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Child Protective Services
Presentation

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Child Protective Services Process

- Suspected child abuse, neglect or abandonment is reported to Centralized Intake (866/820-5437)
- Centralized Intake determines the appropriate response
 - CPS report - requires an investigation
 - CFS report - requires a referral to community services - no investigation required
 - CPI report - informational - no investigation required
- CPS reports are referred to a field social worker for investigation - response required within 24 hours for emergent reports
- Social worker investigates, assesses the child's safety, and takes appropriate action
- Social worker may remove the child from the home if the worker determines the child is in immediate or apparent danger

Investigations and Determinations

- Reports assessed by Centralized Intake as requiring an investigation are sent to the field for investigation.
- If Centralized Intake assesses the report as an emergency, the social worker must initiate the investigation immediately and no later than within 24 hours or receiving the report.
- If the report is not assessed as an emergency, the social worker must initiate the investigation within 14 days.
- The social worker must make a determination of substantiated, unsubstantiated, or unfounded within 60 days of commencing an investigation.
- Standard for substantiation: Preponderance of evidence; substantial risk or actual harm.

In-Home Services

- Provided when the social worker has assessed risk of abuse, neglect or abandonment and has determined that the child may remain safely in the home.
- In-home services are provided primarily by contracted providers.
- In-home services include, but are not limited to:
 - Home visiting
 - Parenting classes
 - Stress and anger management
 - Budgeting
 - Transportation
 - Child care/respite

Foster Care

- A child is placed in foster care when the social worker has determined that the child cannot remain safely in the home.
- A foster care provider must be licensed before a maintenance payment can be made on behalf of a child.
- Foster care is provided by foster families, child placing agencies, and out-of-home providers.
- Foster care is also provided by kincare providers (relatives, members of the child/family's tribe, godparents, or stepparents or by whomever a child, child's parents and family ascribe a family relationship and in which the child has had a significant emotional tie to the provider that existed prior to the agency's involvement with the child).
- Unpaid placement options include placement with the noncustodial parent and unpaid kincare placement.

Permanency

- Permanency options include: Reunification, placement with a relative, guardianship, planned permanent living arrangement, adoption
- The most desirable permanency option is reunification of the child with the parent(s).
- If a child cannot be safely reunified with his/her parents, the social worker must make reasonable efforts to place the child in a permanent placement as quickly as possible.
- If a child has been in foster care 15 of the most recent 22 months, statute presumes that termination of parental rights is in the best interests of the child.

Permanency (cont'd)

- If a child has been in foster care 15 of the most recent 22 months, the county attorney must file a petition to terminate the parent-child legal relationship unless:
 - the child is being cared for by a relative
 - the department has documented a compelling reason for determining that filing a petition to terminate parental rights would not be in the child's best interests
 - the department has not provided the services considered necessary for the safe return of the child to the home

- If the court terminates the parent-child legal relationship, the optimal permanency options available for the child are adoption or guardianship.

Permanency (cont'd)

- If the social worker determines (and the court agrees) that the child cannot be returned home safely but termination of the parent-child legal relationship is not in the child's best interests, the permanency options available for that child are: Guardianship, placement with a relative, or long-term custody in a planned permanent living arrangement.
- A permanency planning hearing must be held within 12 months after the first 60 days in care or within 12 months of the finding that the child was abused or neglected, whichever comes first.

Child Protection: A System of Checks and Balances

- Informal elements:
 - Investigation (Internal): Substantiation Review Panel
 - External: Child Protection Teams
 - Family Group Decision-making Meetings
 - Parents and Foster Parents
 - General Internal: Supervisory Reviews
 - Unit Staffings
 - Permanency Team Meetings
- Formal elements:
 - Investigation/Substantiation: Fair Hearing Process
 - Foster Care Oversight:
 - District Court
 - County Attorney
 - Parent(s)' Counsel
 - Child's Attorney
 - Guardians ad Litem (GAL)

Checks and Balances (cont'd)

Court-Appointed Special Advocate
(CASA)

Foster Care Review
Committees (FCRC)

- State Agency: Critical Incident Reviews
Quality Assurance Reviews

Foster Care “Myths”

- Social workers have huge power but no oversight.
- The Division intrudes in families when it shouldn't.
- The Division doesn't intrude in families when it should.
- The Division should provide services to all children in need, not just those who are at risk of or being abused, neglected, or abandoned.
- Parental rights are terminated for all children placed in foster care and adoption is the permanent plan for all children in foster care.
- The most prevalent type of child maltreatment in Montana is physical abuse with sexual abuse a close second.
- The Division or social worker receives a “bounty” for every finalized adoption.

