
State Model Child Abuse Protocol 2007 Training

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Agenda

- Purpose of Child Abuse Protocol (CAP)
 - Activities of the CAP Committee
 - Membership of the CAP Committee
 - History and Development of the CAP
 - Revisions and Updates to the CAP
 - Review of selected county protocols
 - Discussion
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Purpose of Child Abuse Protocol

- To outline in detail the procedures to be used in:
 - investigating and prosecuting cases arising from alleged child abuse
 - the methods to be used in coordinating treatment programs for the perpetrator, the family, and the child
 - To coordinate the efforts of all agencies, which investigate, treat and manage cases of child abuse and neglect
 - To increase the efficiency of all agencies handling such cases
 - To facilitate and support agencies, organizations and individuals whose efforts are directed towards abuse prevention
 - To minimize the stress created for the allegedly abused child by the legal and investigatory process
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O.C.G.A. 19-15-2

- Each county shall be required to establish a child abuse protocol
 - Each protocol committee shall elect or appoint a chairperson who shall be responsible for ensuring that written protocol procedures are followed by all agencies. That person can be independent of agencies listed [as mandated members]
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Activities of the Child Abuse Protocol Committee

- The Protocol committee meets regularly to ensure the coordination and cooperation between all agencies handling such cases
 - The protocol committee shall meet at least semi-annually for the purpose of evaluating the effectiveness of the protocol and appropriately modifying and updating it
 - Issue a report no later than the first day of July in each year
 - As new members are appointed, they will receive training within 12 months after their appointment
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More Activities

- Shall adopt a written sexual abuse and exploitation protocol which shall be filed with DFCS and the Office of the Child Advocate
 - A copy shall be furnished to each agency in the county handling the cases of sexually abused or exploited children
 - Outlining the procedures used in investigation and prosecution of cases, and procedures used in the obtainment of and payment for sexual assault examinations
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Protocol Protections

[O.C.G.A. 19-15-6]

- Members of a protocol committee... shall not disclose what transpires at any meeting... nor disclose any information the disclosure of which is prohibited
 - A person who presents information to a protocol committee... shall not be questioned in any civil or criminal proceeding regarding such presentation or regarding opinions formed by the presentation
 - Information acquired by and records of a protocol committee... shall be confidential, shall not be disclosed, and shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding
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CAP Membership

- Office of the Sheriff
- County DFCS
- Office of the District Attorney
- Juvenile Court
- Magistrate Court
- County Board of Education
- County Mental Health organization
- Office of the County Chief of Police
- Office of the Chief of Police of the largest municipality in the county
- County Board of Health
- County Coroner or Medical Examiner
- Member representing a local citizen or advocacy group which focuses on child abuse prevention
- Additional members as necessary

History and Development of the Child Abuse Protocol

- 1990- legislation established the Statewide Child Fatality Review Panel. It also established local county protocol committees and directed that they develop county-based written protocols to determine how investigations of alleged child abuse and neglect are to be conducted and prosecuted (*CFR and CAP duties were bound together*)
 - 2001- statutory amendments re-established CFR committees as stand-alone committees (*CAP and CFR became separate committees*). Mandated membership was also expanded
 - 2003- the state model protocol was written. Agencies included GBI, OCA, CFR, and DHR
 - 2008 (*hopefully*)- the state model protocol will be revised and updated to reflect new legislation and best practices
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Current Table of Contents

Reporting

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Reporting Procedures

- Directly report to DFCS, law enforcement and/or district attorney
 - Mandated reporters should “*make an oral report as soon as possible by telephone or otherwise and followed by a report in writing...*” (*this is CHANGED*)
 - DFCS response time for reports assigned to investigation (24 hours or 5 days)
 - DFCS may request involvement of SAAG, SIU and/or Juvenile Court to seek removal from the home
 - Who are mandated reporters? Are they named in your protocol?
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Reporting Procedures

Initial Report

- school
- mental health
- public health
- hospital

District Attorney

DFCS

Law Enforcement

Reporting Procedures

■ Medical Personnel

- ❑ Report suspicion of sexual abuse to DFCS and law enforcement. Perform appropriate medical screening to provide treatment. A full forensic evaluation will be conducted at an appropriate location. Child should never be interviewed in presence of non-professionals.
 - ❑ In the event of physical abuse, obtain the history from each person SEPARATE from the child. Written documentation and photographs are always done; X-rays and lab work are done when indicated
 - ❑ Whenever possible, consult with or refer child to a medical professional who is also a child abuse specialist
 - ❑ A full written report is sent to DFCS, and a copy of the Emergency Department report is sent to the follow-up physician. The expert medical opinion is clearly stated.
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Reporting Procedures

