

CHAPTER 3

Reporting Suspected Child Abuse or Neglect

Although no child care provider wants to be put in the situation of having to report a suspicion of child abuse or neglect, providers should be aware of their legal and professional responsibilities and know the protocols for making a report to child protective services (CPS). This chapter provides information on:

- Legal requirements of child care providers for making reports;
- Professional responsibilities of child care providers for making reports;
- Contents of the report;
- Reporting protocols for individual child care programs;
- Talking with the child about suspected child maltreatment;

- Talking with the parent about suspected child maltreatment;
- Difficulties encountered when making reports;
- Next steps after a report is made.

LEGAL REQUIREMENTS

Every State, the District of Columbia, and the U.S. territories have designated individuals who are mandated by law to report child maltreatment. Who is included in this group of mandated reporters varies from State to State. Any person, however, may report incidents of maltreatment, and approximately 18 States and Puerto Rico require all citizens to report suspected abuse or neglect regardless of their professional background.³⁵ It is important for all mandatory reporters to be familiar with the statutes and the reporting laws in their State.

Mandated Reporters

Individuals usually designated as mandatory reporters include:

- Child care providers;
- Pediatricians and other health care workers;
- Law enforcement officers;
- Mental health professionals;
- Clergy;
- School personnel;
- Social workers.

As mandated reporters, all child care providers not only have the responsibility to report suspected abuse, but also to know how to make a report, to be familiar with their program and State's policies and reporting procedures, and to communicate with CPS.

In addition to the mandated reporting of suspected abuse or neglect, all States provide immunity from civil liability and criminal penalty for mandated reporters who report in good faith. This means that if a child care provider suspects that a child is being maltreated and makes a report to CPS, that provider will not experience negative legal consequences as a result of making a report.

When to Report

Although all States require the reporting of suspected abuse and neglect, there is no requirement that the reporter have proof that the abuse or neglect has occurred. Typically, a report must be made when the reporter suspects or has reasons to suspect that a child has been abused or neglected.³⁶ Waiting for absolute proof may result in significant risk to the child. It is not the caregiver's job to validate the abuse; this is the job of CPS caseworkers or law enforcement officers who have been trained to undertake this type of investigation.

How and Where to Report

The majority of States require that reports of child abuse or neglect be made orally, either in person or by telephone, to the specified authorities. Some States require that a written report follow the oral report, but, in some jurisdictions, this is only required of mandated reporters. In other States, written reports

are required only upon request. Some States allow professionals to report via the Internet.

Depending on the State, reports of allegations of abuse or neglect perpetrated by nonrelated caregivers, such as child care providers, foster parents, or teachers, may need to be filed with both CPS and a law enforcement office. In most States, there are statutes that require cross-system sharing and reporting procedures between social service agencies, law enforcement departments, and prosecutors' offices.³⁷ In addition to assessing and to investigating the case, CPS caseworkers may be involved in the intervention with the affected families.

Failure to Report

Professionals or mandated reporters may fail to report cases of suspected child maltreatment. As a result, almost every State, the District of Columbia, and U.S. territories have enacted statutes specifying the penalties for failing to report child abuse or neglect.³⁸ Failure to report is classified as a misdemeanor in approximately 35 States, American Samoa, Puerto Rico, and the U.S. Virgin Islands; in Arizona, Florida, and Minnesota, misdemeanors are upgraded to felonies for failure to report more serious situations; and in Illinois and Guam, second or subsequent violations are classified as felonies. Some States also have fines for failing to report suspected maltreatment.

False Reports

There also are penalties for making knowingly false reports of child abuse or neglect. Approximately 30 States have statutes specifying penalties for false reports. The penalties are similar to those for the

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See Appendix C, *State Telephone Numbers for Reporting Child Abuse*, for a list of State telephone numbers for reporting suspected maltreatment, or call the Childhelp® National Child Abuse Hotline at 1-800-4-A-CHILD. This hotline is available 24 hours a day, 7 days a week.

State Reporting Laws

To review reporting laws by State, including penalties for failure to report and for false reports, visit the State Statutes section of the Child Welfare Information Gateway website at http://www.childwelfare.gov/systemwide/laws_policies/state/.

failure to report. The majority of States classify false reporting as a misdemeanor, while a few States classify it as a felony. False reports should not be confused with cases that are found to be unsubstantiated by CPS. Those cases are ruled out due to insufficient evidence that was provided in good faith, as opposed to false reports where incorrect information is provided knowingly.

