



# Learning About Child Protective Services

## Thelma's Voice

My son and his kindergarten teacher had difficulties for a couple of months. I tried everything I knew to make him behave, but he got into trouble almost every day. My husband, his stepfather, intervened, feeling that I was ineffective. His method, a good spanking, began soon after. The spankings became more violent and lasted longer. I stepped into the middle several times only to be told to stay out of it. I tried talking to my husband several times when he was calm, but he dismissed my comments.

One day an agency worker appeared at my door. She explained that a report had been made regarding my son and that multiple bruises on his backside and legs were revealed during their interview and examination. The CPS investigation only made my husband angrier. He felt they were intruding and had no right to dictate how he should discipline his children. After numerous attempts at counseling, he spanked my son again, leaving a large bruise. The Social Services Department came and removed my child. I felt my stomach tighten and my umbilical cord pull away as my son left our home. I wailed in pain because they were doing something that I believed only God could do—take my son away from me.

My son went into foster care, and my husband was arrested. They explained that my son would remain in care until I could guarantee his safety. I was left with the choice of having my husband released so that he could go to work (I had no job) or having my son return home and leaving my husband in jail. When I chose to have my husband released from jail, I was accused of being a horrible mother by the judge. I have never felt so torn in my life and did not know where to turn for help.

*(Thelma's Voice continues in Section 10, page 96.)*

## What is Child Protective Services (CPS)?

Child Protective Services (CPS) is a specialized part of the child welfare system. It focuses on families in which a child has been identified as a victim of or in danger of child abuse or neglect. This also may be called child maltreatment. State laws require child protective services agencies to do the following:

- take reports from people who believe a child has been abused or neglected
- find out if abuse or neglect has taken place
- ensure that there is a plan in place to keep children safe
- provide services to families to ensure their children's safety

## What is child abuse and neglect?

A federal law called the Child Abuse Protection and Treatment Act (CAPTA) says that at a minimum, child abuse and neglect is “any recent act, or failure to act, on the part of a parent or caretaker which results in death or serious physical or emotional harm, or sexual abuse or exploitation, or presents an imminent risk of serious harm.”

There are several types of abuse and neglect. The definitions below were adapted from CAPTA (some states may have slightly different definitions for abuse and neglect):

- **Physical Abuse**—is causing injury to a child by beating, kicking, biting, burning, shaking, or other ways of harming the child. Sometimes even when a parent does not intend to hurt the child, a child's injuries may be legally labeled as abuse. For example, the injury may have been the result of over-discipline or physical punishment. The law holds the parent responsible for the safety of the child even when someone else in the home causes the injury.
- **Child Neglect**—is failure to provide for a child's basic needs. This includes a child's physical, educational, medical and emotional needs. Sometimes neglect of a child happens when a parent has a drug or alcohol abuse problem or some form of mental illness. Not having enough money to take care of a child's basic needs does not mean a parent is being neglectful. It may mean that the parent needs assistance.

When deciding if a child is neglected, the agency worker usually considers cultural practices or differences. This is to make sure that a family is not wrongly accused of abuse or neglect.

- **Sexual Abuse**—includes any type of sexual activity or sexual contact by a parent or other caregiver with a child. Taking advantage of a child through prostitution or pornography is also considered to be sexual abuse.
- **Emotional Abuse**—includes actions of a caregiver that can hurt a child's emotional health, such as screaming and name calling. Other acts such as rejecting or withholding affection are also forms of emotional abuse.

### Practical Tips for Families

- ✓ Ask your agency worker to give you the definitions of child abuse and neglect used in your state.
- ✓ If English is not your first language, ask for the definitions (and other materials) in your own language.

## Reporting Child Abuse and Neglect

### A Grandmother's Voice

My daughter abused drugs during and after her pregnancy. When her daughter was born, she relinquished her to my care and returned to the streets. When my granddaughter was a little more than 2 years old, she fell down bruising and cutting her leg. Since it appeared to be a deep cut requiring stitches, I took her to the hospital. While waiting for her to be released, a doctor requested that I step outside of the room. I saw a man go into her room, and a part of me knew exactly what was happening. I prayed that my grandchild would not say anything to cause them to take her from me. After waiting for what seemed like an eternity, they released her and told me that I could take her home. When I asked what had just happened, the doctor said that when children come into the ER with bruises, they must call social services. The man talking with my granddaughter was the agency worker from social services. Even though the doctor explained this to me, I felt that I was targeted because I am African American. However, I was relieved that they recognized I had not abused my granddaughter, and we were able to go home together.

