE TO REPORT

Any person, official, or institution required by the law to report a case of suspected child abuse or maltreatment, who willfully fails to do so, may be guilty of a Class A misdemeanor. Furthermore, any person, official, or institution required by the law to report a case of suspected child abuse or maltreatment who knowingly and willfully fails to do so may be civilly liable for damages caused by the failure to report.

**MANDATED REPORTERS HOTLINE
FOR CHILD ABUSE &
MALTREATMENT REPORTS**

1-800-635-1522

New York State
Mario M. Cuomo, Governor
Department of Social Services
Cesar A. Perales, Commissioner

Pub. #1159 (12/88)

