



**CITY OF MARTINEZ**

**CITY COUNCIL AGENDA  
July 16, 2014**

**TO:** Mayor and City Council  
**FROM:** Alan Shear, Assistant City Manager  
**SUBJECT:** Grand Jury Response to Training City Personnel in Reporting Child Abuse  
**DATE:** July 10, 2014

**RECOMMENDATION:**

Approve and authorize the Mayor to sign the attached response letter to the Grand Jury Report #1403, "Training City Personnel in Reporting Child Abuse" by the 2013-2014 Contra Costa Grand Jury.

**BACKGROUND:**

The California Constitution established Grand Juries in each county. With respect to public agencies, Grand Juries are authorized to "investigate and report upon the operations, accounts and records of the officers, departments, functions, and the method of performing the duties of any such city and make such recommendations as it may deem proper." A governing body has 90 days to respond to the presiding judge of the superior court on findings contained in a Grand Jury Report.

In May, the City of Martinez (as well as other public agencies in Contra Costa County) received the attached Grand Jury Report titled "Training City Personnel in Reporting Child Abuse" (Attachment A) which contained recommendations specific to certain jurisdictions. Accordingly, the attached draft responses (Attachment B) are presented for the City Council's consideration to transmit to the presiding judge. The Grand Jury expects to receive the City's response by August 6, 2014.

**FISCAL IMPACT:**

Responding to the Grand Jury reports required staff time.

**ACTION:**

Motion approving and authorizing the Mayor to sign the attached response letter to the Grand Jury Report #1403, "Training City Personnel in Reporting Child Abuse" by the 2013-2014 Contra Costa Grand Jury.

Attachments:

- A. Grand Jury Letter & Report
- B. Draft Letter to Contra Costa County Civil Grand Jury

**APPROVED BY:**

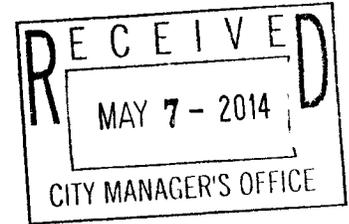
  
Interim City Manager

# Grand Jury

ATTACHMENT A

725 Court Street  
P.O. Box 431  
Martinez, CA 94553-0091

# Contra Costa County



May 6, 2014

Philip A. Vince, City Manager  
525 Henrietta Street  
Martinez, CA 94553

Dear Mr. Vince:

Attached is a copy of **Grand Jury Report No. 1403, 'Training City Personnel in Reporting Child Abuse'** by the "2013-2014" Contra Costa Grand Jury. As City of Martinez is a subject of the report, this report is being provided to you at least two working days before it is released publicly in accordance with California Penal Code section 933.05(f).

Section 933.05(a) of the California Government Code requires that a person or entity that is the subject of a report shall respond to each finding in the report by indicating one of the following :

- (1) The respondent agrees with the finding;
- (2) The respondent disagrees with the finding; or
- (3) The respondent partially disagrees with the finding.

If the respondent wholly or partially disagrees with a finding, the respondent shall specify the portion of the finding that is disputed, and shall include an explanation of the reasons therefore.

In addition, Section 933.05(b) requires that the respondent reply to each recommendation of the report by stating one of the following actions:

1. The recommendation has been implemented, with a summary describing the implemented action.
2. The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
3. The recommendation requires further analysis. This response should explain the scope and parameters of the analysis or study, and a time frame for the matter to be prepared for discussion. This time frame shall not exceed six months from the date of the publication of the Grand Jury Report.

4. The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation thereof.

Please be aware that Section 933.05 specifies that no officer, agency, department or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report. Please ensure that your response to the above noted Grand Jury report complies in form and substance with the legal requirements for such responses. We expect your response, no later than **AUGUST 6, 2014** under the Penal Code.

Please send a copy of your response in hard copy to the Grand Jury, as well as a copy by e-mail in Word to [clope2@contracosta.courts.ca.gov](mailto:clope2@contracosta.courts.ca.gov) .

Sincerely,

A handwritten signature in black ink that reads "Stephen D. Conlin". The signature is written in a cursive style with a large initial "S".