■ County Public Health

- ❑ Do not notify the parents/ guardians that a report is being made until the safety of the child has been established
- ❑ Complete an “incident report” for each suspected case of abuse. A copy of the written report should be maintained in the child’s record

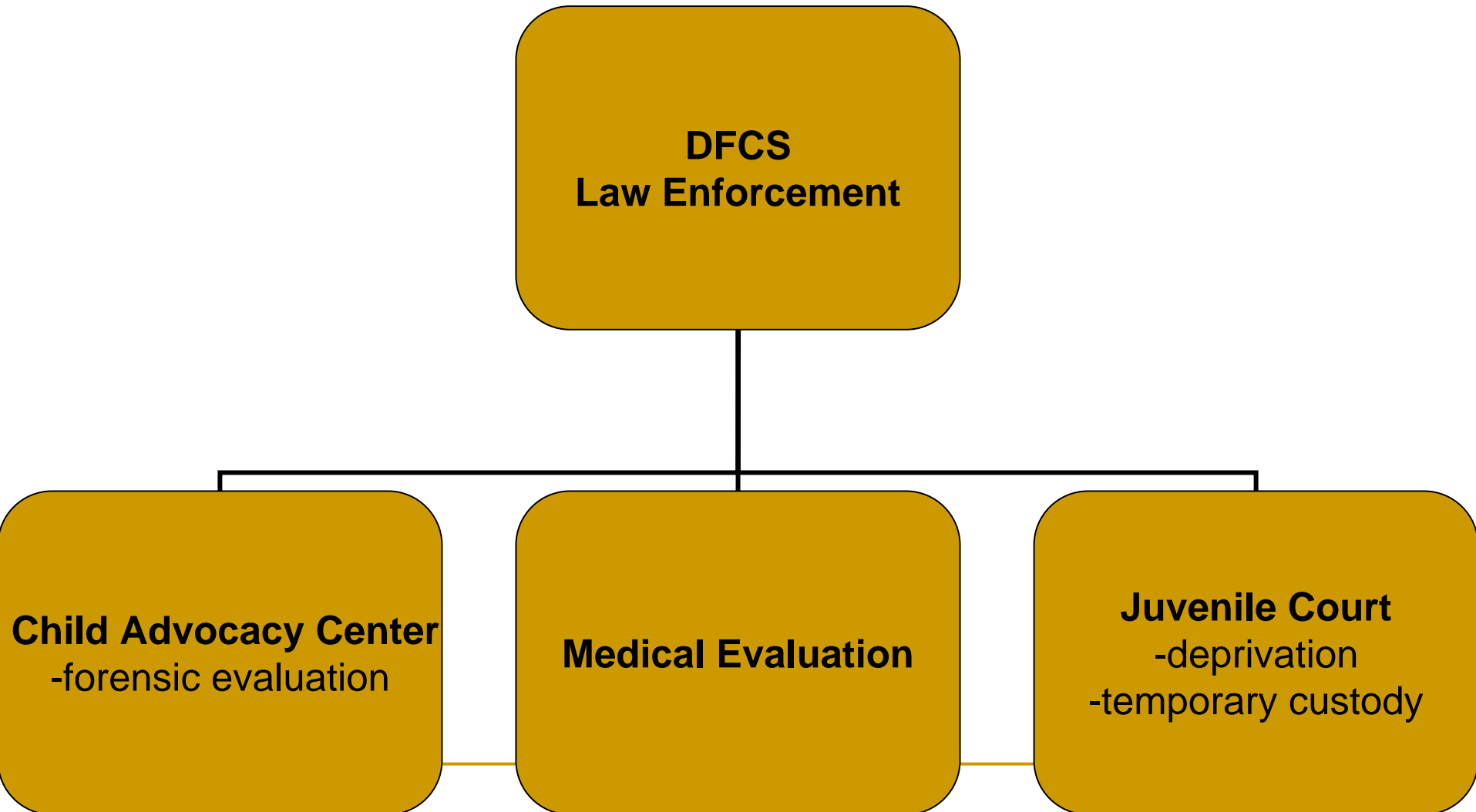
■ County School System

- ❑ Teachers are encouraged to document their suspicions in writing
- ❑ DFCS will be allowed to interview the child on school grounds
- ❑ No employee shall contact the parents/ guardians regarding the interview of their child in abuse/neglect referrals