Child and Family Services 101

—Shirley K. Brown, M.A., J.D., Division Administrator

... *child abuse casts a shadow the length of a lifetime.*

—Herbert Ward

During State Fiscal Year 2006, 1,800 Montana children entered foster care due to abuse, neglect and other serious difficulties within their families. As of June 30, 2006, 2,129 children remained in care. The number of resource families available to provide safe, caring homes for these children has not kept up with need, especially for minority children, older youth, and sibling groups.

The Child and Family Services Division (CFSD) of Montana's Department of Public Health and Human Services provides protective services to abused, neglected, or abandoned children. This involves receiving and investigating reports of child abuse and neglect, helping families stay together or reunite, and finding placements in foster or adoptive homes when necessary. The CFSD has the legal authority to interview the child, make emergency placements if a child cannot safely remain in the home, and take physical or legal custody when ordered to do so by the court.

Ultimately, the priority is keeping children safe, within the family if possible. If the child cannot safely stay with the family, the next step is to build on family strengths so that the child can be returned. In every case, it's a judgment call and a balancing act between the child's right to be safe and the parent's right to parent. Ultimately, decisions made on behalf of children come down to child safety and what is allowable under statute. Every call is assessed on statutory criteria. If the

information in the call gives reasonable cause to suspect abuse, we investigate.

The statutory definition of child abuse or neglect includes actual physical or psychological harm or the *substantial risk* of physical or psychological harm to a child by the acts or omissions of a person responsible for the child's welfare; abandonment; and/or exposing a child or allowing a child to be exposed to the criminal distribution of dangerous drugs, the criminal production or manufacture of dangerous drugs, or the operation of an unlawful clandestine laboratory.

Division policy is to provide protective services to children in their own homes whenever possible. If parents are amenable, social workers can link the family with in-home services, including home management skill training, parent education classes and supervised visitations. Family

Group Decision-making Meetings help family members become involved in addressing the care and safety of their children. These meetings bring family, friends, social workers and service providers together to share concerns, knowledge and skills. This strategy can be used to prevent removal, to document a parent's progress after the child is in foster care, and to help identify permanent placements for a child.

To put the issue in perspective, in state fiscal year 2004, there were approximately 27,000 calls to the centralized Child Abuse Hotline. Of these, about 15,000 were entered into the Child and Family Services Division system; around 8,000 required investigation. These calls involved approximately 14,000 children—1,419 were put in out-of-home placement. Recently, the Division started tracking parental drug involvement. Social workers report that approximately 2/3 of their cases involve drug and/or alcohol usage by parents.

According to Montana law, the name of persons making the report must remain confidential. Anyone who believes that a child is being abused or neglected may report suspicions to the Hotline, though many professionals who work with children are required by law to report it if they have reasonable cause to suspect abuse or neglect.

The Process

The CFSD operates a toll-free child abuse hotline 24 hours a day, 7 days a week. Centralized intake specialists screen calls, assess the level of risk to children, and prioritize reports of abuse, neglect, and abandonment according to the urgency with which social workers need to respond. Specialists forward reports of suspected child abuse, neglect or abandonment to social workers.

The social worker interviews/observes the child to assess the whether or not s/he can safely remain with the parents. The social worker contacts people who may be able to give more information, and may talk with a child in school or day care or visit with the family. In the case of suspected sexual abuse or when there is serious physical injury, local law enforcement officers frequently take part in the interviews with children.

Will the child be removed from the home? Unless a child is in danger and cannot be protected in the home, the goal is to keep families together. If the child is in immediate danger, the social worker may use the emergency protective services authority provided under Montana law to immediately remove the child. In that case, the child may be placed with the child's non-custodial parent or a member of the extended family, in a licensed foster home, group home or shelter care facility. The federal Indian Child Welfare Act (ICWA) governs state social services and state courts in all foster care and adoption cases involving Indian children.