PROFESSIONAL RESPONSIBILITIES

Professional standards related to child abuse and neglect also may be relevant for child care providers. For example, the Ethics Commission of the National Association for the Education of Young Children (NAEYC), a national accreditation body for early childhood programs, developed a Code of Ethical Conduct for professionals who work directly with children and families.³⁹ The code addresses four areas of professional responsibility: children, families, colleagues, and the community and society. The following are samples of principles from the code:

- “We shall be familiar with the symptoms of child abuse, including physical, sexual, verbal, and emotional abuse, and neglect. We shall know and follow State laws and community procedures that protect children against abuse and neglect.”
- “When we have reasonable cause to suspect child abuse or neglect, we shall report it to the appropriate community agency and follow up to ensure that appropriate action has been taken. When appropriate, parents or guardians will be informed that the referral has been made.”
- “We shall involve the family in significant decisions affecting their child.”⁴⁰

In addition to the NAEYC code, Head Start provides ongoing, comprehensive child development services and has its own policy for professionals for identifying and for reporting child abuse and neglect. In 2006, the Head Start program, which is administered by the Head Start Bureau, Administration for Children and Families, U.S. Department of Health and Human Services, served more than 909,000 children.⁴¹

The following are the basic tenets of the Head Start policy on identifying and reporting child abuse and neglect:

- Head Start agencies and delegate agencies must report child abuse and neglect in accordance with the provisions of applicable State or local law.
- Head Start agencies and delegate agencies will preserve the confidentiality of all records pertaining to child abuse and neglect in accordance with applicable State or local law.
- Head Start programs will not treat cases of child abuse and neglect on their own. Rather, they will cooperate fully with CPS in their communities.
- Head Start agencies and delegate agencies shall provide orientation and training for staff on the identification and the reporting of child abuse and neglect.⁴²

CONTENTS OF THE REPORT

Although the specific content of a report to CPS may vary, it typically includes the following information:

- Name of the child who is the alleged victim;
- Age of the child;

- Home address or address where the child can be reached;
- Parents' names, phone numbers, and addresses, if known;
- Type of suspected abuse;
- Alleged perpetrator, if known;
- Specific physical and behavioral indicators of the maltreatment;
- Opinion of whether the child is in imminent danger;
- Name, phone number, and address of the reporter.⁴³

Some States accept anonymous reports, but knowing the name and the phone number of the reporter allows the State agency to obtain additional information if necessary. The agency staff taking the information for the report will ask for as many details about the maltreatment as the reporter can give. A reporter should refer to any notes or documentation about the incident when making a report. This will help to ensure that all known details are reported to CPS. (See Appendix E, *Sample Report of Suspected Child Abuse or Neglect*, for a sample reporting protocol.)

REPORTING PROTOCOLS FOR CHILD CARE PROGRAMS

Policies for making a report should cover more than the procedures that should be followed at the time a report is made. As with planning for an emergency or a fire, early childhood programs should have protocols defining the duties and the responsibilities of all staff when child abuse or neglect is suspected. These protocols should be well thought out and should include the actions to be taken in the anticipation that a report may have to be made, the actions to be taken at the time that there is a suspicion of abuse or neglect, and the follow-up actions. Family child care providers also need clearly defined protocols that

take into account the circumstances in home-based care. See Exhibit 3-1 for a list of items that should be included in comprehensive protocols.

Staff members should review their programs' policies and procedures regularly so they will be clear about their responsibilities. Also, if a report is ruled out or unsubstantiated, child care providers may need to continue to document and to report any subsequent behavior in that child that may warrant another referral. Sometimes CPS simply does not have sufficient information to investigate a report or to substantiate a case; however, that does not necessarily mean that the maltreatment did not occur.

