

# **CPS: Hotline to Disposition**

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# Who Can Report Suspected Child Abuse and Neglect?

- Anyone with a reasonable suspicion that a child has been abused or neglected may report his or her concerns to Child Protective Services. Certain people, however, are required by law to report their concerns to Child Protective Services when they reasonably suspect that a child has been mistreated New York State Social Services Law, Title 6—Child Protective Service, Section 414.

# WHAT IS A MANDATED REPORTER?

- -an individual who is required to report or cause a report to be made to the hotline when he or she has reasonable cause to suspect that a child coming before them in their professional capacity is an abused or maltreated child or where a parent or guardian appears before them in their professional capacity and leads them to believe a child is abused or neglected. Social Services Law § 413

# WHO ARE MANDATED REPORTERS?

- -any physician, physician's assistant, surgeon, medical examiner, dentist, dental hygienist, optometrist, chiropractor, podiatrist, resident, intern, psychologist, RN, social worker, EMT, licensed creative arts therapist, marriage and family therapist, mental health counselor, psychoanalyst, hospital personnel engaged in the admission, exam and treatment of persons, school official (including but not limited to teacher, guidance counsellor, psychologist, school social worker, school nurse or administrator), daycare provider, substance abuse counsellor, peace officer, police officer, district or assistant district attorney or investigator of that office, or other law enforcement official. Social Services

# Law § 413

- PENALTY FOR A MANDATED REPORTER FOR NOT MAKING A REPORT
- -any person, official or institution required by this title to report a case of
- suspected child abuse or maltreatment who willfully fails to do so shall be guilty
- of a Class A misdemeanor. That person shall also be civilly liable for the damages
- proximately caused by such failure. Social Services Law § 420

*Young v. Campbell*, 87 AD 3d 692 (2d Dept.  
2011)

- An injured child may assert a cause of action for damages for injuries under SSL § 420 for alleged violations of SSL § 417 but these statutes do not provide a cause of action for the parent of the alleged abused child.

**See also *Vallarin v. Rabbi Haskel Lookstein School*, 96 AD 3d 1 ( 1<sup>st</sup> Dept. 2012)**

- A school nurse, an employee at will, was able to bring a civil action for wrongful termination against her employer when she was fired after making a CPS referral when the principal of the school had told her not to. The court noted to not allow this suit would place the school nurse on the horns of a dilemma: If did not make the CPS referral she would be liable under SSL § 413; if she did make the referral she would be fired. The public policy of protecting children from maltreatment was paramount.

## IMMUNITY FROM PROSECUTION

- -the good faith of any such person, official or institution required to report suspected abuse or maltreatment shall have immunity from any liability, civil or criminal, by reason of his or her report. Social Services Law § 419



# IMMUNITY FROM PROSECUTION

## CONTINUED

- See *Nieves v. County of Monroe*, 761 F. Supp 2d 48 (WDNY 2011), in which two child protective workers were sued for malicious prosecution. A child in Pennsylvania alleged abuse over the last several years occurring when she lived in Monroe County. A CPS referral was made to Monroe County and these two caseworkers investigated the allegations. They also provided the information they received to the District Attorney office and the plaintiff was indicted on sex abuse charges. However, he was ultimately acquitted and this civil suit followed. The civil suit was dismissed. No cause for malicious prosecution as caseworkers were acting within the scope of their employment when they passed on information to the DA's office.

# How Do I Report Child Abuse and Neglect?

- Monroe County Child Abuse Hotline Status Update
- New York State Child Abuse and Maltreatment Register
  - 800-342-3720 (General Public)
  - 800-635-1522 (Mandated Reporters)

# Criteria for CPS Intervention

- Sufficient Demographic Information
- A person legally responsible (parents, legal guardians, foster parents, daycare or other adults living in the home)
- A child under the age of 18
- Proper Jurisdiction (incident occurred in Monroe County or NY State)
- Allegations which, if true, would be abuse or neglect.

