
A Guide to New York's Child Protective Services System

2001 Revised Edition



Sheldon Silver, Speaker
New York State Assembly

Roger Green, Chairman
Committee on Children and Families

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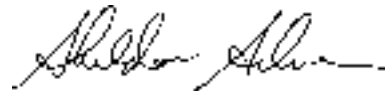
Roger Green, Chairman
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Forward

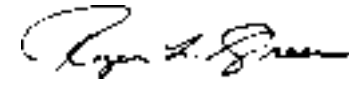
New York State continues to make important strides in protecting children from abuse and maltreatment despite tough budgetary restraints.

The Assembly continues to lead efforts designed to protect children. From supporting initiatives that would lift the veil of secrecy surrounding child abuse investigations and confidentiality to creating more mandated reporters of child abuse, the Assembly has played an instrumental role in maintaining New York State's reputation as a leading advocate for children.

We are committed to advancing future initiatives that would protect New York's most precious resource — our children. By protecting children, we ensure that New York State will have a brighter future for all citizens.



Sheldon Silver, Speaker
New York State Assembly



Roger L. Green, Chair
Committee on Children
and Families

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Preface: 2001

This handbook was written to serve as a guide through the complex structure of New York State's Child Protective Services System. In addition, this handbook is designed to expand awareness of child abuse and highlight the process that occurs when child abuse is reported.

Laws and programs designed to protect children must change to reflect overall changes in society. The New York State Legislature has responded by passing laws to increase and strengthen the State's protection of children over the past years. For example, in 1995, legislation was signed into law that required physician assistants to report any suspected cases of child abuse. In addition, other programs, such as the Children and Family Trust Fund, have been designed to provide funding to combat family violence, child abuse, domestic violence, and elder abuse.

Further changes are pending as the State and Federal governments look for ways to reduce costs. Despite increased pressure to reduce government spending, the Assembly remains committed to serving and protecting children and their families in the years to come.

The Assembly will continue its commitment to protecting children by strengthening present laws, improving CPS training programs, and providing important information about child protective services. The use of this book is intended not only for those who are mandated reporters, child protective service workers and law enforcement personnel, but for all who are concerned about the protection of children and the prevention of child abuse and neglect in New York State.

As the chairman of the Assembly Committee on Children and Families, I am prepared to continue my efforts to protect the children of this State and welcome your ideas and suggestions.

Sincerely,



Roger L. Green, Chairman
 New York State Assembly
 Committee On Children and Families

Acknowledgments: 2001

A Guide to New York's Child Protective Services System Introduction

by Sam Hoyt
144th Assembly District

My father, William B. Hoyt, served in the Assembly from 1974 until his death in 1992. In that time, he came to be known as a champion for children as Chairman of the Assembly's Subcommittee on Child Abuse, and as the architect of many of the pieces of anti-child abuse legislation which we today recognize as laws.

This book was conceived by my father twenty-three years ago. The first edition was published at that time with the intent of making "a complex system more understandable" and to "expand awareness." Since that time, many legislative and programmatic advances have been achieved, however the problem of child abuse remains as serious today as it was then. While awareness of child abuse is greater now, it is not as great as it can and should be. Certainly the system remains complex and the need for a new edition of this book is very real.

I have been proud to play a small part in making this latest edition of the *Guide to New York's Child Protective Services System* a reality. One need only to read the newspaper or watch the evening news to know why such a service is needed. It is my hope that this book will continue to make the system easier to navigate.

My father wrote, in the preface to the last edition, "My work as a State legislator is made more rewarding knowing I have helped to protect the most vulnerable members of our society, our children." As the son and successor to William B. Hoyt, and as a father, I know what he meant, and could not agree more. Finally, I'd like to acknowledge the strong leadership of Speaker Sheldon Silver and Children and Families Committee Chairman Roger Green on issues related to child protective services. Their commitment has been invaluable in updating and improving the system.

Sincerely,



Sam Hoyt
Member of Assembly

The Concept of Child Protective Services

The abuse or maltreatment of children is against the law.¹ People, even parents, who have abused or mistreated a child may be prosecuted for what they have done. Child Protective Services (CPS), while it may refer cases to the district attorney for prosecution, focuses on protecting children from future abuse or neglect. While past mistreatment is often the basis for commencing an investigation or proceeding, and may be a predictor of future behavior, CPS is to become involved only to prevent future harm to the child. Thus, acts which are unlikely to be repeated may not require state intervention. On the other hand, if there is a serious danger of future harm to the child, the state may intervene even if the child has not suffered any harm in the past.

People sometime think of child protection in the narrow sense of investigating of abuse, neglect, or maltreatment; filing child protective proceedings in Family Court; and placing children in foster homes. New York's Child Protective Services has a broader focus and a different perspective. Under New York's concept, the state's "first obligation is to help the family with services to prevent its break-up or to reunite it if the child has already left home."² Therefore, in New York, child protection focuses on the child in the context of the family, and recognizes the value of the family to the child. Removing the child from the home is a last resort, to be employed only when less drastic means of protection are impossible.

¹ NY Penal Law, Section 260.10.

² NY Social Services Law, 384-b (1) (iii).

New York State's Child Protective Services Act (1973)

In order to protect children who are victims of abuse or maltreatment, New York, like most states, created a child protective system in statute with five fundamental components:

- (1) **detection through third-party recognition** of children in danger, including mandatory and voluntary reporting of suspected child abuse and maltreatment;
- (2) **emergency protective custody** of children in “imminent danger”;
- (3) **State Central Register** of reports of suspected child abuse and maltreatment;
- (4) **child protective services** (a) to verify reports, (b) to provide immediate protection of children and (c) to begin the process of helping families by providing rehabilitative and ameliorative services;
- (5) and, when necessary, **court action** - Family Court action to remove a child, remove the allegedly abusive or neglectful parent from the child’s residence, impose treatment and/or Criminal Court action (by referring the case to law enforcement) to prosecute the perpetrator.

The New York Child Protective Services System is depicted schematically on pages 8 and 9.

The Purpose of New York State's Child Protective Laws¹

Abused and maltreated children in this State need an effective child protective service to prevent them from suffering further injury and impairment.

The purpose of the Child Protective Services Act and amendments is to encourage more complete reporting of child abuse and maltreatment. The law establishes a child protective service in each county of the State. Each child protective service is required to receive and investigate child abuse and maltreatment reports, to protect children from further abuse or maltreatment, and to provide rehabilitative services for the children, parents, and other family members involved.

The purpose of the Family Court Act’s child abuse and neglect provisions is to help safeguard the physical, mental, and emotional well-being of abused and neglected children by establishing civil procedures to protect them. The Family Court Act provides a due process for determining when the State, acting on behalf of the child, may intervene against the wishes of the parent or other person legally responsible for the child’s care so that the child’s needs are properly met.

