An Introduction to Child Protection in Texas
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Objectives
- Understand the ethical duty and procedure for mandated reporting of child abuse.
- Know the job of significant CPS employees who interact with medical providers.
- Understand the process of a CPS investigation of alleged child abuse or neglect.
- Describe other resources for physicians with concerns about child abuse or neglect.

Disclosures
- Casey Houghton is an employee of Child Protective Services.
- John Melville has no financial or other conflicts to disclose.

Non-objectives
- Discuss specific examples where physicians, families, or others have been displeased with a child protection outcome.

Mandated Reporting
- Texas Family Code 261.101 (a)
  A person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person shall immediately make a report.
- Must report otherwise privileged information.
- May not delegate duty to report.
- May not prevent employees from reporting.
- Failure to report is a class A misdemeanor.
### Physical Abuse

Physical injury that results in substantial harm to the child, or the genuine threat of substantial harm from physical injury to the child, including an injury that is at variance with the history or explanation given and excluding an accident or reasonable discipline.

- Generally, spanking with a hand on the buttocks that does not leave a mark for more than a few minutes is not physical abuse.
- Recognizing that an injury is at variance from history is a significant contribution the pediatricians can make to child protection.

### Sexual Abuse

Sexual conduct harmful to a child’s mental, emotional, or physical welfare ... failure to make a reasonable effort to prevent sexual conduct harmful to a child ... [permitting] the photographing ... of the child if the person knew ... that the resulting photograph, ... is obscene ... or pornographic.

- Age of consent for sex in Texas is 17.

### Neglectful Supervision

Placing a child in or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child’s level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child.

- Supervisory neglect includes parents who are impaired by drugs or alcohol.
- Failure to place children in car seats is investigated by police, not CPS.

### Physical Neglect

The failure to provide a child with food, clothing, or shelter necessary to sustain the life or health of the child, excluding failure caused primarily by financial inability unless relief services had been offered and refused.

- Includes dirty homes or children with poor hygiene.
- Generally lice is not investigated unless there are open sores.
- Failure to thrive can be a sign of physical neglect.

### Medical Neglect

Failing to seek, obtain, or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement, or bodily injury or with the failure resulting in an observable and material impairment to the growth, development, or functioning of the child.

- Missing multiple medical appointments.
- Substantial noncompliance with medical recommendations.
  - Vaccine noncompliance (alone) is not medical neglect. (Government Code 531.0335)
- CPS needs to hear specifically how the omitted activities cause harm.

### How to Report

- **Telephone:** 1–800–252–5400
  - Urgent cases
  - Expect a wait (7.1 minutes average)
- **Website:** [www.TxAbuseHotline.org](http://www.TxAbuseHotline.org)
- **Report**
  - Name, demographics, SSN,
  - Caregiver name, DOB, SSN
  - Concerns, safety concerns.
  - Other children in the home.
- **Incomplete information is helpful.**
Children are protected, first and foremost, from abuse and neglect.

Children are safely maintained in their own homes whenever possible and appropriate.

Children have permanency and stability in their living situations.

The continuity of family relationships and connections is preserved for children.

CPS Employees – Investigations

- Child Protective Services Specialists
- Special Investigators
  - Co-Housed with Law Enforcement
  - Offices throughout San Antonio
- Specialized Units
  - Liaison Unit (Hospitals, Juvenile)
  - Night Unit(s)
  - Sexual Abuse Units
  - Domestic Violence Unit at FJC
  - Military Unit (Active Duty)
- Supervisors
  - Often significantly more experience than the investigators.
  - Participates in important decisions via “staffing”

A CPS Investigation

Priorities for Investigations

Priority based on assessment of the **immediacy** of the risk and the **severity** of the possible harm to the child.

- Priority I: (Respond immediately and within 24 hours)
- Priority II: (Respond within 72 hours)

DFPS Rules, 20 TAC 700.505(b)
Objectives of Investigations

The worker must conduct the investigation with the intent to determine the answers to the following questions:

1) Is the child safe?
2) Did abuse or neglect occur?
3) Is the child at risk of future abuse/neglect?
4) Do the child and family need services?

Investigation process

- Child(ren) interviewed and visually examined.
- Audiotape or videotape and photos taken.