# What happens when the Hotline accepts a CPS Report?

Assigned to next team in line for a case based upon:

1. Zip Code
2. FAR eligibility (no allegations of serious physical or sexual abuse, no foster home or daycare cases, no case currently active in Family Court)
3. Is it a return case



# What happens when the Hotline accepts a CPS Report?

- Supervisor reviews the report and any family history. Assigns case.
- Caseworker begins Safety Assessment Process and ongoing investigation/engagement.
- If CPS-Investigation handles the case, allegations are addressed and evidence is gathered; a determination is made.
- If CPS-FAR handles the case, concerns are addressed and family meetings are held for planning. Underlying needs are addressed.

**\*\*\*REMEMBER\*\*\***

**Safety is handled the same in every case, regardless of the track.**

# **CPS Investigations & CPS FAR: More alike than Different**

**Both use the same safety assessment criteria**

**Both have the ability to go to Court, if needed**

**When necessary, both can see a child alone**

**Both have the same ability to access preventive services.**

# Responsibilities of CPS Investigation

- Investigate allegations of abuse and maltreatment which also includes a global safety assessment.
- See and interview all household members as well as absentee parents.
- Complete relevant collateral contacts
- Make referrals for services as appropriate
- Determine whether or not maltreatment has occurred as well as who is responsible.

# What happens when CPS Investigation closes

- Unsubstantiated/unfounded
- Substantiated/ Indicated and Closed
- Substantiated/Indicated and referred for services.
- Substantiated/Indicated and open due to Article 10 petition.



# What is FAR

- Family Assessment Response is an alternative approach to a child protective report
- Focus is on creating lasting change through family engagement and collaborative partnerships, thus supporting child safety
- Caseworker assesses strengths and needs and matches services to support both; not fault finding
- Foundational belief is that families do well when they can, not if they want to.

# What Does a FAR Case Look Like?

**Review of CPS history**

**Contact Family to begin engagement**

**24 hour & 7 Day Safety Assessments**



# What Does a FAR Case Look Like?

## Hold Family Meetings:

- all household members including any absentee parents need to be seen/contacted

- contact relevant collaterals

- discuss concerns

- assess/ identify strengths and needs

- identify resources

- use of FAR “Tools” to hear each family members voice as part of addressing concerns

- offer and connect family with services and supports

- establish a family plan for going forward to support family safety

**\*\*FAR focuses on engaging the family in their own planning to address concerns, rather than making a determination whether or not maltreatment happened.\*\***

# What happens when FAR closes?

Family plans are created to address concerns, as needed:

- Closed no services
- Closed preventive services
- Closed other services

# Confidentiality

- While a case is active in the Investigation or FAR stage as well as after the case is closed, CPS can NOT tell you anything, per social services law.
- If a petition is filed that results in a Court Order, releases of information can then facilitate communication between CPS and schools or service providers.

# Confidentiality

- The governing confidentiality statute is found at Social Services Law § 422(4)(A) States that reports made to the statewide registry of child abuse and maltreatment – as well as any other information obtained – shall be confidential.

# Exceptions

- However, there are several exceptions (27 actually) to his provision prohibiting disclosure. Notably, disclosure can be made to the subject of the report, a provider agency, a probation service, individuals in the DA's office, CPS in another state, an AFC for the child and adult protective services.

# Exceptions Continued

- It should be noted that the exceptions carved out in the statute apply only to indicated cases. This is made clear by SSL § 422(5)(a) which has far more restrictive criteria for releasing information from an *unfounded* report. For unfounded reports, only five exceptions apply. Information can only be shared with OCFS in order to supervise the district, OCFS for purposes of preparing a fatality report, local CPS, the subject of the report or the DA office for its investigation of an individual who may be charged under Penal Law § 240.50.



