

What Every Lawyer Needs to Know About CPS Involvement in Cases

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No matter what type of law you practice, every lawyer knows that there is cause for concern when CPS becomes involved in your client's life. Your client may feel confused and scared, turning to you for guidance in this high-stakes situation... even if you do not practice family law.

Who is CPS?

Child Protective Services ("CPS"), is a program overseen by the Texas Department of Family and Protective Services ("DFPS"). CPS is required to investigate reports of child abuse and neglect by a child's parent, family, household member or other individual responsible for the child's case, custody or welfare.

How is a Case Opened?

All CPS cases begin when a report is made to Statewide Intake whose specialists determine whether the circumstances warrant investigation by CPS. Based on the allegations, the report is then classified as one of four types - Priority One intake (P1), Priority Two intake (P2) Priority None (PN), or Alternative Response (AR). A P1 designation is the most serious and alleges immediate risk of abuse or neglect that could result in death or serious harm. These cases must be investigated within 24 hours of intake and are frequently conducted alongside law enforcement. A P2 report involves a risk of harm but not imminent death or injury and must begin within 72 hours of intake. A PN classification is that there is no foreseeable risk of harm and the report is closed without assignment. An Alternative Response (AR) allows CPS to handle less serious allegations in a more flexible way by engaging families through collaboration.

Investigation

All CPS investigations have two components: (1) a disposition, which determines whether or not a child has been abused or neglected, and (2) risk assessment, which is the likelihood that abuse or neglect will occur in the future.

An Investigation should be completed within 45 days. An investigator can conduct a broad range of activities, including but not limited to: background research; interviews; working with law enforcement; a forensic interview of the child, a medical, psychological or psychiatric exam; or a home visit. If someone does not cooperate with an investigation, then CPS may pursue court orders to authorize its actions.

Before an investigation is complete, CPS may implement interim precautions to ensure a child's safety. Such preventative measures include Safety Plans; Parental Child Safety Placements (PCSP); Temporary Restraining Orders; and Protective Orders.

Disposition

At the end of the investigation, a disposition must be assigned for *each* allegation contained in the intake report. The five possible dispositions are –

- Reason to believe (RTB) – abuse or neglect occurred by the alleged perpetrator.
- Ruled out –the abuse or neglect did not occur / was not committed by the alleged perpetrator.
- Unable to Complete (UTC) – the investigation cannot be concluded because the family could not be located or refused to cooperate.
- Unable to determine (UTD) – no other disposition applies.
- Administrative closure – CPS intervention is unwarranted.

Barring extenuating circumstances, CPS must notify each parent in writing of the investigation findings.

Risk Assessment & Conclusion

After assigning a disposition, the investigator must also determine the likelihood of abuse or neglect in the future. If such risk of continued harm exists, then the investigator will assess the parent's ability to keep the child safe from that harm. If the parent can do so, then a "not at risk" finding is made, and the case is closed. If the investigator concludes that a parent cannot keep their child safe from a potential harm, then an "at risk" finding is made, and the investigator may:

- Refer the case for Family-Based Safety Services (FBSS) and/or provide services such as family counseling, crisis intervention, substance abuse treatment, domestic violence intervention, and parenting classes; or
- Remove the child from the parent and file a petition for conservatorship and/or termination of parental rights.

If CPS makes the decision to remove a child, then CPS litigation begins. CPS lawsuits are civil in nature. However, a specific process and timeline is proscribed under the Family Code to ensure CPS cases run efficiently and effectively. Further, parents are entitled to receive a court appointed attorneys during this process.

Final Thoughts

Emotions can run high when CPS gets involved with a family. But, it is important to take the process seriously. In all cases, your client should remain calm and be educated about the next steps and potential outcomes. If necessary, an experienced family law attorney can assist you and your client with analyzing the circumstances and navigating the ropes of CPS to protect your client's interests.

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