TALKING WITH THE CHILD

Even though CPS or law enforcement has the responsibility to assess and to investigate allegations of abuse or neglect, there are times when they may request that the child care provider speak with the child to gather more information in order to meet statutory guidelines for accepting a report. The primary purpose of the discussion is to obtain enough information from the child for an informed report to CPS or to law enforcement, and it should occur only after the agency has requested clarification or additional information. The child care provider should keep in mind that this conversation is not an interrogation, and the purpose is not to prove that abuse or neglect occurred. During these discussions, or when a child discloses maltreatment to a caregiver, it is important to remember that:

- The child may be fearful of others learning about the abuse or neglect. The child care provider should assure the child that the information will not be shared with other children or with anyone who does not need to know. The child care provider should acknowledge that in order to help the child, it may be necessary to discuss these issues with other child care personnel or other adults who are in a position to help. It is vital that the child care provider abide by the promise to protect the child's right to confidentiality.

Exhibit 3-1 Protocols for Reporting Child Maltreatment

Note: Though the following protocols are intended to be helpful for all child care providers, some may be more applicable to larger child care centers than to family child care providers.

The protocols to prepare for the need to report child maltreatment should:

- Reference the State law that requires child care providers who suspect that a child is being abused or neglected to report such suspicion to the local CPS agency;
- Identify the indicators or the clues that suggest possible child abuse or neglect;
- Designate a coordinator for child maltreatment issues;
- Describe how a relationship with CPS or law enforcement is to be established and maintained;
- Describe the professional obligation and procedures for maintaining the confidentiality of the child, the child's family, and the accused caregiver, including who has a "need to know," the procedures for keeping reports confidential, and filing reports in a file separate from the child's regular file;
- Specify procedures for record keeping and record destruction;
- Describe how the protocols for preventing and for reporting child abuse and neglect will be communicated to all staff and volunteers during orientation and regular in-service training;
- Include the written policy in the staff handbook;
- Include information in the parent handbook about the mandated reporting of suspected child abuse or neglect;
- Describe the screening of staff and volunteers;
- Schedule a regular review of the protocols and staff trainings. It may be helpful to invite a CPS worker to help train on child maltreatment and mandatory reporting.

The protocols for making reports of child maltreatment and for follow-up should:

- Identify whom the child care provider should notify within the child care program if there are suspicions (e.g., the director or another coordinator of child maltreatment issues);
- List the specific information that the child care provider needs in order to make a report;
- Describe how the report is to be made, including who is to make the report to CPS;
- List any other program personnel who should be involved or be notified if a report is made (e.g., the program director, the agency director, the owner, the board of directors);
- State who will talk with the children or the parents after consultation with CPS or when a report is filed;
- Specify who will submit documentation, such as observation notes or anecdotal records, to CPS or other agencies;
- State who will be responsible for monitoring or receiving communication or feedback from CPS once the report has been filed;
- State who is responsible for communicating with the media, if necessary, for cases where a child fatality or a child abuse accusation has been in the press;
- Identify plans for the alternative placement of accused staff while an investigation is taking place;
- Specify support for staff if the accusation of abuse or neglect is unsubstantiated or unfounded;
- Detail support for staff who are requested to testify in court;
- State who will follow up to determine the outcome of the report.

- The caregiver should not display anger, shock, disapproval, or other strong emotions toward either the alleged perpetrator or the child for any action disclosed as it may affect the child's comfort level or willingness to continue talking.
- The child care provider should be careful of what she says or implies about a suspected abuser in order not to influence a child's report unduly or to inhibit disclosure, especially if the child is attached to or has positive feelings toward the alleged abuser.
- The caregiver should use language that is developmentally appropriate for and easily understandable to the child.
- The child should be made as comfortable as possible under the circumstances. The conversation should be conducted in a quiet, private, nonthreatening place that is familiar to the child. The child care provider should sit near the child, not behind a desk or a table. In nice weather, a pleasant spot outdoors can be appropriate.
- The caregiver should ask for clarification if she does not understand what the child is saying.
- Let the child tell the story without probing for information that the child is reticent or unwilling to give. The child should be reassured that if a question has to be repeated, it is not because he gave a wrong answer.
- During the interview, there only should be one caregiver talking to the child. Optimally, the person who talks to the child should be someone with whom the child feels comfortable and trusts.
- The child may be afraid to tell the whole truth because of:
 - Fear of being hurt further by the alleged abuser for disclosing the maltreatment;
 - Belief that the alleged abuser may go away or go to jail;
 - Fear of being removed from the home;
 - Feelings of loyalty or attachment to the alleged abuser no matter how bad the situation might be.
- The child may think that the abuse or neglect is normal.
- Children often feel or are told that they are to blame for their maltreatment or for bringing "trouble" to the family. It is important, therefore, to reassure the child that he is not at fault.
- If the child is volunteering information, the caregiver can praise the child for taking the difficult step of talking about what happened. It is not up to the caregiver to determine if the child is completely accurate.
- The caregiver should not ask the child to remove any clothing to show evidence of abuse.
- The child may disclose information in bits and pieces rather than all at once. This is particularly true for very young children, who have short attention spans and may get anxious or fatigued quickly. If the child care provider becomes impatient, the child either may push herself too hard for answers or give up too easily.
- Some children have an easier time drawing or acting out an incident rather than verbalizing what occurred.