NOTE:
- Interview may happen at any reasonable location and may include the presence of persons the department determines are necessary.
- Interview may happen without parent’s knowledge as long as parent is notified of the interview within 24 hours.
- Worker may transport child to another location. (TFC 261)

Investigation Process cont.

- Allegations discussed and risk assessment completed with parent/alleged perpetrators.
- When necessary records requested. Medical appointments or drug testing may be requested.
- Home visit. Other children in home interviewed and examined.
- Collaterals and reporter contacted.
- If needed, safety plan completed.

Dual Decisions In Investigations

Case Disposition:

- Reason To Believe
- Ruled Out
- Unable To Determine
- Unable To Complete

Case Conclusion:

- Close case.
- Refer family to community services and close.
- Open case for in-home services.
- Petition court for emergency custody.

Safety Plan

- Actions to be taken by family to ensure immediate safety of child(ren).
- Specific tasks (observable, achievable)
- Voluntary and not legally binding
- Temporary (short-term and time limited)

Parent–Child Safety Placement

- The parent agrees to place the child with another person for 30 to 90 days
  - Persons must have a longstanding and significant relationship with the family
  - All home member must pass a CPS background check
  - Home environment must be assessed as safe
- Primary Difference between Safety Plan and Safety Placement is where the parents reside
Family Based Safety Services (FBSS)

- Goal is
  - To work with family to reduce risk to child
  - Prevent unnecessary removal of child
  - Achieve permanency and safety for child.
- Voluntary*
- Parents retain legal custody of the children
- Collaborate with family for the child’s safety through community services

Motion to Participate

- Court order compelling the parent to participate in specific services.
- Investigation or FBSS case worker decides to apply for order after consulting with CPS Legal unit.
- Granted (or not granted) by a judge.
- Order works toward the goal of permanent placement of the child with the parent.
- Failure to meet court ordered requirements can result in legal removal.

Removal

- If safety cannot be ensured through FBSS or a MTP CPS can petition court to remove child from the home.
- Immediacy of danger
  - Exigent Removal
    - Based on the totality of the circumstances there is reasonable cause to believe that the child is in imminent danger of physical or sexual abuse if the child remains in the home. An exigent circumstance requires immediate action.
    - Totality of Circumstance
    - Imminent Danger
    - No less extreme solutions available.
  - The more typical scenario is removal following a court order. This can occur at any phase of the investigation.

Termination of Parental Rights

- Texas gives parents one year after removal to demonstrate that they can safely parent the child.
- Failing that, CPS may petition the court to end the parent–child relationship
  - Child becomes eligible for adoption, kinship placement, or long term CPS custody.
- In limited circumstances, CPS can petition for termination without offering services to the parents.

Results

- Reports (264,342)
- Investigation (169,583)
- Not Investigated (94,804)
- Unconfirmed (130,246)
- Foster Care (17,027)
- Reunification
- Parents’ Rights Terminated (8,865)

Working with CPS
When a child reports abuse

- Continue to provide medical care.
  - Treat any immediate medical problems.
  - Ask questions you would normally ask to care for the child.
- You do not need to investigate.
  - Ask enough questions to ensure the child’s immediate safety.
  - Let the child tell his or her story, but you do not need to probe for additional details.
  - Carefully document questions, answers, and injuries. (Photos if possible.)

Some tips for working with CPS

- Clearly express your opinion.
- You may have to express your concerns to multiple CPS staff.
- Remember that the medical information is one small piece of the CPS investigation.
- Discussions with CPS worker about child abuse are not prohibited by HIPPAA.

Two specific pleas

- If a patient comes in with a burn, please take photographs before debridement.
- If a patient under age 3 has a significant injury, please consider a skeletal survey.

The Center For Miracles

- Consultation service for child abuse and neglect.
  - Outpatient (CHRISTUS Professional Pavilion)
  - Inpatient (CSR or University Hospital)
  - Telephone (704-3800)
  - Pager (210-513-2415)

References

- DFPS 2010 Annual Report and Databook.
- Department of Family and Protective Services Handbook.
  http://www.dfps.state.tx.us/handbooks/CPS/default.jsp
- Texas Child Abuse Central Reporting.
  http://www.txabusehotline.org/Login/Default.aspx