

## ► Counseling and the Local Church

State Mandated Reporting Laws of Sexual Abuse and the Scriptures: Special thanks to  
Hon. George Crawford and Hon. Charles (Carlos) Chung, California Superior Court

Dr. John D. Street ► ACBC Conference 2015 ► 10/7/2015

A "child" is defined as 18 years and younger

A. Child Abuse – There is no time limitation regarding the reporting of child abuse, if the victim is under 18 years of age.

1. What if the child is now an adult?

2. Is spanking considered abuse?

B. Child Neglect

Negligent failure to provide adequate food, clothing, shelter, or medical care. No injury to the child is required.

Severe neglect is failure leading to severe malnutrition. The most common scenario is drunken/drug enslaved parent.

C. Child Endangerment

Willfully causing or permitting a child to suffer unjustifiable physical pain or mental suffering, or allowing the child's health to be endangered.

1. Illegal drugs accessible to children
2. Filthy conditions
3. Domestic violence in front of young children

D. Sexual Abuse

Defined as sexual assault or sexual exploitation

1. The most common sexual assaults
2. Statutory rape (e.g. 18 year old sleeping with a 17 year old)
3. Inappropriate touching over the clothing
4. Sexual behavior in the presence of a minor
5. Sexual assaults between children
6. Sexual exploitation – child pornography

E. What if you only suspect a crime has occurred, and even have doubts?

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## Clergy as Mandatory Reporters of Child Abuse and Neglect

"Every state, the District of Columbia, American Samoa, Guam, the northern Mariana Islands, Puerto Rico, and the U.S. Virgin Islands have statutes that identify persons who are required to report child maltreatment under specific circumstances. Approximately 27 States and Guam currently include members of the clergy among those professionals specifically mandated by law to report known or suspected instances of child abuse or neglect. In approximately 18 States and Puerto Rico, any person who suspects child abuse or neglect is required to report it. This inclusive language appears to include clergy but may be interpreted otherwise."

- Children's Bureau, [www.childwelfare.gov](http://www.childwelfare.gov) State Statutes current through Nov. 2013, p. 1

## Privileged Communications

"As a doctrine of some faiths, clergy must maintain the confidentiality of pastoral communications. This is sometimes referred to as 'clergy-penitent privilege,' where 'penitent' refers to the person consulting the clergy. Mandatory reporting statutes in some States specify the circumstances under which a communication is 'privileged' or allowed to remain confidential. Privileged communications may be exempt from the requirement to report suspected abuse or neglect. The privilege of maintaining this confidentiality under State law must be provided by statute. Most States do provide the privilege, typically in rules of evidence or civil procedure. If the issue of privilege is not addressed in the reporting laws, it does not mean that privilege is not granted; it may be granted in other parts of State statutes."

- Children's Bureau, [www.childwelfare.gov](http://www.childwelfare.gov) State Statutes current through Nov. 2013, p. 2

## Grace Community Church and the "Clergy-Penitent Privilege"

"In sum, the Scriptures do not call for, or support a policy of absolute nondisclosure of confessional information or similar information obtained in the context of counseling or dispute resolution. Counselees and individuals confessing sin should know that unnecessary, causal disclosure will not be made by pastors,

elders or counselors keenly aware of the nature of their responsibility. It should also be understood, however, that careful and judicious disclosure may be required by a commitment to the holiness and revealed character of God, the purity and health of the church and love for the individual sheep of the flock entrusted to our care.”

- Proposed Draft Policy submitted to the Elders of Grace Community Church, Sun Valley, CA. (September, 2015)