Child care providers can harm subsequent CPS or legal processes by probing excessively for answers, by asking leading questions (i.e., questions that attempt to guide the child's response), or by supplying children with terms or information. Courts have dismissed several child sexual abuse cases because it was believed that the initial interviewers biased the children by such actions.

Child care providers must be sensitive to the safety of the child following the disclosure. The child might be

subject to further abuse if she goes home and mentions talking with someone about the alleged abuse. If a child care provider feels that the child is in danger, CPS should be contacted immediately to help protect the child. A CPS caseworker may need to interview the child at the program. If so, the program should provide a private place for the interview that does not alert other staff and children to the presence of a CPS caseworker. If it is necessary for the caseworker to remove the child from the child care program for a medical examination, the program should consider releasing a staff member to accompany the child so that the child feels safe in a strange and potentially medically invasive situation.

If further action is to be taken, the child should be told what will happen, where, and when. The child care provider should assure the child of support and assistance throughout the process and should follow through on any assurances. No responsibility should be placed on the child, nor should the child be asked to conceal from the parents that the conversation has taken place or that further action is contemplated.

TALKING WITH THE PARENT

Although some caregivers may feel that it is important to contact the parents to inform them that the program has made a report of suspected child maltreatment, it is rarely appropriate. In fact, it can have a significant, negative impact on the investigation or on the child's safety. CPS caseworkers and law enforcement are trained and are primarily responsible for contacting and for discussing these concerns with parents. The following issues may arise if caregivers talk with parents before CPS contacts them:

- The danger to the child may increase, particularly if the child disclosed the maltreatment and the parent is the alleged perpetrator.
- The parent may try to have the child recant upon learning that the child has told someone about the maltreatment.

- The parent may flee or may withdraw the child from the program.

There may be instances when parents contact a program or a provider regarding a report made to CPS. Many programs designate one point of contact to handle CPS reports, such as the director, the center nurse, or the social worker. The child care provider should listen to the parents and refer them to that point of contact. In talking with the parents, the child care provider should respond in a professional, direct, and honest manner without displaying anger, shock, or an insinuation of guilt. It is critical to remember that the child care provider should not reveal any information pertinent to the report made to CPS or law enforcement. Child care providers of young children should avoid prying into family matters and never should betray the child's confidence to the parents (e.g., "Your child said..."). The parents also should be informed about any limitations to confidentiality of the present discussion. Further threats or revelations of maltreatment typically require the child care provider to reveal to a third party (e.g., CPS) what was discussed.

Parents who have been reported need to hear that they and their child will continue to be supported throughout this difficult time. The child care provider should let the parents know that child care staff care about them and their child and that the staff will continue to provide the same high-quality care. Staff members should be careful not to alienate the family since they will be more open to assistance if they know others are willing to help. However, child care providers must remember that the child's safety is paramount.

Parents often feel less alienated if they have been informed of the program's legal responsibility to report suspected abuse and neglect. This policy should not only be in all of the handbooks distributed to parents but also should be discussed at enrollment. The child care provider or director then can refer parents to that section of the handbook.