■ Mental Health

- ❑ Do not attempt a forensic interview with the child, do not question the child about the alleged abuse, or use anatomically correct dolls for investigative purposes.
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Investigative Procedures





Investigative Procedures

- Child abuse cases will be handled in a priority manner depending on the severity of the case
 - Law enforcement will have at least one officer with advanced training in the area of child abuse investigation
 - Law enforcement agrees to work share information with DFCS in the event of certain circumstances, including but not limited to: sexual abuse, physical assault, severe neglect, abuse referred by a physician, injuries when the explanation is inconsistent with the injury, the suspicious death of a child
 - Severe physical abuse and all sexual abuse will be referred to the child advocacy center or other designated location.
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Investigative Procedures

■ Risk

- The CPS case manager will determine if the risk for maltreatment is LOW, MODERATE, or HIGH. A safety plan is developed to reduce the risk to the child
- Low risk cases are often sent to “diversion” and closed, and families are referred to community resources for assistance

■ Substance-abusing mothers and newborns

- When a medical facility makes a report, DFCS will accept and assign the referral for an immediate to 24-hour response
 - DFCS will communicate with LE to assess the need for a joint investigation
 - In all cases, DFCS will seek Court intervention to ensure the safety of the child
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Juvenile Court

**Court Appointed
Special Advocate
(CASA)**

**Special Assistant
Attorney General
(SAAG)**

**Guardian ad Litem
(GAL)**

Lay Guardian Ad Litem
Friend of the Court
Advocates for CHILD

Contract Attorney
Paid by Attorney General
Represents DFCS

Generally an Attorney
Friend of the Court
Represents Best Interest
of The CHILD

Juvenile Court Procedures

- The Chief Juvenile Court Judge in each jurisdiction will specify how the court schedule is maintained in accordance with Georgia Law, balancing deprivation and delinquency matters
 - *Protocol Best Practice:*
 - *A GAL is appointed for every child abuse case*
 - *A SAAG is involved in all judicial proceedings involving DFCS*
 - *The court clerk shall call DFCS in advance to request their presence at a hearing*
 - Ineffective investigations and poor case-building are the biggest barriers to protecting children
 - Always take your strongest case to the judge
 - Document the events in the courtroom and the outcome
 - There are many problems in the system, but there are also avenues to address those problems
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Other Courts

■ Magistrate Court

- Issue criminal warrants, hold probable cause hearings, set bond amounts and conditions
- Inquire as to the whereabouts of the child
 - Address the safety of the child when setting conditions for bond
 - *Protocol Best Practice:*
 - *Notify DFCS and Juvenile Court of any bond conditions*

■ Superior Court

- Resolution of criminal charges in felony level child abuse cases
 - Address the safety and protection of the child victim through bond conditions and sentencing
 - *Protocol Best Practice:*
 - *Consider probationary sentence only AFTER consulting with Juvenile Court, DFCS, law enforcement, and mental health*
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Treatment

- Multidisciplinary Team (MDT)
 - The MDT will assist the provider to determine if there is a need of referral for treatment, further screening, or an extended evaluation
 - The MDT will identify the primary involved agency
 - The Primary Involved Agency will make appropriate referrals for services and assure follow-up. This includes all local mental health providers with experience and expertise in child sexual and/or physical abuse
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Training

- All mandated members agree to participate in regular training relating to the identification and intervention of child abuse
 - Physical and behavioral indicators of the child and/or the parent; environmental risk factors
 - Neglect
 - Physical abuse
 - Pediatric condition falsification (Factitious Disorder by Proxy)
 - Sexual abuse
 - Emotional and/or verbal abuse
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Revisions and Updates

Mandated Reporters

[O.C.G.A. 19-7-5]

- If a person is required to report abuse... that person shall notify the person in charge of the facility or the designated delegate, and that person shall report or cause a report to be made
 - Under no circumstances shall any person in charge make modification or other changes to the information provided by the reporter
 - An oral report shall be made immediately, but in no case later than 24 hours from the time there is reasonable cause to believe a child has been abused
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O.C.G.A. 19-7-5... continued

■ How it affects Public Health and Medical Personnel

- ❑ To make a report or cause a report to be made, mandated reporters only need to have “reasonable suspicions”, not direct evidence
- ❑ Public health personnel do have the authority to photograph injuries
- ❑ A physician who is treating a child may take or retain protective custody of the child, without a court order, and without the consent of the parent, guardian or custodian
- ❑ Any public health employee who suspects a case of child abuse and knowingly fails to report it shall be guilty of a misdemeanor
- ~~❑ All reports are confidential, and the reporter may remain anonymous~~