Stephen D. Conlin, Foreperson  
2013-2014 Contra Costa County Civil Grand Jury

Enclosure

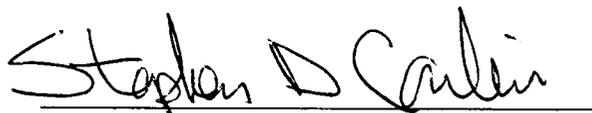
**A REPORT BY  
THE 2013-2014 CONTRA COSTA COUNTY GRAND JURY**  
725 Court Street  
Martinez, California 94553

**Report 1403**

**TRAINING CITY PERSONNEL IN  
REPORTING CHILD ABUSE**

APPROVED BY THE GRAND JURY:

Date: 04/24/2014

  
STEPHEN D. CONLIN  
GRAND JURY FOREPERSON

ACCEPTED FOR FILING:

Date: 5/5/14

  
JOHN T. LAETTNER  
JUDGE OF THE SUPERIOR COURT

Contra Costa County Grand Jury Report 1403

***Training City Employees in Reporting Child Abuse***

**TO:** All Contra Costa County Cities

**SUMMARY**

Multiple lawsuits alleging child abuse, and the failure to report suspected instances of the same, have revealed that many employees of public entities, including those of cities, do not understand their duties to identify and report suspected or known instances of child abuse. This failure is due, in large part, to inadequate training of employees, and other personnel, in their legal obligations as “mandated reporters”.

To help protect children from child abuse, and cities from liability for failing to report suspected cases of abuse, each city should establish and implement a program to train all “mandated reporters”, including volunteers and other personnel who have direct contact or supervision of children, in abuse reporting guidelines. The training programs should be conducted on an annual basis and each city should implement a system to verify that employees and other personnel who are mandated reporters have successfully completed the training.

**METHODOLOGY**

- Review of California Penal Code sections mandating reporting of child abuse;
- Review of publications by the State Office of Child Abuse Prevention, Greater Bay Area Child Abuse Prevention Council Coalition and Child Abuse Prevention Council of Contra Costa County;
- Detailed survey of each city regarding their policies, procedures and practices in the training of employees to report suspected child abuse;
- Interviews of child abuse prevention experts;
- Interview of city personnel responsible for child abuse reporting training, and;
- Review of Walnut Creek Investigative Report.

## **BACKGROUND**

The first child abuse reporting law was enacted in California in 1963. Nevertheless, more than 50 years later, cities within this County, as well as other public entities, have failed to provide basic training to their employees in reporting suspected, or actual, child abuse. The lack of training has resulted in instances when suspected or known child abuse was not reported as required by law and where city employees were unaware of their duties to report the alleged abuse.

### **The Problem**

The alleged failures of various school districts within the County to report suspected or known child abuse are now well documented, as set forth in the Grand Jury's recent report (Report No. 1402). School Districts in Moraga, Antioch and Brentwood have recently agreed to pay millions of dollars to settle lawsuits alleging instances of child abuse that resulted, in part, from the purported failure of school personnel to report suspected, or known, cases of child abuse. Additional lawsuits are pending.

However, problems relating to the alleged failure to report suspected or known child abuse, and the lack of employee training about the duty to report the same, is not confined to school districts in the County. A recent case in the City of Walnut Creek revealed the potential damaging effects that may result when child abuse allegations arise from the failure of a city to adequately train its employees, or other personnel, to report known or suspected instances of child abuse.

This well-documented incident involved allegations of child molestation in 2012 by a part-time employee of Walnut Creek's Leshner Center for the Arts. The suspected abuse became known to various City officials. The District Attorney filed criminal charges against the employee in February 2013. In addition, investigations by the Concord Police Department and later by an independent investigator retained by the City were undertaken to determine whether Walnut Creek employees failed to report the suspected abuse pursuant to their obligations under the California Penal Code.

The report prepared by the independent investigator ultimately concluded that there was no city-wide training of employees about their obligations to report suspected child abuse. The report found that numerous City officials had not received **any** training on "mandated reporting" and, at least in one case ". did not know there was such a thing as 'mandated reporting'." The report found that all of the officials should have received adequate training in reporting suspected child abuse.