The State Central Register of Child Abuse and Maltreatment¹

The New York State Office of Children and Family Services maintains a statewide Central Register of Child Abuse and Maltreatment for reports made pursuant to the Child Protective Services Act. The Central Register, also known as the “Hotline,” receives telephone calls and faxes alleging child abuse or maltreatment. The Register screens out those calls and faxes which do not constitute abuse or neglect or are otherwise inappropriate for the Register. The Register creates a written report of the call and transmits it electronically to the local child protective service for investigation, monitors the provision of child protective services and is capable of immediately identifying the existence of prior child abuse or maltreatment reports.

The Central Register receives telephone calls alleging child abuse and maltreatment **twenty-four hours a day, seven days a week**. The calls come from two sources: persons who are required by law to report suspected cases of child abuse and maltreatment and voluntary reporters.

All voluntary reporters may use the **statewide, toll free** number to report suspected cases of child abuse or maltreatment. The **statewide, toll free** number is:

1-800-342-3720

Onondaga County and Monroe County each have a telephone hotline number as well for receiving reports of child abuse and maltreatment. Upon receiving a telephone call alleging child abuse or maltreatment, both Onondaga and Monroe Counties are required to immediately notify the Central Register.

The number to call in **Onondaga County** is:
(315) 422-9701

The number to call in **Monroe County** is:
(716) 461-5690

Any allegations contained in a telephone call to the Hotline which the interviewer believes could reasonably constitute child abuse or maltreatment must be immediately transmitted to the appropriate local child protec-

tive services for investigation. If the Central Register records contain a previous indicated¹ report concerning a subject of the report, other persons named in the report, or other pertinent information, the appropriate local child protective service must be immediately notified of this prior report, the name of any other persons named in the report and informed of any pertinent information contained in the Central Register’s records.

When the Central Register receives a telephone call regarding allegations of child abuse or maltreatment where the alleged perpetrator is not legally responsible for the child (e.g., a stranger) but the alleged acts or circumstances described may constitute a crime or a threat to the health or safety of a child, the Central Register must immediately notify the appropriate law enforcement agency, district attorney or other public official empowered to provide aid or assistance.

The Central Register is prohibited from not accepting a report or not transmitting allegations contained in a report for investigation solely because the alleged perpetrator was not identified by a person reporting a suspected case of child abuse or maltreatment.

Child abuse or maltreatment reports as well as any other information or photographs obtained by the Central Register or in the possession of the local department are confidential and are made available to only certain persons authorized by law.

Certain persons authorized by law are permitted to check the Central Register to determine the existence of prior indicated reports in order to evaluate the condition or circumstances of the child before them or for other specified purposes.

The Central Register is also used for screening of foster parents, adoptive parents and prospective or current employees who have or will have regular and substantial contact with children (see pp. 38-39, Protecting Individual Rights).

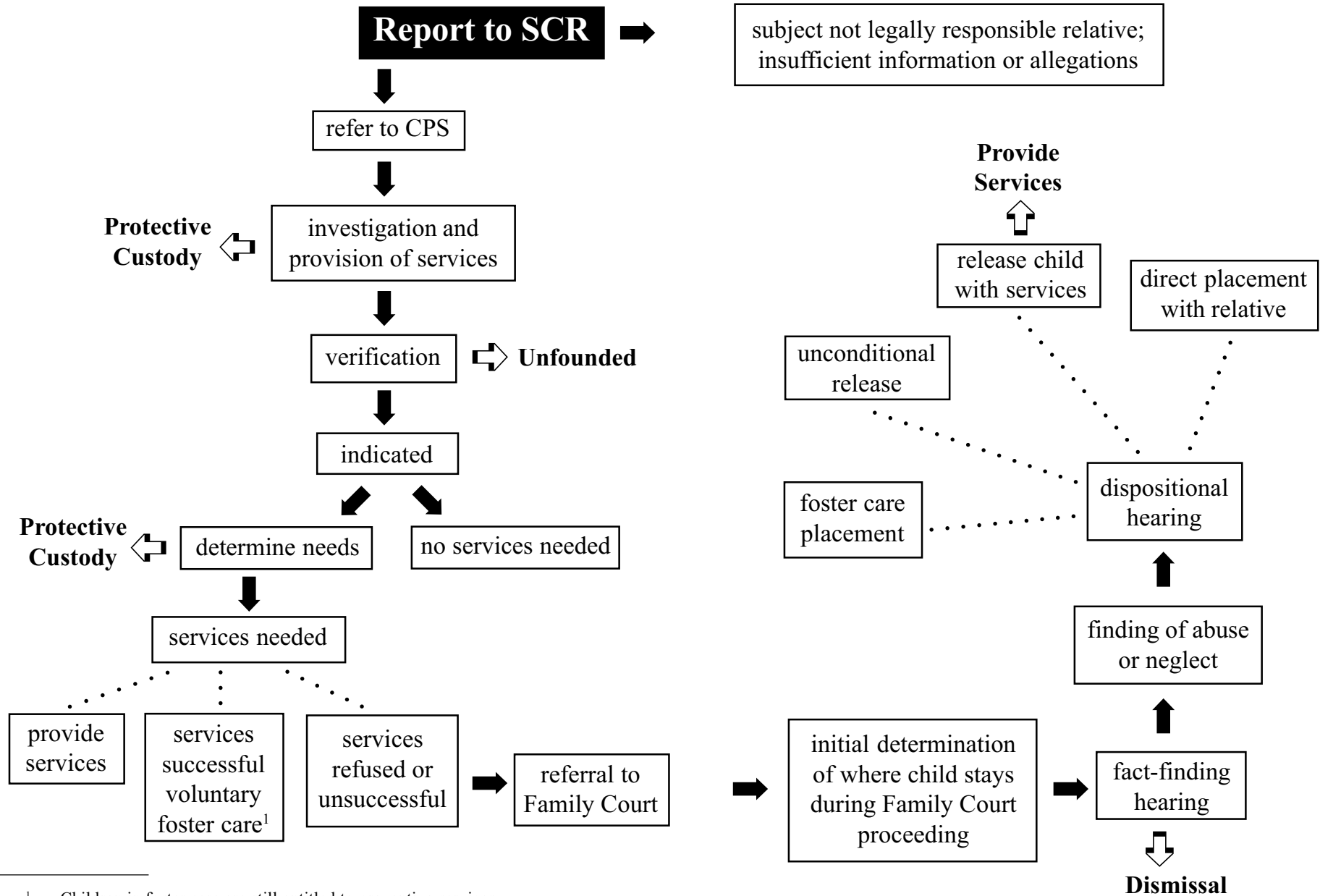
The Central Register responds to requests to amend or, for reports made prior to February 12, 1996, expunge indicated reports of child abuse or maltreatment.