Cruelty to Children

[O.C.G.A. 16-5-70]

- **1st degree:** (a) Willfully deprives the child of necessary sustenance to the extent that the child's health or well-being is jeopardized; or,
(b) Maliciously causes a child cruel or excessive physical or mental pain ("excessive" is not defined in the law, it is left to the grand jury and trial jury)
- **2nd degree:** criminal negligence that causes a child cruel or excessive physical or mental pain
- **3rd degree:** The primary aggressor intentionally allows a child to witness a forcible felony, battery, or family violence battery

Cruelty to Children/ Reckless Abandonment [O.C.G.A. 16-5-72 and -73]

- Any person who intentionally permits a child to be present during the manufacture of methamphetamine
- A parent or guardian or other person supervising the welfare of a child under the age of one willfully and voluntarily abandons such child with the intent of severing all parental or custodial duties and leaving child in condition which results in death

Comparison to Other State Statutes

- Hawaii specifically includes persistent non-support and endangering the welfare of a minor
 - Ohio specifically includes children under the age of eighteen, torture and corporal punishment, driving under the influence with a child passenger, and endangering a child
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Child Abandonment

[O.C.G.A. 19-10A-4]

- “Safe Place for Newborns” Act of 2001
- A mother shall not be prosecuted for the crimes of cruelty to children, contributing to the delinquency, unruliness or deprivation of a child, or abandonment of a dependent child
- She may leave her newborn (not more than one week old) in the physical custody of a medical facility
- The mother should show proof of her identity, name and address to the person with whom the newborn is left
 - “You may go to any hospital in the state of Georgia and leave your baby with a hospital employee. (Hospital employees usually wear name badges, either clipped to a pocket, or hanging from their neck.) Tell the hospital person that you want to leave your baby with Safe Place for Newborns. It is important to understand that the new law requires that if you wish to use the program, you must leave your baby with a person, and not, for example, in a bathroom at a hospital.”
 - www.SafePlaceForNewborns.com

Family Violence

[O.C.G.A. 19-13-1]

- Between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household
- Any felony, or any commission of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass
- *How does this relate to child abuse?*

Common Sexual Offenses

[O.C.G.A. 16-6-3 to -5]

- **Rape:** occurs when a male has carnal knowledge of any female, forcibly and against her will. NOTE: If the victim is under 16, the child is too young to consent and the act is legally against her will. If the victim is under 10, the state is also not required to prove force. For victims between 10 and 16, evidence of force is required, but severe intimidation is sufficient.)
- **Statutory Rape:** engaging in sexual intercourse with any person under the age of 16, who is not the legal spouse of the adult involved. (The law supplies the “against the will” element because the child is too young to consent. Force is not an element of this crime.)
- **Child Molestation:** occurs when any person commits an immoral or indecent act to, with or in the presence of any child under the age of 16, with the intent to arouse or satisfy the sexual desires of either themselves or the child (The law does not define immoral or indecent. It is left to the grand jury and jury to decide specific instances).
- **Aggravated Child Molestation:** occurs when there is an act of child molestation that includes sodomy (oral/genital or anal/genital contact) or causes an injury to the child.
- **Aggravated Sexual Battery:** occurs when any person intentionally penetrates the anus or sex organ of any other person with a foreign object (except a penis, that’s a different crime) and without the consent of the person penetrated (again, law supplies the lack of consent for kids under 16).
- *Best practice for Protocol: report to Law Enforcement, DFCS and District Attorney*

O.C.G.A. 19-14-1 to -9

- Children's Trust Fund Commission
 - Operates as a Panel and an Office (with a program manager on staff)
 - Makes recommendations to the Governor for changes in state programs, statutes, policies, budgets and standards to reduce child abuse
 - Provides funds to agencies that do primary prevention work to reduce child abuse/neglect
 - Healthy Families
 - Teen pregnancy prevention
 - Fatherhood Initiative
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Review Selected County Protocols

Discussion

- As we work to revise the State Model Child Abuse Protocol, what would YOU like to see included as “Best Practices”?
 - Reporting
 - Investigation
 - Prosecution/ Judicial
 - Treatment
 - Training
 - Prevention
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Georgia Child Fatality Review Panel

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