The incident cost Walnut Creek far more than the expense of the investigative report. Several City officials were temporarily suspended from their jobs and others resigned. The City ended up paying the attorney's fees for at least some of the suspended employees. The damage to the City's reputation and morale is unknown.

The above discussion is not intended to single out Walnut Creek, as the lack of adequate training has been almost uniform among cities within the County for years. Instead, it is an illustration of the potential consequences cities may face for failing to provide their employees adequate training to report abuse. In light of the explosion of claims against school districts, cities may face serious abuse claims in the future unless adequate training is instituted and maintained.

## The Law

The California Child Abuse and Neglect Reporting Law is set forth in Penal Code sections 11165 – 11174.3. Since its enactment in 1963, the law has been amended on several occasions, expanding both the definition of “abuse” and the persons – known as “mandated reporters” – who are required to report suspected instances of child abuse. The law defines the obligations in detail, that include:

1. **What** is child abuse (Penal Code section 11165.6 [all references are to the Penal Code]);
2. **What** must be reported (P.C. section 11166);
3. **Who** is a mandated reporter (P.C. section 11165.7);
4. **When** the suspected abuse should be reported (P.C. section 11166)
5. **To Whom** the suspected abuse should be reported (P.C. section 11166);
6. **Safeguards** for persons making the mandated reports (P.C. section 11172)
7. **Liabilities** for failure to make a required report (P.C. section 11166.01);and
8. **Responsibilities** of the agency employing the mandated reporter (P.C. section 11166.1).

The Penal Code’s definition of a “mandated reporter” is extensive and should be scrutinized by each city to determine which of its employees fall within the statutory definition. However, certain categories of employees set forth in P.C. section 11165.7 clearly apply to certain employees within a city. These employees include:

“ . . .

- (6) An administrator of a public or private day camp;
- (7) An administrator or employee of a public or private youth center, youth center recreation program or youth organization;
- (8) An administrator or employee of a public or private organization whose duties require direct contact and supervision of children. . . .”

The Penal Code does not explicitly require cities to train their “mandated reporters” in their obligations; however, P.C. section 11165.7(c). provides:

“Employers are strongly encouraged to provide their employees who are mandated reporters in [their] duties . This training shall include training in child abuse and neglect identification and training in child abuse and neglect reporting. . . .”

A report of suspected child abuse must be made **immediately**, or as soon as practical, to legal authorities by phone and then followed by a **written** report within 36 hours. Failure to do so,

subjects the mandated reporter to criminal liability. Moreover, the obligation to make the report cannot be satisfied by telling a supervisor or colleague – an apparent misconception in many of the child abuse cases.

## **The Training**

### **1. Mandated Reporters**

The Grand Jury recently issued a report (Report No. 1402) on the status of child abuse reporting training by school districts in the County. While the Grand Jury concluded that the training programs were long overdue and deficient in a number of respects, the Grand Jury found that most of the districts were making a serious effort to develop and improve their training programs. Clearly there is further work to be done.

However, the abuse reporting policies and training programs of the cities in the County lag far behind the programs instituted by the school districts. Almost none of the cities had a city-wide policy on reporting child abuse, let alone a training program, until the last few months. The responses of several of the cities to the Grand Jury's request in November 2013 for information on this subject illustrate the problem.

The City of Clayton responded, in part, that:

“Following the recent unfortunate incident and publicity on this subject with The City of Walnut Creek, Clayton was in the midst of preparing a City Administrative Policy. After receipt of the Civil Grand Jury's November 2013[letter], City staff accelerated the task and the enclosed City Administrative Policy was adopted by the Council at its public meeting on 12/13/13.”

The City of Oakley responded that it did not have a formal policy on child abuse reporting in place, but attached a draft Mandated Reporting Policy “...that is currently under review by the City Attorney.”

The City of San Pablo responded to the Grand Jury's request by stating, in part:

“...the City plans on presenting for City Council approval in the near future a child abuse reporting policy along the lines of similar policies recently adopted by Concord, Brentwood and Lafayette.”

These responses reflect the status of policies and training programs across almost all cities within the County. Almost all of the cities are scrambling to enact policies. But policies alone are not enough. Adoption of actual training programs and effective implementation of those programs are critical. Such training programs should be adopted and implemented now.