The Central Register also monitors the provision of child protective services to assess the performance of local social services districts.

¹ When an investigation finds some credible evidence substantiating reported allegations of child abuse or maltreatment, the report is an **indicated report**.

If an investigation does not find some credible evidence substantiating reported allegations of child abuse or maltreatment, the report is considered an **unfounded report**.

¹ See NY Social Services Law, Sections 422, 424-a.



¹ Children in foster care are still entitled to preventive services, but no longer need protective services.

Definition of Child Abuse¹

“Abused Child” means a child less than 18 years of age whose parent or other person legally responsible² for the child’s care:

- (i) inflicts or allows to be inflicted upon the child physical injury by other than accidental means which causes or creates a substantial risk of death, serious or protracted disfigurement, protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; or
- (ii) creates or allows to be created a substantial risk of physical injury to the child by other than accidental means which would be likely to cause death, serious or protracted disfigurement, protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; or
- (iii) commits or allows to be committed a sex offense against the child, as defined in the penal law; allows, permits, or encourages the child to engage in any act described in sections 230.25, 230.30 or 230.32 of the penal law (Promoting Prostitution in the third, second, and first degree respectively); commits any act described in section 255.25 of the penal law (Incest); or allows such child to engage in any act described in article 263 of the penal law (Sexual Performance by a Child). However, the corroboration requirements contained in the penal law regarding the sections cited above and the age application of article 263 does not apply to child abuse and neglect proceedings in the Family Court.

¹ Family Court Act, Section 1012. According to NY Social Services Law, Section 412 the definition of child abuse also includes a child in residential care who is abused as defined on page 42, *infra*.

² For a definition of "other person legally responsible" see p. 12, *infra*.

Definition of Child Neglect¹

“Neglected Child” means a child less than 18 years of age:

- (i) whose physical, mental, or emotional condition has been impaired or is in imminent danger of becoming impaired as a result of the failure of the child’s parent or other person legally responsible² for the child’s care to exercise a minimum degree of care:
 - (a) in supplying the child with adequate food, clothing, shelter, education in accordance with Part I of Article 65 of the education law, or medical, dental, optometrical, or surgical care though financially able to do so or offered financial or other reasonable means to do so; or
 - (b) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm or substantial risk of harm including the infliction of excessive corporal punishment; or by misusing a drug or drugs; or by misusing alcoholic beverages to the extent that the parent or other person legally responsible for the child’s care loses self-control of his or her actions; or by any other acts of a similarly serious nature requiring the aid of the court. However, where the person legally responsible for the child’s care is voluntarily and regularly participating in a rehabilitative program, evidence that he or she has repeatedly misused a drug (or drugs) or an alcoholic beverage (or beverages) to the extent that he or she loses self-control of his or her actions shall not establish that the child is a neglected child without evidence that the child’s physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as set forth in paragraph (i); or
- (ii) who has been abandoned.³

¹ See N. Y. Family Court Act, Section 1012. According to the NY Social Services Law, Section 412, the definition of a "maltreated child" includes the definition of a "neglected child" as well as 1) a child who has had serious physical injury inflicted upon him or her by other than accidental means and 2) a child in residential care who is a "neglected child" as defined on page 43, *infra*.

² For a definition of "other person legally responsible" see p. 12, *infra*.

³ New York State's law defines abandonment only after a child has been placed in foster care. An "abandoned child" is defined as a child whose parent or other person legally responsible for the child's care shows an intent to give up his or her parental rights and obligations as manifested by his or her failure to visit with the child and communicate with the child or the agency with which the child is placed or from which the child is receiving care although able to do so. This definition does not apply to parents or other persons legally responsible for the child's care who are prevented or discouraged from visiting or communicating with the child by the agency with which the child is placed or from which the child is receiving care. Without evidence to the contrary, the ability to visit and communicate with one's child is to be presumed. See NY Social Services Law, Section 384-b, Subdivision 5.

Other Person Legally Responsible¹ / Subject of a Report

In the definitions of both an abused and a neglected child, “Subject of a Report” means any parent of, guardian of, custodian of or any other persons 18 years of age or older legally responsible for a child who allegedly causes the abuse or maltreatment of the child named in a report, or who allegedly allows the abuse or maltreatment to be inflicted on the child named in a report. “Other person legally responsible” means a parental substitute — the child’s custodian, guardian or any other person responsible for the child’s care at the relevant time, including any person who lives in the household or visits at regular intervals.

Other persons who may be the subject of a report include a foster parent or an operator of or employee or volunteer in a home or facility operated or supervised by an authorized agency, the Office of Children and Family Services, an office of the Department of Mental Hygiene, a family day care home, a day care center, a group family day care home, or a day services program, or a consultant or any person who is an employee or volunteer of a corporation, partnership, organization or governmental entity which provides goods under an arrangement which provides for such person to have regular and substantial contact with children in residential care.

¹ See NY Social Services Law, Section 412; Family Court Act, Section 1012.

Any Person Allowed to Report¹

In addition to persons and officials required to report suspected cases of child abuse and maltreatment, **any person** may voluntarily make a report if he or she has reasonable cause to suspect that a child is abused or maltreated.

Persons not required by law to report suspected cases of child abuse or maltreatment must use the **statewide toll free** number:

1-800-342-3720

Those Professionals Required to Report²

The following list of persons and officials are **required** to report or cause a report to be made when there is **reasonable cause to suspect** that a child coming before them in their professional or official capacity is an abused or maltreated child. These persons are also required to report or cause a report to be made when there is reasonable cause to suspect that a child is abused or maltreated when a parent, legal guardian, custodian or person legally responsible for the child’s care comes before them in their official or professional capacity and states facts, conditions or circumstances which if true would constitute abuse or maltreatment.

- Physicians
- Surgeons
- Medical Examiners
- Coroners
- Dentists
- Dental Hygienists
- Osteopaths
- Optometrists
- Chiropractors
- Podiatrists

¹ See NY Social Services Law, Section 414.

² See NY Social Services Law, Section 413.

- Residents
- Interns
- Psychologists
- Registered Nurses
- Hospital Personnel Engaged in the Admission, Examination, Care, or Treatment of Persons
- Christian Science Practitioners
- School Officials
- Social Services Workers
- Day Care Center Workers
- Providers of Family or Group Family Day Care
- Employees in Residential Care Facilities
- Volunteers in Residential Care Facilities
- Any Other Child Care Worker
- Foster Care Workers
- Mental Health Professionals
- Peace Officers, Police Officers or Other Law Enforcement Officials
- District Attorneys, Assistant District Attorneys or Investigators Employed in the Office of a District Attorney
- Substance Abuse Counselors
- Alcoholism Counselors
- Physician Assistants

The **special unlisted telephone** number to use only by persons mandated by law to report suspected cases of child abuse or maltreatment is:

1-800-635-1522

Whenever persons are required to report in their capacity as members of the staff of a medical or other public or private institution, school, facility or agency, they are required to immediately notify the person in charge; the person in charge then also becomes responsible to report or cause a report to be made. However, the law requires that only one report from the institution, school or agency be made.