## How would CPS get a report about my child?

Anyone who might suspect that your child is being abused or neglected may call CPS to report the suspicion. Each state or local community has its own 1-800 number and 24-hour hotline. Any member of the community, parents, or child victims themselves can call and make a report of suspected child abuse or neglect.

Any person may *voluntarily* report suspected abuse or neglect. Persons who work with children and/or families are legally *required* to report suspected abuse or neglect. They are called “mandated reporters.” This includes professionals in health care, childcare, social services, education, mental health, law enforcement; guardians *ad litem*; and clergy (unless information is considered privileged). This list of mandated reporters may vary slightly from state to state.

## Does CPS respond to all reports of suspected abuse and neglect?

Yes. There is some level of response to every report. Intake is the first stage of the process. It is the point at which reports are received. The purpose of intake is to gather enough information from the person who makes the report to determine the following:

- if the reported information meets the legal and agency guidelines for abuse and neglect
- if the person who is reporting seems believable
- if the child has been harmed or is at risk of harm
- if the agency should respond
- how quickly the agency should respond

If the agency decides that the report meets its guidelines for abuse or neglect, then an investigation will take place. Nationally, 7 out of every 10 initial reports are accepted for further investigation. If the suspected abuse or neglect is by a noncaregiver, then the report may be sent to law enforcement, and the police may need to talk to you and your child.

## Does CPS respond to all reports of abuse and neglect in the same way?

No. A growing number of states have adopted alternative ways for responding to CPS reports.

**Investigation Response**—When reports show that a child is in serious or immediate danger of harm, an immediate investigation takes place. This is the “investigation” response. The investigation process, as described later in this section, is then followed. The agency worker, law enforcement, and the court may become involved.

**Alternative Response**—Another response (often called an “assessment,” instead of an investigation) is offered for families who are able to keep their children safely at home while receiving services. These families want help and voluntarily agree to participate in services. The services received are individualized to meet each family’s needs. The court is not initially involved with families when this alternative response is used. If it becomes necessary to protect children, the court can become involved. States that offer alternative responses find that families do well and that courts rarely become involved.

### How does the agency decide which type of response to use?

In states where this “alternative response system” is in place, the agency can choose how to respond. The choice is determined by the following:

- severity of the report
- level of danger for the child
- availability of the necessary formal and informal supports
- willingness of the family to participate voluntarily in services and make the required changes

## How Investigations Work

### Troy’s Mom’s Voice

I thought only girls were raped. I never imagined that anyone would touch my son Troy. He was only 6 years old, and I didn’t know that I had to protect him from that kind of harm. When I came home from work one day, my babysitter told me that my son had not come home from school. She said that she had called the school, and they told her someone from social services would call me. She hadn’t heard anything else. I picked up the phone and called them, “Where is my son?” They said someone would contact me. I sat at the phone waiting, dumfounded. What had happened to my son?

A few hours later, (it felt like years), a man rang the doorbell and announced he was the agency worker from social services. I screamed at him, “Where is my son?” He asked if he could come in so we could talk, I let him in the house, only to continue yelling, “Tell me where my son is. What have you done with him?” He explained that my son was at the district office because of allegations of sexual abuse. He asked me where my nephew was, and I told him he had not gotten

*Continued on next page.*

*Troy's Mom's Voice continued from page 17.*

home from school yet. He had football practice after school. He sat me down and explained that my son had complained to his teacher about pain in his bottom. His teacher sent him to the nurse, who called CPS because my son had said that my nephew had been playing "back there." I became more hysterical. "No way." I said, "My nephew would never touch a child, let alone my son."

I had taken in my nephew Alex several years ago after my brother became addicted to cocaine. But I could not believe he would touch my son. He liked girls and dated often. I explained all of this to the agency worker. He said that a full investigation was under way, including a physical examination of my son, but unless my nephew had somewhere else to live, my son would not be returned home because he would be in danger. My head started spinning. What if my son had made this up to get Alex in trouble? What if someone else had done this, and Troy was blaming Alex?

