

**The Bill Blackwood
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**Child Protective Services (CPS) Referrals:
A Call for Service or Just Another Fax**

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ABSTRACT

An immediate response to Child Protective Services (CPS) referrals is important to obtain information and evidence and to further protect the child victims. A CPS referral received by any law enforcement agency by fax or e-mail should not be reduced from an immediate call for service. The same response should be afforded to a CPS referral as any other call for service to a law enforcement agency. Law enforcement agencies should respond to all CPS referrals as an immediate call for service to make a positive, direct impact on child abuse.

A variety of information was used to support this position. A review of articles, books, internet sites, periodicals, and journals led to this position. The department policy followed by the Little Elm Police Department confirmed this position is critical in creating a win/win situation for law enforcement, CPS investigators, and the victim children when responding to CPS referrals.

The conclusion drawn from this position paper is that law enforcement agencies should respond to all CPS referrals as an immediate call for service to make a positive, direct impact on child abuse. Law enforcement agencies must develop written policies detailing how they will respond to CPS referrals. Officers must then be trained in the various Texas state laws and the department policy regarding child abuse. An immediate response by a patrol officer to a CPS referral will start a timely investigation.

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INTRODUCTION

Law enforcement agencies that ignore the Texas Department of Family and Protective Services (TDFPS), commonly known as Child Protective Services (CPS), referrals do not allow child victims, some who are still being abused, protection as provided by state law. The Texas Family Code, Section 261.301 states law enforcement officers and CPS will conduct a thorough and speedy joint investigation on allegations of a child being a victim of conduct “that constitutes a criminal offense that poses an immediate risk of physical or sexual abuse of a child that could result in the death of, or serious harm to the child” (p. 1339). With law enforcement being available 24 hours a day, they can offer a quicker response than CPS investigators. Ignoring or delaying the investigation of a CPS referral is not an option.

Most law enforcement agencies in Texas receive CPS referrals by fax or e-mail. The way a child abuse case is reported to law enforcement should not reduce it from an immediate call for service. A fax or e-mail received by a law enforcement agency alleging a bank robbery in progress would not be delayed in dispatching an officer to the scene. An agency receiving a 911 call reporting a child being abused would have an immediate response by an officer. The same immediate response should be afforded to any CPS referral received by fax or e-mail by a law enforcement agency. For most law enforcement agencies, patrol officers are always available to respond to any call for service.

Patrol officers have the training and investigative ability to handle a multitude of different investigations. They should immediately respond to CPS referrals and decide what appropriate action should be taken at that time. Assigning the CPS referral as an

immediate call for service to a patrol officer begins the investigation without delay as all other calls for service. The responding patrol officer can quickly decide if it is necessary to call out a detective for further investigation or simply complete a report to be assigned to a detective later.

Since the early 1990s, numerous studies have been conducted on the investigation of child abuse, including the National Incidence Study of Child Abuse and Neglect. Crary (2010) estimated, "553,000 children suffered physical, sexual or emotional abuse in 2005-06" (p. 1). For a number of years, the investigation of child abuse has become an important topic to law enforcement and community leaders. Law enforcement agencies should respond to all CPS referrals as an immediate call for service in order to make a positive, direct impact on child abuse.

POSITION

In the past few years, investigation of child abuse has become an important focus to communities, city leaders, and law enforcement. The protection of any child who is the alleged victim of abuse is the responsibility of all members of law enforcement, CPS investigators, prosecutors, and citizens in general. There are now children's advocacy centers that promote justice and healing for child victims. They assist law enforcement, CPS, and prosecutors with the investigation and prosecution of offenders.

According to the Children's Advocacy Center for Denton County (CACDC) (2006), law enforcement is "the agency to investigate and determine whether a crime has been committed and to present information to the proper authorities for prosecution" (p. 1). The role of law enforcement is to investigate any criminal violations that may

have occurred in an alleged child abuse case. It is the responsibility of the law enforcement agencies to meet the needs of the child victims and their community.

The Texas Family Code, Section 261.105 (b) states TDFPS will notify the “appropriate state or local law enforcement agency of any report it receives, other than a report from a law enforcement agency, that concerns the suspected abuse or neglect of a child or death of a child from abuse or neglect” (p. 1334). Texas law enforcement agencies generally receive CPS referrals by fax or e-mail. Once a CPS referral is received, an agency usually responds in one of three ways. The first is to ignore the referral until called by CPS for assistance. Other agencies assign a detective, who is the officer responsible for receiving and investigating all CPS referrals. And finally, others assign the CPS referral to a patrol officer as soon as it is received and handle it as an immediate call for service.

When a patrol officer is the first responder, pertinent information about the alleged crime can be obtained. The officer can collect written statements from any outcry witness that may be on the scene. This information can be relayed to a detective within minutes. The detective can determine if a forensic interview is needed and, if so, can schedule the interview with the children’s advocacy center. From information received in the detailed forensic interview, a determination of whether or not a medical exam is necessary for collection of further forensic evidence can be made.