From a training perspective, the Child Abuse Prevention Council of Contra Costa County (CAPC) has been retained by a number of school districts and cities to provide “mandated reporter” training to their personnel. CAPC provides live training by qualified instructors. The training lasts approximately one to one and a half hours and includes sample scenarios, as well as a “give and take” discussion with the training participants. Moreover, the training is provided at

no cost to the city.

The evidence clearly suggests that cities within the County should be encouraged to adopt a uniform training program in order to ensure adequate and comprehensive education of City personnel in reporting suspected child abuse. A review of the Penal Code provisions relating to mandated reporters, as well as other pertinent information, indicate that an effective and comprehensive training program should be mandatory for all city employees whose duties require direct contact and supervision of children. The training program should be given annually and, at a minimum, include the following topics:

- Who are “mandated reporters”;
- What is “reasonable suspicion” of child abuse;
- How and when should a report be made;
- What safeguards are in place to protect mandated reporters; and
- What are the ramifications of making a suspected child abuse report.

In addition, each City should establish a procedure for **verifying** that all employees who are mandated reporters have successfully completed the training program.

## **2. Volunteers**

Volunteers are specifically excluded from the definition of “mandated reporters” under the Penal Code, even those who have direct contact with and supervise children. (P.C. section 11165.7(b).) However, the statute also provides that such volunteers are:

“ . . . encouraged to obtain training in the identification and reporting of child abuse and neglect and are further encouraged to report known or suspected instances of child abuse or neglect . . . ”

Moreover, the statute further provides:

“Public and private organizations are encouraged to provide their volunteers whose duties require direct contact with and supervision of children with training in the identification and reporting of child abuse and neglect.” (P.C. 11165.7(f).)

There have been well-documented instances of child abuse by volunteers in city programs, particularly those in recreational or sports areas. Given the potential for abuse, as well as the statutory language that encourages training of volunteers, each city should consider including volunteers in its abuse reporting training programs.

## **3. Independent Contractors**

Some cities enter into agreements with independent contractors to provide services that require direct contact or supervision of children. In those cases, the contracting city should ensure that

each independent contractor involved in such contact with children has successfully completed the city's "mandated reporter" training program.

Obviously, training programs alone cannot prevent all instances of child abuse. However, if an effective and comprehensive training program prevents only **one** child from being abused, **one** family from having to endure the hardships of an abused child, **one** City from having to pay millions of dollars to settle a child abuse lawsuit, then there is no reason for any district to resist implementing the same.

## FINDINGS

1. The law strongly encourages cities to provide their employees who are "mandated reporters" with training about their obligations to identify and report known or suspected child abuse. *Agree*
2. A "mandated reporter" employed by a city includes, but is not limited to, an administrator or employee whose duties require direct contact and supervision of children. *Agree*
3. Training in child abuse reporting obligations should be given annually to every city employee whose duties require direct contact and supervision of children. *Agree*
4. Training in child abuse reporting obligations should include:
  - a. Who are "mandated reporters"; *Agree*
  - b. What is "reasonable suspicion" of child abuse; *Agree*
  - c. How and when a report should be made; *Agree*
  - d. What safeguards are in place to protect mandated reporters; and *Agree*
  - e. What are the ramifications of making a suspected child abuse report. *Agree*
5. While volunteers who have direct contact or supervise children are excluded from the definition of "mandated reporters" under the Penal Code, the law "encourages" such volunteers to obtain training in identifying and reporting suspected or known child abuse. *Agree*
6. A procedure should be implemented to verify that all city personnel who are mandated reporters receive training. *Agree*
7. The Child Abuse Prevention Council of Contra Costa County provides training services in abuse reporting at no cost to cities in the County. *Agree*

## RECOMMENDATIONS

1. Each city should consider immediately adopting a policy to train its employees and other personnel about their obligation to identify and report suspected cases of child abuse.  
*The City has adopted a policy/program and is implementing training in conformance.*