"Where is my son?" I asked again. I wanted to talk to him and find out why he was saying this. The worker said that he was at the district office, but unless housing arrangements were made for Alex, my son would be placed in temporary foster care until the investigation was concluded. They had to complete the physical examination. An expert in the field of sexual abuse would be performing it. I asked, "Can I go? Who is this doctor? Is my son scared? Who is with him? What am I going to do?"

I finally found a good friend that agreed to take Alex and make sure he got back and forth to school. The worker let the office know that my son Troy could come home later that day after Alex had gotten his things and was taken to my friend's home.

The investigation took several months. During that time, I visited my nephew at the friend's home and provided for him there. My son remained at home with me and began trauma therapy. They discovered that it had not been Alex that had abused my son, but a neighbor down the street, who Troy was scared to "tell on." Alex was returned home, but their relationship is still strained. The boys rarely speak to each other, and all of us are working it out during weekly sessions with the therapist. I believe one day we will all heal, but that day is nowhere in sight. Alex is hurt by the accusations, and no matter how often he is told that Troy accused him because he could trust him, he is angry and confused. Troy continues to work through what being sexually abused really means and what parts it will play in his future.

## Who conducts an investigation? What are their qualifications?

In many states the main investigator is a CPS worker. In other states, the investigator may be a law enforcement officer instead of an agency worker. Under some circumstances, they work as a team. They must have the skills to work with you, your child, other family members, community agencies, law enforcement, and courts. In many states, agency workers that work in CPS must have a bachelor's degree or a master's degree in social work or a degree in a closely related field. CPS agencies must ensure that the workers have regular and appropriate training and specialized skills necessary to provide quality services.

## If CPS responds to a report about my family, what happens during the investigation?

Often the CPS worker will re-contact the person who made the report to the central hot line and clarify what they said happened. The CPS worker will interview your child. If your child has injuries that are serious or visible, the CPS worker and a physician may examine him. Interviews are then held with you and the person who is accused of neglecting or abusing your child. The CPS worker might also interview other witnesses. After all of the basic information is gathered, the CPS worker determines what happens next.

## Will the worker tell me who made the report?

No. You will be told *about* the report, but not the identity of the reporter. Most CPS workers have an open mind about reports, and their experience tells them that all reports are not true. They also recognize that most families do not abuse or neglect their children on purpose.

## What are the possible outcomes of a CPS investigation?

The agency may determine the following:

- Your child was not abused or neglected. When this occurs, the allegation is called “unfounded” or “unsubstantiated.” There is no need for further CPS involvement. The case is closed.
- Your child was not abused or neglected. The report was unfounded, but you are having family problems for which you want some help. The CPS worker may refer you to some community services that can help you on a voluntary basis.
- There is evidence that your child was abused or neglected. This is called having the allegations “founded.” All states do not use this same language. They may call it “substantiated” or “confirmed.”
- There is reason to suspect that your child was abused or neglected or is at risk for abuse or neglect. However, the abuse or neglect cannot be proven. This is called “indicated.” Currently, only 10 states have this category.

## If there is evidence that my child has been abused or neglected, what could happen?

Depending on what happened to your child and your ability to keep him safe now and in the future, any of the following may happen:

- If your child can be safe in your home, services may be put in place for your family to prevent further abuse or neglect. Plans will be developed and supports made available for your family to make sure your child is safe. This is called a safety plan. It will be monitored by CPS.
- If your child cannot be safe at the present time in your home, he may need to be placed with someone outside of your home. He could be placed with a relative or in foster care.
- The Family Court may order you to make changes and to participate in services.
- Law enforcement may become involved if it is suspected that a crime has been committed against your child.

Removal of a child during, or as a result of, an investigation is a very serious and often painful outcome for both the child and the family. This action is reserved for situations in which the child's safety is at high risk, and the CPS worker determines that the parent or caregiver is unable to protect the child.

### Practical Tip for Families

- ✓ If your child has been removed from your home, tell the CPS worker about family members or others who can be a resource to you and your child. This is especially important if your child has been removed for safety reasons.

## If there is evidence that my child was abused or neglected, is a record kept?

Yes. If an allegation of child abuse or neglect is founded by the CPS agency, the name of the person responsible for the abuse or neglect is usually placed in a registry. Most states have a central place for keeping track of these names. The length of time that the name remains in the registry varies by state.