Any person, institution, school, facility, agency, organization, partnership, or corporation which employs persons mandated to report suspected incidents of child abuse or maltreatment is required to provide all current and new employees with written information explaining reporting procedures.

Persons applying for licensure or registration as operators of child day care centers, school age child care program and head start day care program directors, homes, programs or facilities **and** all staff members providing direct child care or supervision in each home, program and facility covered by the operator's license or registration are required to receive 15 hours of training which must include receiving information regarding child abuse and maltreatment prevention and identification.

Similarly, those persons seeking or currently holding a license, certificate or permit to operate a family day care home or a group family day care must receive written information explaining reporting requirements from the state or local government agency which issued them their license, certificate or permit.

All persons applying for or renewing state certification, licensure or registration to become a teacher or director of a private or public school, a superintendent of schools, a physician, a chiropractor, a dentist, a dental hygienist, a registered nurse, a podiatrist, an optometrist or a psychologist are required to complete two hours of course-work or training regarding the identification and reporting of child abuse and maltreatment.¹

¹ NY Education Law, Section 3003, 3004, and 6507.

Only Reasonable Suspicion is Required¹

Suspected child abuse and **suspected** child maltreatment must be reported by all persons mandated by law to do so and should be reported by any other person who has reason to believe a child is being abused or maltreated. The law does not require certainty before reporting child abuse or maltreatment. The law purposefully requires only “reasonable cause to suspect” that a child is abused or maltreated. As Dr. Vincent DeFrancis, formerly of the American Humane Association, points out:

The affect of this language is that the reporter’s diagnosis need not be absolute. He {or she} does not have to prove conclusively, even to himself {or herself}, that the child is a victim of inflicted injury. If the circumstances are such as to cause him {or her} to feel doubt about the history given, if he {or she} has cause to doubt the truthfulness of the person who tells him {or her} about the alleged accidental cause of the injury, or if X-ray or other examinations reveal symptoms and facts inconsistent with the circumstances described, then he {or she} has sufficient “reasonable cause to suspect” that the injuries may have been inflicted rather than accidental. This would be enough to satisfy the requirement of the law.²

Requiring reports of suspected child abuse and maltreatment is intended to ensure the fullest possible reporting. It must be emphasized that the law provides for and in certain instances requires the reporting of suspected cases of child abuse and maltreatment because the child protective system is based on investigation and intervention. The sooner a case is reported, the better the chances of protecting the child and rehabilitating the family.

After a report is made, the child protective agency is responsible for making the actual determination of the child’s condition and for beginning the process of diagnosis, protection and treatment.

Recognizing child abuse or maltreatment is not as easy as it may seem. Because abuse and maltreatment usually occur in the privacy of a home without witnesses, recognition is frequently based on deductions; sometimes there is no hard, first-hand evidence. In grappling with the problem of recognition, professionals depend on a series of clues, which, based on their experience, they look for in diagnosing abuse and maltreatment. These clues are not conclusive proof. They are nothing more than circumstantial evidence tending to show that a child was abused or maltreated.

The list of indicators on pp. 18-19 may be used as a guide to determine whether there is reasonable suspicion that a child is abused or maltreated.

It should be noted that **these indicators can exist in situations where a child is not abused or maltreated**. It must be underscored that these indicators are only suggestive of abuse or maltreatment. The presence of any one or more symptoms may have an entirely proper or unrelated explanation. Professionals required to report weigh the signs in light of their training and experience to form an expert judgement.

Since the making of a report subjects the family to an intrusive investigation, reports should not be made without a reasonable basis. Overreporting continues to be a serious problem. Approximately two-thirds of the reports to the State Central Register turn out to be completely unfounded, i.e. the investigation determines that there is no credible evidence of child abuse or maltreatment. Beleaguered child protective services are required by law to investigate every complaint that SCR staff forward to them. The groundless complaints divert valuable staff time and expertise from children who really need protection.

¹ See NY Social Services Law, Section 413.

² DeFrancis & Lucht, *Child Abuse Legislation in the 1970's*, revised edition, p. 8, (1974).

Physical and Behavioral Indicators of Child Abuse and Neglect

<i>Physical Abuse</i>		<i>Neglect</i>	
Physical Indicators	<p>Special attention should be paid to injuries that are unexplained or are inconsistent with the parent(s) or caretaker's explanation and developmental stage of the child.</p> <ul style="list-style-type: none"> • Bruises, welts and bite marks <ul style="list-style-type: none"> - on face, lips, mouth, neck, wrists, ankles - on torso, back, buttocks, thighs - injuries to both eyes or cheeks (accidents usually injure only one side of face) - clustered, forming patterns reflecting article shape • "Grab Marks" on arms, shoulders <ul style="list-style-type: none"> - on several different surface areas • Evidence of human bite (compresses rather than tears) <ul style="list-style-type: none"> - in various stages of healing - regularly appearing after absence, weekend, vacation • Lacerations or Abrasions <ul style="list-style-type: none"> - to mouth, lips, gums, eyes - to external genitalia - on back or arms, legs or torso • Burns <ul style="list-style-type: none"> - cigar, cigarette, esp. on soles, palms, back, buttocks 	<ul style="list-style-type: none"> - scalding water immersion (sock-like, glove-like, doughnut shaped on buttocks or genitalia) - patterned like electric iron, burner, etc. - rope burns on arms, legs, neck, torso • Fractures <ul style="list-style-type: none"> - to skull, nose, facial structure - skeletal trauma accompanied by other injuries - multiple or spiral fractures - in various stages of healing • Head Injuries <ul style="list-style-type: none"> - absence of hair &/or hemorrhaging beneath scalp - subdural hematoma (severe hitting or shaking) - retinal hemorrhage or detachment (shaking) - eye injury - jaw and nasal fractures - tooth or frenulum injury 	Physical Indicators
	<ul style="list-style-type: none"> • wary of contacts with parents or other adult • apprehensive when other children cry • behavioral extremes <ul style="list-style-type: none"> - aggressiveness - withdrawal - extreme mood changes • afraid to go home, repeated incidents of running away • reports injury by parents <ul style="list-style-type: none"> - sometimes blames self, 	<p>e.g. "I was bad."</p> <ul style="list-style-type: none"> • habit disorders <ul style="list-style-type: none"> - self-injurious behavior - psychoneurotic reactions (phobias, compulsions, obsessions, hypochondria) • may wear long sleeves or other clothing inappropriate for the season to hide indicators of abuse • manifestations of low self-esteem • suicide attempts 	Behavioral Indicators
<i>Sexual Abuse</i>		<i>Neglect</i>	
	<ul style="list-style-type: none"> • difficulty in walking or sitting • torn, stained or bloody under-clothing • pain or itching in genital area • bruises or bleeding in external genitalia, vaginal or anal areas • bruises to the hard or soft palate • sexually transmitted diseases, 	<ul style="list-style-type: none"> • speech disorders • consistent lack of supervision, especially in dangerous activities or for long periods • unattended physical problems or medical needs • chronic truancy • abandonment • inappropriate dress for the season 	Physical Indicators
	<ul style="list-style-type: none"> • unwilling to change for gym or participate in education class • withdrawal, physical fantasy, or infantile behavior • bizarre, sophisticated, or unusual sexual behavior or knowledge; seductive or promiscuous behavior • poor peer relationships • delinquent or runaway; truancy • reports sexual assault by caretaker 	<ul style="list-style-type: none"> • neurotic traits (sleep disorders, inhibition of play) • psychoneurotic reactions (hysteria, obsession) • behavior extremes; compliant/passive-aggressive • overly adaptive behavior, adultlike or infantile • lag in mental/emotional development • attempted suicide 	Behavioral Indicators
	<ul style="list-style-type: none"> • difficulty in walking or sitting • torn, stained or bloody under-clothing • pain or itching in genital area • bruises or bleeding in external genitalia, vaginal or anal areas • bruises to the hard or soft palate • sexually transmitted diseases, 	<ul style="list-style-type: none"> • especially in preteens; includes venereal oral infections • pregnancy, especially in early adolescent years • painful discharge of urine and/or repeated urinary infections • foreign bodies in vagina or rectum 	Physical Indicators
	<ul style="list-style-type: none"> • unwilling to change for gym or participate in education class • withdrawal, physical fantasy, or infantile behavior • bizarre, sophisticated, or unusual sexual behavior or knowledge; seductive or promiscuous behavior • poor peer relationships • delinquent or runaway; truancy • reports sexual assault by caretaker 	<ul style="list-style-type: none"> • prostitution • forcing sexual acts on other children • extreme fear of being touched; unwilling to submit to physical examination • self-injurious behaviors; suicide attempts • manifestations of low self-esteem; general fearfulness 	Behavioral Indicators