Dealing with an Angry Parent

Even though a CPS caseworker is mandated by law not to reveal the name of the referral source, the parent often suspects the source of the report. Occasionally, an angry parent will come to the program or the family child care home demanding to know why someone is “telling me how to raise my children.” The parent may feel betrayed or that someone has “gone behind his back” because he was not contacted by the program, and it must be remembered that the allegations may not be true. If an angry parent appears at the child care setting, the provider should attempt to defuse the situation by remaining calm and by maintaining a professional demeanor. The child care provider should be mindful of her own safety, as well as the safety of others, if the parent is threatening or violent. The program’s policy should delineate who needs to be contacted immediately in potentially dangerous situations, such as the program director. The child care provider should not feel that she must handle such volatile situations alone. An angry parent will usually calm down to a reasonable degree if he feels listened to and is treated with respect.

Parents not involved in allegations of abuse or neglect, but who become aware of allegations involving someone else’s child in the program, also may need to be reassured and supported. A protocol should be established for contacting these parents in such situations. Even though a report may have no direct involvement for their own children, many parents understandably become curious, protective, and concerned about any potential risk or secondary impact it may have. For instance, the parents may feel the need to explain the situation to their children and may experience feelings of uncertainty about how best to handle it. Naturally, if the maltreatment occurred at the center, parents are likely to consider placing their children in another program and may express significant fear and concern for their children’s safety. Child care providers play a critical role in presenting information about steps being taken to ensure the safety of all the children in the program, and they should be patient with and supportive of the parents.

DIFFICULTIES ENCOUNTERED WHEN REPORTING

The process of reporting child abuse or neglect does not always proceed smoothly. There are many obstacles that child care providers may encounter when preparing to report suspected maltreatment, and they may feel discouraged from making future reports. These obstacles often are associated with their personal feelings, the program policies and procedures, and the relationships with the family and perhaps with CPS as well.

Personal Feelings

Sometimes, the reporter’s feelings may be ambiguous or conflicted. Some common feelings that may dissuade a child care provider from reporting child abuse or neglect include:

Confidentiality

Child care providers must be cautious about the information they present to parents—those who are suspected of maltreatment and other parents who bring their children to the center—about cases of suspected maltreatment. The provider should work with CPS to develop a clear written statement to give to the parents to reassure them that the safety of their children is paramount, but also respects the confidentiality rights of the alleged perpetrator and victim.

- Fear of being wrong about the suspected maltreatment;
- Fear of making an inaccurate report, which may be due to the lack of a visible physical injury to the child or no evidence beyond the child's self-report of maltreatment;
- Fear of negative reactions by coworkers, parents, or others;
- Concern that CPS or law enforcement does not generally provide sufficient help to maltreated children;
- Fondness for the parents and a belief that they would not hurt their own child;
- Belief that reporting abuse or neglect will bring only negative consequences for the child and family;
- Fear of misinterpreting cultural disciplinary styles;
- Apprehension about becoming involved;
- Dissatisfaction arising from prior experiences with reporting;
- Concern about becoming entangled in legal proceedings.⁴⁴

Charges of abuse and neglect are serious, so experiencing fear or concern when a report may be necessary is not unusual. Child care providers, however, must overcome such feelings because, in their position and profession, they are legally mandated to report suspected maltreatment and are ethically required to protect children. It also is appropriate to acknowledge certain fears or uncertainties with CPS or law enforcement when making a report so they can take those factors into consideration.

Program Policies and Procedures

A significant barrier to reporting occurs when early childhood education programs do not train staff on their responsibilities to recognize, to report, or to

prevent child maltreatment. All programs should ensure that staff are trained both in preventing and in reporting child abuse and neglect. Training information and materials should be updated annually, and appropriate training opportunities or options should be provided on an ongoing basis.

Though most directors will provide the necessary support to report cases of suspected maltreatment, some program directors occasionally may place obstacles in the way of reporting abuse and neglect. They might discourage staff involvement by refusing to take their reports seriously or by failing to make an official report of maltreatment once the situation has been brought to their attention. Directors may be reluctant because they fear that the report may be false or may lack irrefutable evidence. Directors who refuse to report or who make it difficult to report cause numerous problems for their staff. Not only does the child care provider feel unsupported or even undermined, but both parties may be held liable for the unreported maltreatment. Thus, the child care provider must choose to be vulnerable to legal sanction, and possibly further endanger the child, or bypass the director.⁴⁵

In these cases, providers should try to alert the directors to the reporting requirements and the need to ensure the safety of the child. Providers also can seek the advice and assistance of other staff (e.g., a nurse, another administrator) to help determine a collaborative solution and meet as a group with the director. It is also possible that the director or other designated staff may have dealt with overzealous reports in the past; they may see this as an opportunity to screen for inappropriate reports and use this as a time to educate the worker on the legal definitions of child maltreatment in their particular State or county.