# Minimal Degree of Care

- The standard is minimum degree of care, NOT maximum or ideal care
- A minimum baseline of proper care that all parents must meet regardless of lifestyle, social position or economic position
- Parental behavior is evaluated objectively according to whether a reasonable or prudent parent would have so acted, or so failed to act, under the circumstances then and there existing

# Safety and Risk

- Regardless of the track the case is assigned to (FAR or CPS), safety and risk assessments must be made and documented.
- A removal can only occur if the following exists: one or more safety factors, which place the child in imminent or impending danger of harm, a safety plan is required to protect the child and the family is unable to provide an approved safety plan/resource for the child.

## **PL § 240.50**

PL § 240.50 makes it a crime for a person to report an alleged occurrence of child abuse or maltreatment when it did not exist. That is a Class A Misdemeanor.

# Determinations

- An indication simply acknowledges some credible evidence that child maltreatment occurred (via actual harm or impending harm) and there is some credible, documented evidence of such.
- In 2014, there were 7665 CPS reports. Only 25% of those were indicated. Approximately 2% went to Court
- In 2009 (before FAR), there were 7574 CPS reports. Approximately 2.3% went to Court

# When Does CPS File an Article 10

- Anytime a child must be removed from a parents care due to imminent and/or impending danger.
- A safety plan is made for the child to stay with a family resource and there are ongoing risk and safety concerns which require Court supervision.
- There are multiple risk and safety factors, which do not place the child in imminent danger, and Court supervision is necessary to maintain the safety of the child.

# DECIDING TO FILE

- Most times the caseworkers or their supervisors or their administrators will be in touch with the supervising attorneys in this office when particularly troubling allegations arise that simply cannot be dismissed as not credible or addressed with a provision of some sort of services.

# DECIDING TO FILE CONTINUED

- In those instances, the Law Department and the agency will work together to try to assess whether court intervention is justified and necessary, whether a safety plan could be implemented that would avoid the necessity of court action and to discuss any impediments to either a successful safety plan or a successful court action. The supervising attorneys have regularly scheduled face-to-face consultations with agency caseworkers every week.

# DECIDING TO FILE CONTINUED

- There are instances, however, where consultation prior to legal action is not possible. There are emergency situations that allow the commissioner, through her agents and employees, to act immediately – without legal consultation and without court order.



# FCA § 1021 - removal with consent

- the agency can temporarily remove a child with a signed consent of the parent or other person legally responsible for the child's care. The agency must file a petition for court action within three court days of obtaining the consent. In this instance, the child must come into foster care – may not be placed with a suitable relative or other resource. In these three days, the emergent situation can be addressed, such that sometimes the child is returned to the parent and no legal action is taken or a petition seeking supervision but not removal is filed in court.

# FCA § 1024 - removal without consent

- invoked when a caseworker (or peace officer or police officer) takes a child into custody when such person has reasonable cause to believe that the child is in such circumstance or condition that his or her continuing with the parent presents an imminent danger to the child's life or health. The child must be brought into foster care. A petition must be filed by the next court day and the initial appearance shall be held no later than the following court day.

# What Happens After an Article 10 is filed?

- Case is transferred to CPS-Management
- Some sort of a resolution is eventually made by the Judge (neglect/abuse finding, ACD or ACD/B).
- CPS-M CW works to assist the parent to meet the requirements of their court order and safely maintain the children at home, return them home, or achieve another form of permanency.

# Responsibilities of CPSM

- Reasonable efforts must be made to complete face to face contacts with every parent and child on every case twice per month, one of which must occur in that person's residence.
- Supervise Visits: CPSM staff needed to cover approximately 4000 visits in 2014. Approximately 7000 were covered by Visitation Center staff and SPCC staff.
- Average caseload: 8.6 families with 20 children

# CPSM

- Engage all family members in addressing needs
- Negotiation of Disposition
- Referrals for service
- FASPS
- Permanency Reports
- Concurrent Planning
- Attending Court Appearances

# Questions?