2. Each city should review the duties of all employees and other personnel to determine which personnel fall within the definition of “mandated reporters” under Penal Code section 11165.7. The City's program provides that departments will identify, advise and train all personnel (including employees, volunteers, and contractors) subject to this program.
3. The training program should include all personnel who are “mandated reporters”. It does.
4. The training program in child abuse reporting obligations should include:
  - a. Who are “mandated reporters”; Covered in the City's program.
  - b. What is “reasonable suspicion” of child abuse; Yes.
  - c. How and when a report should be made; Yes.
  - d. What safeguards are in place to protect mandated reporters; and Yes.
  - e. What are the ramifications of making a suspected child abuse report. Yes.
5. Each city should consider including all volunteers who have direct contact with or supervise children in its abuse reporting training program. Yes, volunteers are trained the same as staff employees.
6. In the case where a city enters into an agreement with an independent contractor to provide services that requires direct contact or supervision of children, the city should consider ensuring that the independent contractor and each of its staff who will have direct contact or supervision of children have successfully completed the city’s “mandated reporting” training program. The City will include these independent contractors in its training program.
7. Each city should establish a procedure for verifying that all employees and other personnel who are mandated reporters have successfully completed the training program each year. Personnel sign a form acknowledging the training.
8. Each city should consider retaining the Child Abuse Prevention Council of Contra Costa County to provide free training services about child abuse reporting. Agreed. Recreation staff recently attended a training provided through our Insurance Risk Pool, the Municipal Pooling Authority of Northern California, and presented by the law firm Liebert, Cassidy and Whitmore, so multiple free resources are available in this regard.

## REQUIRED RESPONSES

	<u>Findings</u>	<u>Recommendations</u>
City of Antioch	1-7	1-8
City of Brentwood	1-7	1-8
City of Clayton	1-7	1-8
City of Concord	1-7	1-8
Town of Danville	1-7	1-8
City of El Cerrito	1-7	1-8
City of Hercules	1-7	1-8
City of Lafayette	1-7	1-8
City of Martinez	1-7	1-8
Town of Moraga	1-7	1-8
City of Oakley	1-7	1-8
City of Orinda	1-7	1-8
City of Pinole	1-7	1-8
City of Pittsburg	1-7	1-8
City of Pleasant Hill	1-7	1-8
City of Richmond	1-7	1-8
City of San Pablo	1-7	1-8
City of San Ramon	1-7	1-8
City of Walnut Creek	1-7	1-8



## City of Martinez

525 Henrietta Street, Martinez, CA 94553-2394

ATTACHMENT B

(925) 372-3505

FAX (925) 229-5012

July 17, 2014

2013-2014 Contra Costa County Civil Grand Jury  
Attn: Stephen Conlin, Foreperson  
725 Court Street  
P. O. Box 431  
Martinez, CA 94553-0091

Dear Mr. Conlin:

On behalf of the Martinez City Council, this letter responds to Contra Costa County Grand Jury Report: "Training City Personnel in Reporting Child Abuse" (Report 1403). The City Council authorized this response at its meeting on July 16, 2014.

According to page 8 of the Report, the City of Martinez is required to respond to Findings 1 through 7 and Recommendations 1 through 8. Pursuant to California Penal Code Section 933.05, the City will respond to each finding and to each recommendation individually.

### **CITY'S RESPONSES TO GRAND JURY FINDINGS 1-7**

#### **GRAND JURY FINDING #1**

The law strongly encourages cities to provide their employees who are "mandated reporters" with training about their obligations to identify and report known or suspected child abuse.

**City Response: With the information provided by the Grand Jury Report # 1403, the City agrees with this finding.**

#### **GRAND JURY FINDING #2**

A "mandated reporter" employed by a city includes, but is not limited to, an administrator or employee whose duties require direct contact and supervision of children.

**City Response: With the information provided by the Grand Jury Report # 1403, the City agrees with this finding.**

#### **GRAND JURY FINDING #3**

Training in child abuse reporting obligations should be given annually to every city employee whose duties require direct contact and supervision of children.

**City Response: With the information provided by the Grand Jury Report # 1403, the City agrees with this finding.**

**GRAND JURY FINDING #4**

Training in child abuse reporting obligations should include:

- a. Who are “mandated reporters”;
- b. What is “reasonable suspicion” of child abuse;
- c. How and when a report should be made;
- d. What safeguards are in place to protect mandated reporters; and
- e. What are the ramifications of making a suspected child abuse report.