Mandated Reporting of Deaths to Medical Examiner or Coroner¹

Any person or official required to report suspected child abuse or maltreatment, including a worker in the local child protective service, who has reasonable cause to suspect that a child died as a result of child abuse or maltreatment, must report that fact to the appropriate medical examiner or coroner.

The medical examiner or coroner is required to accept the report for investigation and must report his or her finding to the Office of Children and Family Services, which shall promptly provide a copy of such a report to a local multidisciplinary investigative team and local and regional fatality review teams, the police, the appropriate district attorney, the local child protective service, the central register, and, if the institution making the report is a hospital, the hospital.

Immunity from Liability²

Any person (mandated by law or not), official or institution participating in good faith in the making of a report, taking of photographs, placing a child in protective custody or providing a service pursuant to the duties of the child protective service according to the law has immunity from any liability, civil or criminal, that might otherwise result from such actions.

For the purpose of any proceeding, civil or criminal, the good faith of persons, officials or institutions required to report cases of child abuse or maltreatment is presumed as long as they were acting in the discharge of their duties and within the scope of their employment. This protection does not apply to acts of willful misconduct or gross negligence, or to violations of constitutional rights.³

¹ See NY Social Services Law, Section 418.

² See NY Social Services Law, Section 419.

³ See 42 U.S.C. Section 1983.

Penalties Related to Reporting Requirements¹

Any person, official, or institution required by law to report a case of suspected child abuse or maltreatment who willfully fails to do so is guilty of a class A misdemeanor.²

Any person, official, or institution required by law to report a case of suspected child abuse or maltreatment who knowingly and willfully fails to do so is civilly liable for the damages proximately caused by the failure to report.

Knowingly making a false report to the State Central Register is a class A misdemeanor.³

Reporting Procedures⁴

Reports of suspected child abuse and maltreatment made pursuant to the law may be made – at any time of day and any day of the week – by telephone or telephone facsimile.

The **statewide, toll free** number is: **1-800-342-3720**

The number to call in **Onondaga County** is: **(315) 422-9701**

The number to call in **Monroe County** is: **(716) 461-5690**

The Central Register has a special unlisted telephone number and a telephone facsimile number for use only by persons required by law to report suspected cases of child abuse and maltreatment (see pp. 13-14, Those Professionals Required to Report). If a mandated reporter uses the **statewide, toll free** number or either of the county numbers, he or she will be informed of the special unlisted numbers to call.

Reports sent by facsimile machine are required to be made on a form supplied by the State Office of Children and Family Services. Oral reports must be followed by a report in writing within 48 hours after the initial oral report.

¹ See NY Social Services Law, Section 420.

² The maximum penalty for a class A misdemeanor is 1 year in jail and a \$1,000 fine.

³ NY Penal Law, § 240.55 (3).

⁴ See NY Social Services Law, Section 415.

Written reports from mandated reporters are required to be made in a manner prescribed and on forms supplied by the State Office of Children and Family Services. They must include the following information:

- name and address of the child;
- name and address of the child's parents, or other persons legally responsible for the child, if known;
- the child's age, sex, and race;
- the nature and extent of the child's injuries (or, as the case may be, the child's siblings), abuse, or maltreatment including any evidence of prior injuries, abuse or maltreatment;
- the name of the person or persons allegedly responsible for causing, allowing, or inflicting any injuries, abuse or maltreatment, if known;
- the family composition, where appropriate;
- the person making the report and where he or she can be reached and;
- the actions taken by the person reporting the alleged abuse or maltreatment, including the taking (or causing to be taken) of photographs, x-rays, or the removal of the child or notification of the medical examiner or coroner; or
- any other information the State Commissioner of Social Services may deem helpful.

NOTE:¹

Written reports filed with the Central Register by a mandated reporter are admissible in evidence in any proceeding relating to child abuse or neglect.

NOTE:²

Unfounded reports of child abuse are admissible in evidence only as proof that the report was made.

¹ See NY Social Services Law, Section 415.

Taking Photographs and X-Rays¹

Any person or official required to report suspected abuse and maltreatment of a child **may** take (or cause to be taken) at the public expense photographs of the areas of trauma visible on a child who is named in a report, and, if medically indicated, **may** cause to be performed a radiological examination on a child. Any photographs or report of X-ray findings **must** be sent to the local child protective service at the time the written report is made, or as soon thereafter as possible.

Whenever a person is required to report under the law in the capacity as a member of the staff of a medical or other public or private institution, school, facility or agency, he or she **must** immediately notify the person in charge (or his or her designated agent), who then **must** take or cause to be taken at the public expense color photographs of visible trauma, and is required to, if medically indicated, cause to be performed a radiological examination on the child.