Another advantage to an immediate response by a patrol officer would be allowing the officer the opportunity to conduct an interview with the alleged perpetrator, if the alleged perpetrator is still on the scene. Interviewing the alleged perpetrator immediately prevents them from having time to fabricate a story in their favor. This

interview could produce the most accurate, truthful information about the allegation. An arrest may also be made at that time if probable cause exists or if there is concern that the perpetrator will flee or commit other criminal offenses.

An immediate response by law enforcement to a CPS referral may result in a more positive outcome. In allegations of child abuse, Besharov (1990) stated, "in less serious cases an immediate police presence may be needed to stop a parent from abusing a child, to take a child into protective custody, or to prevent a parent from fleeing, perhaps with the child" (p. 8). It may be necessary to remove the child to safeguard them from the alleged abusive perpetrator. This may require calling for a CPS investigator to respond to the scene to take custody of the child. CPS's role in the investigation of a child abuse case is far different than that of law enforcement.

According to TDFPS Joint Investigations Guidelines (n.d.), CPS "investigates allegations of abuse or neglect of children by people responsible for their care, custody, or welfare and assesses whether children are at risk of further abuse or neglect" (p. 10).

Many times, an immediate response by a patrol officer will result in the officer being able to view a crime scene that has not been contaminated. This will add information and facts to the probable cause affidavit that will be needed for a warrant to be issued for the perpetrator. This procedure can produce evidence of critical importance in the prosecution, or exoneration, of the perpetrator. The U.S. Department of Justice report on Law Enforcement Response to Child Abuse (2001) stated, "failure to respond properly to child abuse cases from the outset can result in cases being dismissed in court or, in some cases, in innocent people being falsely accused" (p. 4).

Important forensic evidence could also be discovered and recovered by the initial responding officer. In the event of a sexual assault, DNA evidence may be found on clothing, bed linen, towels, etc. before it is washed or destroyed, and the DNA evidence could lead to the identity of the offender. Hofheinz (1998) stated, “securing and processing the crime scene is obviously of primary importance” (p. 107). Failure to respond to the scene in a timely manner could result in the loss of evidence that may prove guilt or innocence of an accused in a child abuse case.

Responding to the crime scene promptly to initiate an investigation is critical to capture accurate photographs of the actual crime scene. A prompt response will allow law enforcement to photograph the crime scene before it has been compromised and contaminated. Vieth (2009) stated, “crime scene photographs may corroborate key aspects of a child’s statement” (p. 1). Vieth (2009) also stated “crime scene photographs may help a child testify” (p. 1). Once in court, a child testifying can view the crime scene photographs and describe the scene and details of the offense to the jury accurately. Timely response to the crime scene to initiate the investigation is paramount.

As first responders, patrol officers find themselves in many different types of investigations. They may not be the department expert in that field of investigation, but they do have the necessary training to do basic investigations in many fields. Responding to a call of alleged child abuse is no different than an officer responding to a call of an assault, robbery, or a death. From their initial response, the patrol officer can determine if an offense has been committed or if there is a need for additional response from a detective.

In September 2005, Little Elm, Texas police department (LEPD) instituted a policy that CPS referrals will be handled as a call for service even when received by fax. This policy requires patrol officers to respond to CPS referrals when received and to initiate the basic investigation. If an in depth investigation is required, the patrol officer submits a report, which is assigned to a detective, or a detective is called out to the scene. This investigation by a patrol officer is simply to get the investigation started and to look for any on view violations or evidence that is readily available (Howard, 2005, p. 1-3).

On April 1, 2010, at the 14th Annual Children's Advocacy Center for Denton County Community Breakfast, Texas Lieutenant Governor David Dewhurst said "children are thirty percent of our population and one hundred percent of our future; we must protect our children to the best of our ability" (Dewhurst, 2010). Law enforcement agencies should respond to all CPS referrals as a call for service to make a positive, immediate impact on child abuse.

COUNTER POSITION

There are differing positions within the partnering agencies that are responsible for the investigation of CPS referrals. Some law enforcement agencies assign a detective who is responsible for responding to CPS referrals. Waiting for a detective, who may be off duty, to respond to the scene should not be an option. Other agencies choose to simply ignore CPS referrals until called by CPS to assist with the investigation. A law enforcement agency that ignores a faxed or e-mailed CPS referral, or that has a detective who lets the referral sit for many hours or days without any response, could be further endangering the child victim by exposing them to additional

trauma and/or abuse. A report of child abuse received by any other means, for example a 911 call or a verbal complaint by a citizen, would be dispatched to a patrol officer for an immediate response. Martin & Besharov (1991) stated, "When a dispatcher receives a call alleging child abuse, 78 percent of the responding agencies send a patrol unit to conduct the preliminary investigation" (p. 21). A fax or e-mail of a CPS referral should be treated with the same urgency as any other call for service. Goldstein (1984) stated, "Ethically, law enforcement has the sworn duty and obligation to uphold the law and the responsibility of the welfare of the citizens it serves. Those same ethics will not permit law enforcement to ignore the abused or endangered child" (as cited in McBride, 1996, p. 6).

