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A Quick Look at Child Protective Services

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Child Protective Services ("CPS") is a division of the Texas Department of Family & Protective Services (DFPS). DFPS programs include Adult Protective Services ("APS") and Child Care Licensing ("CCL"), dedicated to protection of elderly and vulnerable adults, and regulating child care, respectively. The purpose of this article is to give the County and District Court Clerks an overview of CPS. While CPS employees and lawyers representing the agency appear in court across Texas every day, many CPS cases never involve litigation. Even for those cases that do end up in court, much of the work is done outside the courthouse. Some of the many specialized functions CPS employees perform include:

- Investigation of reports of child abuse and neglect;
- Helping families address issues like substance abuse, domestic violence and neglect that jeopardize child safety;
- Providing forums for family group decision making as a collaborative solution to child welfare issues;
- Evaluating individual children's needs and locating appropriate services and resources;
- Assessing and training potential foster and adoptive caretakers;
- Preparing foster youth for the transition to adulthood;
- Serving as expert resources for frontline CPS staff on education, medical issues, substance abuse, developmental disabilities and disproportionality issues; and
- Providing services and resources for foster and adoptive families.

The employees who carry out these and many other job functions confront vastly different circumstances from Laredo to Wichita Falls, Tyler to El Paso. CPS is a business that commands attention 24 hours a day, 7 days a week and requires workers to make difficult decisions, juggle priorities and use resources creatively to best meet the needs of children and families. The demands of the job require intrepid, caring and committed employees who are not fazed by hurricanes, communicable diseases, new technology or the controversy these cases often ignite.

Agency rules are published in the Texas Administrative Code,¹ and policy is published in the CPS program handbook available online.²

Initial Report Through Investigation

All CPS cases begin with a call to law enforcement, a local CPS office or to the Statewide Intake (SWI) office, where all reports are forwarded. The SWI office functions 24 hours a day, every day of the year and assigns a priority to all incoming cases before referring the case to local staff for investigation. Cases are assigned a priority based on:

¹ Title 40, Social Services and Assistance, Part 19, Department of Family & Protective Services, available online at: [http://info.sos.state.tx.us/pls/pub/readtac\\$ext.viewtac](http://info.sos.state.tx.us/pls/pub/readtac$ext.viewtac)

² The Child Protective Services Policy Handbook is available online at: <http://www.dfps.state.tx.us/handbooks/default.jsp>

Priority 1 – these cases “concern children who appear to face immediate risk of abuse or neglect that could result in death or serious harm.”³ Investigation of Priority 1 cases must begin within 24 hours unless the circumstances indicate death or substantial bodily harm is imminent without intervention, in which case an immediate response is required.⁴

Priority 2 – All other reports of abuse or neglect are Priority 2, for which an investigation must be initiated or the report forwarded to special screening staff within 72 hours.

A report may be closed without being assigned for an investigation. This can occur if there is no reasonable likelihood that a child will be abused or neglected in the future, the allegations are too vague or general to make any determination of abuse or neglect, there is insufficient information to locate the child or family after a search, the report has been referred to Adult Protective Services or Child Care Licensing, or the report does not involve activity within the responsibility of CPS and will be handled by another agency or program or law enforcement.⁵

CPS is only authorized to investigate allegations that meet the statutory definitions of abuse and neglect.⁶ If a report does not allege abuse or neglect by a person responsible for the child’s care, custody or welfare, law enforcement is responsible for the investigation.⁷ A caretaker’s refusal to consent to administration of psychotropic medication or psychological or psychiatric treatment for a child is not neglect, unless the refusal presents a substantial risk of death, disfigurement or bodily injury to the child or has resulted in an observable and material impairment to the growth, development or functioning of the child.⁸

If an investigation reveals that a family needs CPS services, the next step depends on the degree of intervention needed. CPS’ goal at every juncture is to use the least intrusive means of child protection possible, consistent with child safety. The degree of involvement required depends on the extent of parental cooperation, the nature of the abuse and neglect and the individual circumstances in each case.

Family-based safety services (“FBSS”) are in-home services designed for families of children not in agency conservatorship.⁹ Family reunification services aid families of a child in agency conservatorship in transitioning safely back into the home.¹⁰ Family Group Decision Making (“FGDM”) is a philosophy of non-adversarial decision making that originated in New Zealand.

³ 40 TEX. ADMIN. CODE §700.505(a)(1).

⁴ 40 TEX. ADMIN. CODE §700.505(b).

⁵ CPS Policy Handbook 2145.

⁶ TEX. FAM. CODE §§261.001(1); 261.001(4); truants, runaways, children in need of supervision, reasonable physical discipline, latch-key children, and harmful or violent children are all examples of circumstances which, unless accompanied by additional information, are not considered abuse or neglect. 40 TEX. ADMIN. CODE §700.503.

⁷ TEX. FAM. CODE §261.301(a),(c).

⁸ TEX. FAM. CODE §261.111.

⁹ 40 TEX. ADMIN. CODE §700.702.

¹⁰ 40 TEX. ADMIN. CODE §700.703.