Relationships with the Family

Parents and child care providers have special relationships that may make professionals reluctant to report suspected cases of child maltreatment.

The child care provider may be very fond of the parents and family, making it difficult to take action if maltreatment is suspected. Child abuse and neglect often is hidden, so indicators of it may come as a complete surprise to a child care provider who previously has witnessed only appropriate and good-natured interactions between the parent and the child.

The livelihood of early childhood programs is dependent upon the attendance of children. These programs may fear that reporting will harm their reputations, lead to a decline in enrollment, or both. Even when caregivers might suspect child maltreatment, they may give parents the benefit of the doubt or may fear that confronting the parents would result in a hostile or distressed reaction or in retaliation. In these instances, the caregiver should remember that failure to report not only is illegal, but may further endanger the child. Reports can and should be made in the spirit of care and concern.

Providers may be able to alleviate some of this concern by presenting the program's child maltreatment reporting policy to parents as a part of the initial orientation to the center and in the parent handbook. Parents may be more understanding of the process if they are aware of the provider's legal and professional responsibility to report and that the provider is acting to ensure that the child is safe.

NEXT STEPS

When a report of child maltreatment is filed, CPS makes several decisions. First, CPS must decide if the report meets the statutory criteria for child abuse or neglect. If the report does not meet those criteria, the CPS agency may refer the family to various other services, formal or informal, that would provide support, such as a local parenting skills class or Parents Anonymous.

The CPS Investigation

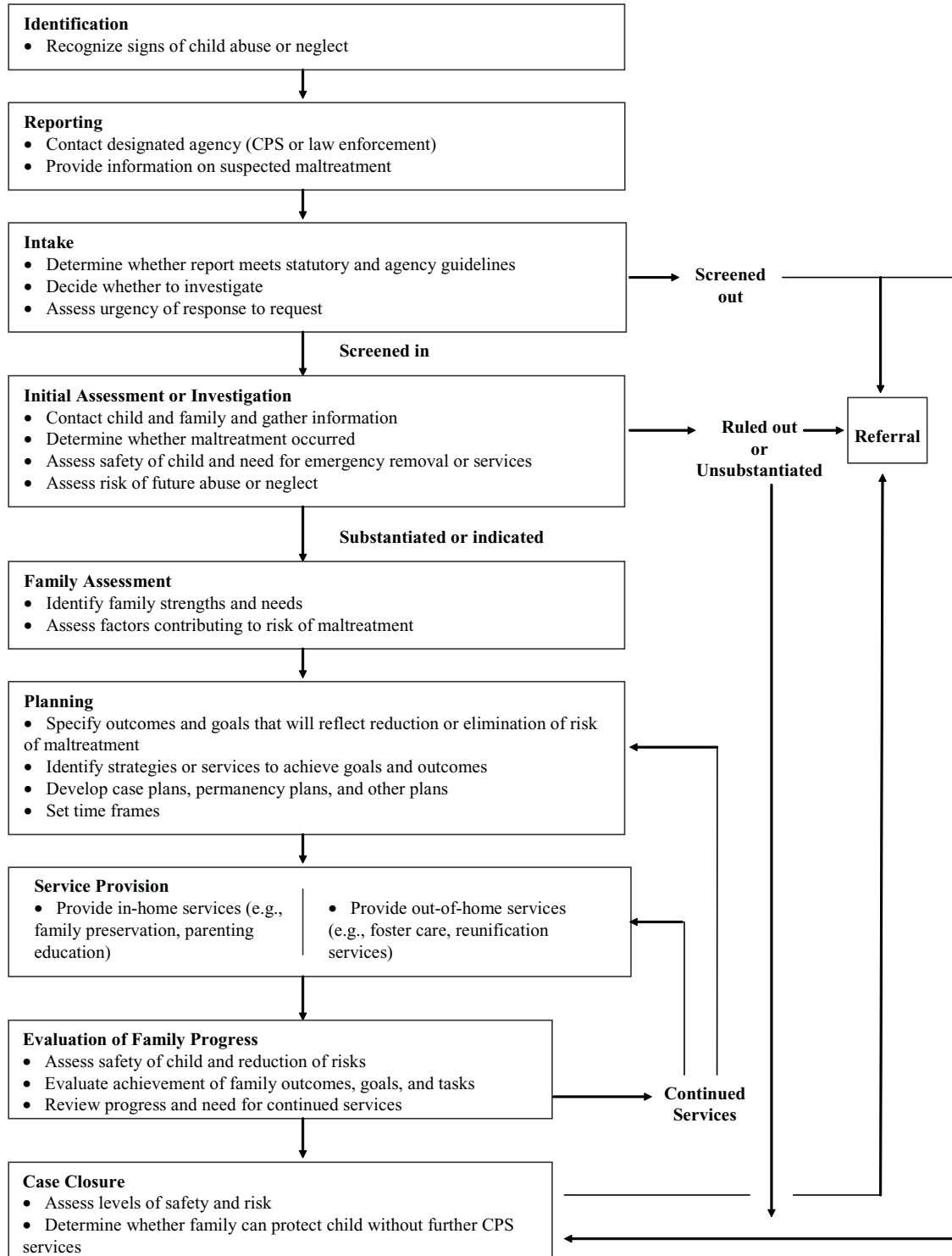
If the report does meet the statutory criteria for child maltreatment, CPS must investigate to determine if the abuse or neglect can be substantiated. It will interview the child if the child is old enough to respond to questions. CPS then will contact the family and others, including the child care provider, who may have additional information. CPS typically will make one of two findings—substantiated or unsubstantiated. A substantiated finding means that there is sufficient evidence to prove that an incident of abuse or neglect occurred. A finding of unsubstantiated means there is insufficient evidence to conclude that a child was abused or neglected. Some States have a third category, inconclusive or unable to determine. CPS also determines if the child is safe in the home and, if not, explores the least intrusive interventions to ensure the child's safety. CPS also determines if there is a risk of future maltreatment, and, if such a risk exists, CPS must offer services to reduce that risk. For an overview of the CPS process, see Exhibit 3-2.