Temporary Investigative Authority (TIA) is ordered by a judge, and gives CFSD the legal right to conduct an in-depth investigation. A TIA can be ordered for a maximum of 90 days, and does not confer legal custody to CFSD. A Guardian Ad Litem (GAL) and/or Court Appointed Special Advocate (CASA) will be appointed to represent the child whenever the court takes action. In addition, an attorney will be appointed to represent the parents if they do not have the financial resources to retain one. After a TIA is ordered, the social worker will work with the family to resolve the problems that led to removing the child. The family has 90 days to complete requirements listed in the plan. At the end of the 90 days, the judge must

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order Temporary Legal Custody if the child cannot be safely returned to the home.

Temporary Legal Custody (TLC) confers the temporary right and responsibility for the care, custody and control of the child to CFSD. The Court usually orders TLC for six months, but this may be extended for an additional six months if the Court believes that more time is required to complete the treatment plan. Successful completion is necessary for reunification.

A **permanency hearing** must be held no later than 12 months after a Court has found the child to be abused or neglected or 14 months after a child is removed from the home, whichever comes first. At this hearing, a report, including a permanency plan for the child, is submitted to the Court.

Termination of Parental Rights and Permanent Legal Custody: According to state and federal law, if a child has remained in court-ordered out-of-home care for 15 of the past 22 months, the state is required to file for Termination of Parental Rights and Permanent Legal Custody.

Out-of-home placements: If a child is in immediate danger, the child may be placed outside the home, either permanently or temporarily. District court judges must approve all out-of-home placements unless the parent voluntarily agrees to the placement. Under Montana law, voluntary placements are limited to 30 days. At the end of the 30 days, the social worker must either return the child to the parent(s) or file a petition in state district court.

Kinship care involves placing the child with extended family, the clan or tribal members. It provides the child with a safe and nurturing environment while preserving a family connection. When an out-of-home placement is necessary, social workers must first try to place the child with a non-custodial birth parent or a member of the extended family.

Foster care involves placing children in licensed substitute homes. This includes family foster care, group homes, shelter care, and residential facilities. CFSD also licenses specialized family foster homes for children with special needs.

Ideally, the CFSD tries to help improve parents' abilities to care for their children so that children who have been removed from their homes can return as soon as possible. Reunification services including

counseling, parental education, in-home services, mentoring, respite care, supervised visits, and transportation are provided. If the Court determines that a child cannot be safely returned to birth or legal parents, a permanency team reviews the child's circumstances and identifies whether adoption, guardianship, placement with a relative, or another living arrangement is the best option.

If a child cannot be reunited with his/her family, adoption is generally the permanency plan of choice because it offers a child a lifetime link to a family. CFSD administers a subsidized adoption program for children with special needs. Guardianship is an alternative when adoption is not considered to be in the best interests of the child. This is a legal relationship that can only be established or dissolved by a court. CFSD also offers a number of services to children between the ages of 16 and 21 who are making the transition from foster care to independent living. Transitional services include housing assistance, counseling, career guidance, education, transportation, money management skills, and financial stipends.

Each step in this process—from the initial report to foster care or adoption—is difficult for everyone involved. The CFSD did a workload measurement study not long ago—it came as no surprise that the Division needs a significant increase in field staff to keep up with the growing caseloads. The workload is enormous, and has increased substantially with the upsurge in methamphetamine abuse and addiction. There are no simple answers.

French novelist Francois Muriac once asked, "Where does discipline end? Where does cruelty begin? Somewhere between these, thousands of children inhabit a voiceless hell." CFSD works hard every day to insure that Montana's children are neither voiceless nor left to endure without hope.

An investigation of child abuse/neglect will result in one of the following determinations:

- *Substantiated: based on evidence, it is more probable than not that the abuse or neglect actually occurred (remember, the definition includes either actual harm or substantial risk of harm);*
- *Indicated: maltreatment has occurred but the perpetrator is not a person legally responsible for the welfare of the child or is unknown;*
- *Unsubstantiated: the social worker is unable to demonstrate by a preponderance of evidence as to whether any abuse or neglect occurred;*
- *Unfounded: there is no reason to suspect abuse/neglect occurred;*
- *Closed Without Finding: the family cannot be located or the investigation cannot be completed.*

To report a possible case of child abuse or neglect, call the statewide toll-free Child Abuse Hotline at 1-866-820-5437. You do not have to investigate before you call—the investigation is conducted by a CFSD social worker. If you have reasonable cause to suspect a child is being abused or neglected, call Centralized Intake and make a report.

Child Abuse Hotline: 1-866-820-5437