## If my child is NOT found to be abused or neglected, is a record kept?

Possibly. Ten states have policies that allow them to keep all reports on the Central Registry. But federal law says that you should not be listed in any place accessible to the general public or to people who do employment or background checks. The child welfare agency itself, however, can maintain this information for its own future uses unless your state laws do not allow such records to be kept. If you find that your name has been wrongfully listed, you have the right to appeal to have your name removed.

### Practical Tips for Families

- ✓ Ask your lawyer or agency worker if
  - your name will appear in the registry
  - your name does appear, how long it will be there
  - a potential employer can learn of your involvement with child protective services

## How are my rights as a parent affected or changed during an investigation?

During an investigation, there is no legal status change as a parent. Unless there is an emergency removal of your child from your care, you will keep all of your rights as a parent.

## Can I be present when my child is interviewed?

The CPS worker has the authority to talk to your child and to your child's brothers and sisters without your consent and outside of your presence. If the report claims that you or someone else responsible for your child's care has hurt your child, the law allows your child to tell what has happened without the family members present. Therefore, the CPS worker decides who should be present during the interview. Although your child can be interviewed and physically examined without your permission, your cooperation and permission may be requested.

## Do I have to allow the CPS worker into my home?

No. You do not have to let a CPS worker into your home or answer their questions. Despite this, the CPS worker is still legally required to investigate reports of suspected child abuse and neglect. If there is reason to believe that your child is in danger and you deny access to your home and your child, the police may obtain a search warrant to enter your home and check on your child.

## Will there be a court hearing if my child is removed from my home during a CPS investigation?

Yes. The CPS agency must file a neglect or abuse petition with the court that handles juvenile or family court matters requesting a preliminary or “emergency protection order.” This order gives the CPS agency temporary custody. This custody allows the agency to protect your child’s life, health, or general care until a hearing about the emergency placement can be held. An initial hearing (often called the “emergency removal hearing”) is held within a short time (actual number of days depends on local laws). This hearing determines whether the emergency protection order was justified and whether there is a continuing need to have your child placed out of the home. (See Section 5, p. 47.)

## Will I have a lawyer for this initial hearing?

It depends. If you cannot afford a lawyer, you can request that one be appointed. Some states may appoint a lawyer for you, but that is not always the case. (See more about getting a lawyer in Section 5, p. 53.)

## How are my rights as a parent affected after this initial hearing?

You will continue to influence many of the decisions about your child unless the court directs otherwise. Your continued participation in the service plan (described in Section 3) is one way for you to have influence. You should be able to visit regularly with your child unless the court determines that this would endanger his safety.

## What has to happen for CPS to no longer be involved with my family?

The child welfare agency should no longer be involved with your family when the following occur:

- The goals of the service plan have been met.
- You are able to ensure your child’s safety.
- Your family can meet your child’s needs.
- The court orders it.

## What laws guide CPS?

Individual states have their own laws about child protective services. There also are federal laws, such as the ones listed below, that guide CPS:

- The Child Abuse Prevention and Treatment Act (CAPTA) was passed in 1974. This law was intended to improve CPS programs and make them more similar across the country. The U.S. Congress has amended it several times since it was passed. The most recent changes were made in June 2003.

- The Indian Child Welfare Act guides CPS for families enrolled in a federally recognized tribe. (See Section 8 for more information.)

### What does CAPTA provide for?

Some of the things the law provides for include the following:

- investigation of CPS reports
- prosecution of child abuse
- child abuse prevention activities
- training for CPS workers

### How does CAPTA affect families?

Some of the ways that this law affects families include the following:

- The law allows parents to appeal a finding of abuse and neglect.
- The law states that abandoning an infant can be grounds for permanently terminating a parents' rights.
- The law requires health care providers to notify CPS of all newborn infants who are affected by illegal substance abuse or who have withdrawal symptoms that resulted from prenatal drug exposure.
- The law encourages states to ensure that children and families who speak limited English receive materials and services in their own language.
- The law encourages states to develop more prevention services, such as parent education, respite care, voluntary home visiting, and family support programs.

### Practical Tips for Families

- ✓ Ask your agency worker what changes have been made in your state/local area as a result of the June 2003 amendments to CAPTA.
- ✓ If English is not your first language, ask for the information (and other materials) in your own language, or ask for a translator.