However, hospitals and child protective services may not take x-rays or conduct intrusive medical examination for investigate purpose without parental consent or a court order.

¹ See NY Social Services Law, Section 416.

Protective Custody¹

A child may be placed in protective custody without a court order and without the consent of the parent or other person legally responsible regardless of whether the parent or other person legally responsible for the child's care is absent only if:

- (1) the child is in such circumstance or condition that continuing at home or in the care and custody of the parent or other person legally responsible for the child's care presents an **imminent danger to the child's life or health**; and
- (2) there is not enough time to file a case in Family Court.

Certain persons are allowed to take children into protective custody. These include:

- (1) peace officers, law enforcement officials, agents of duly incorporated Societies for the Prevention of Cruelty to Children, designated employees of city or county department of social services, and physicians.

If an authorized person removes or keeps custody of a child he or she must:

- (1) bring the child immediately to a place approved for this purpose by the local social services department, unless the person is a physician treating the child and the child is or will be presently admitted to a hospital; and
- (2) at the same time as the removal, give written notice to the parent or other person legally responsible for the child's care of the right to

¹ See NY Family Court Act, Sections 1022, 1023, 1024, 1026; NY Social Services Law, Section 417.

apply to the Family Court for the return of the child and of the right to be represented by counsel in abuse or neglect proceedings as well as the procedures for obtaining counsel if indigent; and include in the written notice his or her name, title, organization as well as the address and telephone number of the organization, the name and telephone number of the child care agency to which the child will be taken and, if available, the telephone number of the person to be contacted for visits with the child; and

- (3) inform the parent or other person legally responsible for the child's care in writing of the intent of a duly authorized agency, a peace officer, police officer, or authorized agent to apply for an order of temporary removal or a temporary order of protection. Included in the written notice must be the date and the time that the application will be made, the address of the court where the application will be made, the right of the parent or other person legally responsible for the child's care to be present at the application and at any hearing held regarding the order as well as the right to be represented by counsel and of the procedures for obtaining counsel, if indigent; and
- (4) inform the Family Court and make a report pursuant to the Child Protective Services Act as soon as possible.

Where a physician keeps a child in custody in the capacity as a member of the staff of a hospital or similar institution, pending action by the local department of social services or appropriate authorities, he or she is required to notify the person in charge of the institution, or designated agent, who then becomes responsible for further care of the child.

A physician has the right to keep a child in custody until the custody of the child has been transferred to the appropriate police authorities or to the social services official of the city or county in which the physician practices but no longer than until the next regular week day session of the appropriate Family Court. If a social services official receives custody of the child, he or she is required to promptly inform the parent or other person responsible for the child's care and the Family Court of the action, and at the next regular weekday session of the Family Court commence a child protective proceeding, or return the child. If the child protective service takes a child into custody and the parent is not present, the service must immediately notify the closest local police station.

Special Authority for "24 Hour Hold" by Hospitals¹

When the person in charge of any hospital or similar institution has reasonable cause to believe that there would be imminent danger to a child's life or health if the child were to remain in his or her place of residence, the person is required to take all necessary measures to protect the child, including, when appropriate, retaining custody of an abused or maltreated child until the next session of the Family Court in which a child protective proceeding may be commenced. This duty applies whether or not additional medical treatment is required during the period and whether or not a request is made by a parent or guardian for the return of the child during that period.

In all cases where the person in charge of a hospital or similar institution has retained custody of a child pursuant to the law, he or she is required to immediately notify the appropriate local child protective service. The child protective service must then begin an investigation and a child protective proceeding in the Family Court at the **next regular weekday session** of the appropriate Family Court or recommend to the Court at that time that the child be returned to his or her parents or guardian. If the child protective service does not either remove the child or obtain a court order directing the retention of the child, the hospital has no authority to hold the child at the end of the next regular weekday.

If no further medical treatment is necessary, the child protective service must take all necessary measures to protect the child, including, when appropriate, taking the child into custody.

NOTE: Any person or institution acting in good faith in the removal or keeping of a child pursuant to the law has immunity under state law from any liability, civil or criminal (see p.20, Immunity from Liability), that might otherwise be incurred or imposed as a result of such removal or keeping.² However, the person or institution may be liable for damages under federal law.³

¹ See NY Social Services Law, Section 417 (2).

² See NY Social Services Law, Section 419.

³ See 42 U.S.C. Section 1983.

The Local Child Protective Service¹

As required by the Child Protective Services Act of 1973, every local department of social services has established a child protective service. The Act requires the child protective service to have sufficient staff of sufficient qualifications to fulfill the purposes of the Act and to be organized in such a way as to maximize the continuity of responsibility, care and services of individual workers toward individual children and families.

The child protective service is the sole public agency responsible for receiving and investigating all reports of abuse and maltreatment of children in familial, foster home, and day care settings for the purposes of:

- (1) preventing further abuse or maltreatment of children; and
- (2) coordinating, providing, or arranging for and monitoring the provision of those services necessary to safeguard and ensure the child's well-being and development and to preserve and stabilize family life, whenever appropriate.

The child protective service, based upon the plan of services, may purchase and utilize the services of any appropriate public or voluntary agency. It may arrange with a Society for the Prevention of Cruelty to Children to investigate certain or all reports. When services, such as homemaker services, day care, counseling, and parent support services,² are purchased by the local department, they are reimbursed by the State to the locality to the same extent as if the services were provided directly by the local department.

¹ See NY Social Services Law, Section 423.

² See pp. 32-33 for a complete list of services.

Duties of the Child Protective Service¹

Each local child protective service receives reports of suspected child abuse and maltreatment in familial settings, foster home settings and day care settings on a twenty-four hour, seven-day-a-week basis. Upon receipt of a report, each local child protective service is required to commence (or cause the appropriate Society for the Prevention of Cruelty to Children to commence) **within twenty-four hours**, an appropriate investigation. The investigation must include an evaluation of the environment and condition of each child named in the report and any other children in the same home and a determination of the risk to them if they continue to remain in the existing home environment.

The child protective service determines if there are other children in the home and makes a determination of the nature, extent and cause of any condition enumerated in the report or discovered during the investigation including the condition of the other children. In addition, not later than seven days after receipt of the initial report, the child protective service is required to send a preliminary written report of the initial investigation, including an evaluation and actions taken or contemplated, to the Central Register.

The child protective service is required to complete the investigation and determine, within sixty days, whether the report is “indicated” or “unfounded”.² If a report is indicated, follow-up reports are made at regular intervals until the case is closed.