Patrol officers are often reluctant to respond to CPS referrals, citing a lack of training for investigations involving child abuse. Most patrol officers want nothing to do with the investigation of a CPS referral. They believe someone with specialized training, such as a detective or CPS investigator, should be the first responder. They have expressed numerous fears in dealing with child abuse cases. Their fears include further traumatizing the child, violating a state law or department policy, or having a case rejected by the prosecuting attorney. These fears are based on their perceived lack of training in these types of cases. Martin & Besharov (1991) stated "Many departments have created child abuse squads, added specialized training for rookies and veteran officers alike, or entered into interagency agreements" (p. 3). With proper training, patrol officers can replace fear and ignorance in dealing with child abuse cases with understanding, confidence, and a competent response to these calls for services.

Pence & Wilson (1992) stated, "Law enforcement is often able to react to emergency situations faster than CPS" (p. 3). The immediate response by law enforcement, even in cases of minor allegations of abuse, allows officers a chance to view and photograph the scene in its true state. This immediate response by law enforcement prevents the perpetrator from having time to alter the crime scene. For example, in a negligent supervision case where the allegation is that a child is not being fed and the home is unsanitary, the perpetrators would have time to purchase food items and clean the home. The law enforcement officer's written documentation and photographs of the scene as he found it can then be shared with CPS investigators for their investigation.

CPS investigators approach their investigation in a far different prospective than that of law enforcement officers. CPS is charged with the responsibility of protecting a child from further abuse and neglect. Pence & Wilson (1992) stated, "The CPS agency is obligated to attempt to keep the family together or, once separated, to work toward family reunification" (p. 5). Many law enforcement officers do not understand that philosophy. Besharov (1990) stated, "Law enforcement seeks to protect children through the arrest of offenders and criminal prosecution" (p. 1). Law enforcement officers believe the removal of the child from the abusive situation is the best and only option for the safety of the child.

Because it is the desire of CPS to maintain the family unit, they prefer to respond alone initially. But, if CPS is concerned about their own personal safety when responding alone, they prefer to be accompanied by the detective assigned to the case instead of a uniformed officer. CPS investigators have concerns that the presence of a

uniformed law enforcement officer might interfere with their interview with the alleged perpetrator by causing fear of criminal prosecution. CPS believes that the child victim may not give truthful, factual information about the allegation in front of a uniformed law enforcement officer. The U.S. Department of Justice report on Law Enforcement Response to Child Abuse (2001) stated, "An emotional bond often exists between the child and the offender; children may want the abuse to stop, but they may not want the offender to be punished" (p. 2).

CONCLUSION

Law enforcement agencies should respond to all CPS referrals as an immediate call for service to make a positive, direct impact on child abuse. At the time a CPS referral is received, it should be dispatched to a patrol officer who can start an immediate investigation. Ignoring the CPS referral until called by CPS to assist in the investigation is simply not an option. Having a dedicated detective taking the referral is starting the investigation in slow motion.

A law enforcement agency must first develop a written policy detailing how they will respond to CPS referrals. Officers must then be trained in the various Texas state laws and the department policy regarding child abuse. The Texas Family Code, Section 261.301 states law enforcement officers and CPS will conduct a thorough and speedy joint investigation on allegations of a child being a victim of conduct "that constitutes a criminal offense that poses an immediate risk of physical or sexual abuse of a child that could result in the death of, or serious harm to the child" (p. 1338). Communication with CPS investigators about the department policy is a necessity, so they will know how the law enforcement agency will be responding to CPS referrals. Law enforcement officers

should know the policies and procedures of CPS as well as what their expectations are in a joint investigation. Once everyone has an understanding of their contribution to the investigation, they must work together as a team. Pence & Wilson (1992) stated, "Communicating and formalizing the relationship where possible can break down barriers to effective teamwork" (p. 7). Training and teamwork between law enforcement agencies and CPS investigators will lead to the desired conclusion of the investigation.

An immediate response by a patrol officer to a CPS referral will start a timely investigation. A decision can be made as to whether or not a detective needs to be called out immediately. The determination can be made if a criminal offense has occurred. The crime scene can be secured and protected. Evidence can be recovered that might otherwise be destroyed if the investigation is delayed. Appointments can be made for forensic interviews and medical examinations. If necessary at that time, an arrest can be made of the perpetrator.

Law enforcement and CPS have very different roles, but somewhat parallel roles in the investigation of alleged child abuse. The U.S. Department of Justice report on Law Enforcement Response to Child Abuse (2001) stated, "Child abuse is a community problem. No single agency has the training, manpower, resources, or legal mandate to intervene effectively in child abuse cases. No one agency has the sole responsibility for dealing with abused children" (p. 1).

Waiting for CPS investigators or a dedicated detective only delays the investigation and has a detrimental effect on the outcome. Responding to child abuse cases immediately will allow more accurate evidence to be obtained and will provide security for the victim. The U.S. Department of Justice report on Law Enforcement

Response to Child Abuse (2001) stated, "Children are usually unable to protect themselves because of their level of physical and mental development; frequently they do not like to talk about the abuse" (p. 2). Law enforcements response to CPS referrals needs to be consistent.

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