**City Response: With the information provided by the Grand Jury Report # 1403, the City agrees with this finding.**

**GRAND JURY FINDING #5**

While volunteers who have direct contact or supervise children are excluded from the definition of “mandated reporters” under the Penal Code, the law “encourages” such volunteers to obtain training in identifying and reporting suspected or known child abuse.

**City Response: With the information provided by the Grand Jury Report # 1403, the City agrees with this finding.**

**GRAND JURY FINDING #6**

A procedure should be implemented to verify that all city personnel who are mandated reporters receive training.

**City Response: With the information provided by the Grand Jury Report # 1403, the City agrees with this finding.**

**GRAND JURY FINDING #7**

The Child abuse Prevention Council of Contra Costa County provides training services in abuse reporting at no cost to cities in the County.

**City Response: With the information provided by the Grand Jury Report # 1403, the City agrees with this finding.**

**CITY’S RESPONSES TO GRAND JURY RECOMMENDATIONS 1-8**

**GRAND JURY RECOMMENDATION #1**

Each city should consider immediately adopting a policy to train its employees and other personnel about their obligation to identify and report suspected cases of child abuse.

**City Response: The recommendation has been implemented. The City has adopted a policy and is implementing training in conformance.**

**GRAND JURY RECOMMENDATION #2**

Each city should review the duties of all employees and other personnel to determine which personnel fall within the definition of “mandated reporters” under Penal Code section 11165.7.

**City Response: The recommendation has been implemented. The City’s Policy provides that the City shall identify all Mandated Reporters (which in accordance with the City’s Policy includes employees, volunteers, and contractors serving in positions with contact with children) and will provide training and advice to such persons.**

**GRAND JURY RECOMMENDATION #3**

The training program should include all personnel who are “mandated reporters.”

**City Response: The recommendation has been implemented. The City’s training program covers all personnel who are identified as mandated reporters.**

**GRAND JURY RECOMMENDATION #4**

The training program in child abuse reporting obligations should include:

- a. Who are “mandated reporters”;
- b. What is “reasonable suspicion” of child abuse;
- c. How and when a report should be made;
- d. What safeguards are in place to protect mandated reporters; and
- e. What are the ramifications of making a suspected child abuse report.

**City Response: The recommendation has been implemented. The training program that the City utilizes includes each of these components.**

**GRAND JURY RECOMMENDATION #5**

Each city should consider including all volunteers who have direct contact with or supervise children in its abuse reporting training program.

**City Response: The recommendation has been implemented. As mentioned in the City Response to Recommendation #2 above, the City’s Policy and training program includes volunteers.**

**GRAND JURY RECOMMENDATION #6**

In a case where a city enters into an agreement with an independent contractor to provide services that require direct contact or supervision of children, the city should consider ensuring that the independent contractor and each of its staff who will have direct contact or supervision of children have successfully completed the city’s “mandated reporting” training program.

**City Response: The recommendation has been implemented. As mentioned in the City Response to Recommendation #2 above, the City’s Policy and training program includes contractors.**

**GRAND JURY RECOMMENDATION #7**

Each city should establish a procedure for verifying that all employees and other personnel who are mandated reporters have successfully completed the training program each year.

**City Response: The recommendation has been implemented. Personnel designated as mandated reporters sign a form acknowledging the training.**

**GRAND JURY RECOMMENDATION #8**

Each city should consider retaining the Child Abuse Prevention Council of Contra Costa County to provide free training services about child abuse reporting.

**City Response: The recommendation has not yet been implemented. The City will consider use of this resource as needed. Recreation staff recently attended a training provided through our Insurance Risk Pool, the Municipal Pooling Authority of Northern California, and presented by the law firm Liebert, Cassidy and Whitmore, so multiple free resources are available in this regard.**

Sincerely,

Robert Schroder  
Mayor, City of Martinez

cc: City Council  
Anna Gwyn Simpson, Interim City Manager  
Jeffrey Walter, City Attorney  
Alan Shear, Assistant City Manager