The child protective service may take a child in protective custody to protect the child from further abuse or maltreatment when appropriate and in accordance with the provisions of the Family Court Act.³

The child protective service must immediately notify the subject(s) of the abuse or maltreatment report in writing of the existence of the report and their rights pursuant to the law in regard to amending or sealing the report.⁴

Based on its investigation and evaluation, the agency offers the family such services as appear appropriate for either the child or the family, or both. Before offering services to a family, the child protective caseworker is required to explain that the agency has no legal authority to compel the family to receive services, but does have the authority to petition the Family Court for a determination that a child is in need of care and protection.

The child protective service provides or arranges for and monitors the provision of rehabilitative services for children and their families on a voluntary basis or under order of the Family Court.

When the child protective service determines that the best interests of the child require Family Court or Criminal Court action because an appropriate offer of service was refused or for any other relevant reason, the service may initiate a Family Court proceeding or make a referral to the District Attorney, or both. The child protective service assists the Family Court during all stages of the court proceeding and/or the District Attorney and the Office of Children and Family Services during the investigation. A summary of the protocol between the local child protective service and the District Attorney’s office outlining the cooperative procedures to be followed in the investigation is included in the local social services district’s consolidated multi-year services plan (see p. 35, The Local Plan for Child Protective Services).

¹ See NY Social Services Law, Sections 34-a, 424.

² See p. 7, *supra* for definition of an **indicated report** and an **unfounded report**.

³ See Protective Custody, p. 24, *supra*.

⁴ See Protecting Individual Rights, p. 37, *infra*.

Standard Child Protective Agency Procedures

The child protective process involves two interrelated and simultaneous tasks:

- (1) **Verification of the report** — Is the child abused or maltreated? Do the circumstances support the allegations? Is the child and family in need of protective services?
- (2) **Development of plan to meet the needs of the child and family** — Is there a need for immediate action? Should the child be placed in protective custody? What kinds of ameliorative or treatment services are necessary? Are they available? Must the child be placed in care? Is court action necessary?

Ordinarily the child protective process begins with a telephone call to the State Central Register¹ alleging child abuse or maltreatment. The Central Register interviewer obtains information concerning the alleged abuse or maltreatment in as clear, concise and concrete form as possible before making a preliminary evaluation. No further investigative action is taken on reports that clearly do not fall within the definition of child abuse or maltreatment or on reports that do not have enough information to be investigated. In such cases, if the alleged act against the child may constitute a crime or an immediate threat to the child's health or safety, the Central Register must notify the appropriate law enforcement agency, district attorney or other public official.

After the Central Register relays a case to the local child protective service, the protective service is required to initiate the investigation within 24 hours and must decide whether the case requires emergency action. The decision is difficult and uncertain, and rests only "on the information on hand and on the interpretation of these facts based on experience with similar situations. One can never be sure of arriving at the correct answer."²

¹ See The State Central Register of Child Abuse and Maltreatment, p. 6, *supra*.

² DeFrancis, Vincent, *The Fundamentals of Child Protection: A Statement of Basic Concepts*, p. 19, (1950).

Cases are assigned to protective caseworkers who are responsible for the field investigation and the provision of services. The protective caseworker is required to determine if the report of suspected child abuse or maltreatment is substantiated and requires further action, and if so, what action. In addition, the protective caseworker is required to continue to assess the risk of further abuse and maltreatment of the child. The need to make hard decisions in the child protective process — to verify third-person reports and to offer and impose treatment services — sets child protective casework apart from most other types of social casework. This quasi-law enforcement responsibility marks both aspects of the two-stage protective process.

Verifying, to a certitude, reports of child abuse and maltreatment is almost always difficult. No matter how thorough the investigation, sometimes there is no clear evidence of what happened. Most acts of abuse and maltreatment take place in the privacy of the home. Unless a family member is willing and able to tell what happened, there are no witnesses. Many abused and maltreated children are too young or too frightened to seek help on their own and may be ambivalent about criticizing their parents. A medical report describing concrete physical injuries suggestive of child abuse may not be sufficient for the caseworker, let alone a judge, to base a final decision on who is responsible for the child's condition.

By evaluating information gathered during the investigation, the protective caseworker determines whether there is some credible evidence to indicate the report¹ of abuse or maltreatment. This determination is based on certain signs or indicators, including the physical condition of the home and the worker's evaluation of the family. Credible evidence is evidence that is "worthy of belief."

If the protective caseworker does not find some credible evidence substantiating the report, the report is considered unfounded.²

Every local department of social services is required to provide the child protective service with information that is relevant to the investigation of reported allegations of child abuse or maltreatment or to the provision of protective services. This requirement does not apply to information where the confidentiality is not expressly protected by law.³

¹ See p. 7 *supra* for a definition of an **indicated report**.

² See p. 7 *supra* for a definition of an **unfounded report**.

³ See NY Social Services Law, Section 423.

The child protective service follows a fairly standard procedure in handling reports. Usually the first steps in investigating allegations of child abuse or maltreatment are to check for previous reports and then to visit the home.

The purpose of the first home visit is to see to the protection of the child and any sibling, and to examine the home for signs of abuse or maltreatment. The protective caseworker looks for what have been called “the immediately observable symptoms” of abuse or maltreatment. In extreme cases the caseworker may find a child bruised or injured, or may actually see a parent beat or mistreat a child. Sometimes the protective caseworker will find a child left unattended at home, or will find the parent or other person legally responsible for the child’s care at home but not in control of his or her actions because of alcohol or drug intoxication. During the first and any subsequent visits, the caseworker, through interviews, evaluates the parents or other persons legally responsible for the child’s care and other persons in the household.

If the parent does not allow the caseworker into the home, the caseworker must decide whether to forego a home visit or to seek a court order permitting entry into the home over parental objection. The Family Court judge can order the parent to permit the caseworker to enter the home, but only if the judge concludes that there is “probable cause”¹ to believe that the child was abused or maltreated, the same standard that judges use in issuing search warrants to the police in criminal investigations.

Besides visiting the family, protective caseworkers may call or visit relatives, friends, employers, neighbors, schools, doctors, hospitals, police, other appropriate agencies and the person making the report in order to gather more information about the condition of the family and the accuracy of the report.

After determining whether protective custody is necessary, it is the responsibility of the caseworker to assess the risk of further abuse or maltreatment of the child and coordinate, provide or arrange for and monitor the provision of services for the children and their families.

The protective caseworker needs easy access to a range of counseling and other services designed to help families and break the cycle of abuse and maltreatment. The services include:

- (1) casework and supervision of families;
- (2) psychiatric counseling;
- (3) group therapy;

¹ Family Court Act, §1034 (2).

- (4) lay therapists and parent aides;
- (5) visiting nurse service;
- (6) Parents Anonymous and other self-help groups;
- (7) placements outside the home;
- (8) homemaker services;
- (9) day care;
- (10) baby-sitting;
- (11) family planning;
- (12) job counseling, training, and referral;
- (13) adequate housing;
- (14) parent support services;
- (15) legal services; and
- (16) alcohol or substance abuse services.