Court Involvement

In some States, the court system may become involved, particularly if the child is removed from the home. A juvenile or family court usually is responsible for cases involving child maltreatment. In cases of sexual abuse, extreme physical abuse, or death, however, complaints increasingly are filed in criminal court. In some instances, a child care provider may be asked to appear in court as a witness, usually regarding the child or to present a more complete picture of the family's situation. Exhibit 3-3 offers some guidelines for child care providers appearing in court.

Reporters of child maltreatment often want to know the result of an investigation. Some State and local child welfare agencies will inform mandated reporters of the outcome of a report.⁴⁶ In most States, CPS sends letters to mandated reporters and also may call them. A family's right to privacy, however, supersedes

Exhibit 3-2 Overview of the CPS Process



mandated reporters being privy to confidential investigations. Therefore, the reporter may not be

informed of the investigation's findings and may never learn the results from the report.

Exhibit 3-3 Tips for Child Care Providers Appearing in Court

- Determine if the child care program has access to legal counsel.
- Ask the CPS caseworker or attorney if there will be a briefing before the court appearance. If not, consider requesting one.
- Write down dates, facts, and other information relevant to the testimony. Usually, it is permitted to take a paper or a note card to the stand.
- Take your time and think through each question before answering.
- Speak slowly, concisely, and loudly enough for the testimony to be heard by the court recorder.
- Speak only when spoken to and answer only the questions that are asked.
- Remember that the court is interested in facts, not opinions, unless it instructs otherwise.
- If the answer to a question is not known, say so; do not guess.
- Try not to be flustered, particularly by the cross-examination.
- Do not be afraid to call the CPS caseworker or attorney after the hearing to inquire about the outcome.⁴⁷

CPS Procedures After a Report Is Made

For more information about how the child welfare system operates, visit the Child Welfare Information Gateway website at <http://www.childwelfare.gov/pubs/factsheets/cpswork.cfm>.