Supervision by the child protective agency itself, with periodic home visits, sometimes is enough to protect a child. The parents’ or guardians’ relationship with a social worker may also help strengthen their role as parents and care providers. Sometimes supervision is supplemented by homemaker, day care or counseling services.

In serious cases, the child might be in such **imminent danger** that the protective caseworker decides the child must be removed from the home. Parents sometimes agree to a placement of their child or sometimes the person responsible for the abuse or maltreatment voluntarily leaves the home.

When parents refuse to voluntarily accept the caseworker’s decision, either for services or placement, the caseworker may turn to the Family Court for help. The caseworker relies on the Family Court’s authority to impose services on the unwilling family, to remove the child or the abusive or neglectful parent from home.

In Family Court, a preponderance of the evidence is required to establish that a child has been abused or neglected.

Statewide, the vast majority of indicated¹ reports do not result in court action. About half of the cases with indicated reports are closed immediately. Most of the remainder do not require Family Court or criminal court involvement.

The combination of skills a child protective caseworker needs to be effective is staggering. The protective caseworker must be a police officer, social worker, investigator and friend. Child protective services can suffer because child protective caseworkers cannot resolve their basic role contradictions². Drawing on his years of experience, Dr. Vincent DeFrancis, the first Director of the American Humane Associations' Children's Division, described the amorphous collection of attitudes and abilities a protective caseworker must have.³ In Dr. DeFrancis' words, a protective caseworker must acquire "a high order of diagnostic ability...". The protective caseworker must be able to "diagnose the {abuse or} neglect and danger to the children (and)...the nature of the basic problem principally responsible for the {abuse or} neglect." He or she "needs to know how to handle early resistance and hostility." The protective caseworker must also be able to help the family understand "the community's concern for the welfare of children and the responsibility which the community has placed on the protective agency to translate this concern into positive action." And the protective caseworker has "to know the law in his or her state relating to {abuse and} neglect and their interpretation. He {or she} must know something about the rules of evidence and court proceedings. He {or she} must learn the basic dynamics of investigation to produce evidence for court proceedings."

Most important of all, Dr. DeFrancis emphasized, the caseworker must have "the right attitude. The worker must fully accept and support the authority and responsibility of his {or her} agency...to offer services on behalf of {abused and} neglected children...to remain active until there is sufficient change to reduce or remove the {abuse or} neglect...to file and support a petition of {abuse or} neglect in the {Family Court}, when change is not possible and when there is real hazard to the children." Dr. DeFrancis described this attitude as a skill because without it the protective caseworker "cannot do an effective job."

¹ See p. 7, supra for a definition of an **indicated report**.

² See New York Assembly Select Committee on Child Abuse Report (April, 1972).

³ DeFrancis, Vincent, Special Skills in Child Protective Services, Children's Division, the American Humane Association, pp. 1-5, (1958).

Local Plan for Child Protective Services¹

In the care and protection provided abused and maltreated children, no community can escape criticism. The problems are statewide in scope. It is imperative that every community have an effective child protective system. But to do so we need to mobilize citizen and community support.

All local districts are required to develop a multi-year Consolidated Services Plan incorporating child protective, adult protective, Title XX, family, foster care, adoption and preventive services.

Each social services district is required to **consult** with local law enforcement agencies, the Family Court and appropriate public and voluntary agencies, including the Society for the Prevention of Cruelty to Children, and after a **public hearing**, to prepare and submit a district-wide plan for the provision of child protective services to the State Commissioner of Children and Family Services. The plan must describe the district's implementation of the Child Protective Services Act, including the organization, staffing, mode of operations, and financing of the child protective service and the provisions made for purchase of services and inter-agency relations.

Each district must submit annual implementation reports concerning their consolidated services plan to the State Office of Children and Family Services.

The Commissioner of the State Office of Children and Family Services is required to state whether or not the plan meets the requirements of the law. If the Commissioner does not approve the plan, he or she is required to state the reasons why and may withhold State reimbursement for all or part of the local department's activities. These decisions of the Commissioner can be appealed to the State Supreme Court pursuant to Article 78 of the civil practice law and rules.

¹ See NY Social Services Law, Sections 423(3); 34-a.

Cooperation: Hospitals,¹ Schools,² and Law Enforcement³

Since the enactment of the Child Protective Services Act of 1973, there has been a growing recognition of the importance of communication, coordination and cooperation among personnel of hospitals, schools, law enforcement and child protective services to assure the effective handling of child abuse and maltreatment cases. Official guidelines revised and published by the New York State Health Department in 1991 require hospitals and clinics to implement policies and procedures for identifying and reporting cases of child abuse and maltreatment. The guidelines provide for an inter-disciplinary approach for the protection of children.

In 1999, legislation was enacted to conform New York State statute to the federal Child Abuse Protection and Treatment Act of 1996. This law authorizes the establishment of local and regional fatality review teams to investigate the deaths of children. It also authorizes social service districts to establish multidisciplinary teams to investigate child abuse.

In 1985, the State Education Department published a booklet to assist school personnel in expanding their professional understanding and awareness of child abuse and maltreatment, improving reporting procedures, dealing with prevention within the school and the community and cooperating with the local child protective services.

In 1986, legislation was enacted requiring schools to provide written notification annually to teachers and school officials of their rights and responsibilities in reporting student drug abuse and child abuse.⁴

In 2000, legislation was enacted to mandate prospective employees of school districts, charter schools and boards of cooperative educational services to be fingerprinted and to provide a criminal history check. To enhance the level of coordination between child protective services and law enforcement agencies, the multi-year Consolidated Services Plan prepared by the local social services district must include cooperative procedures that will be followed in investigating incidents of child abuse and maltreatment.

¹ NY State Department of Health, Suspected Child Abuse and Maltreatment: Identification and Management in Hospitals and Clinics, revised and reprinted 1991.

² NY State Education Department, Children, New York's Greatest Resource: The School's Role In Preventing Child Abuse and Neglect, April 1985.

³ See NY Social Services Law, Section 34-a.

⁴ See NY Education Law, Section 3028-b.

Protecting Individual Rights¹

While designed to protect helpless and endangered children, New York's laws also seek to protect the legitimate rights of those suspected of abusing or maltreating children and protect children from unnecessary removal.

Reports made pursuant of the Child Protective Services Act — as well as any other information obtained, reports written or photographs taken concerning such reports in the possession of the Office of Children and Family Services or local departments of social services — are confidential. They can be made available only to certain persons or to the press or public under specified circumstances for authorized purposes.

Any person who willfully permits and any person who encourages the release of any data and information contained in the State Central Register to persons or agencies not permitted access to the State Central Register by law is guilty of a class A misdemeanor.

No information may be released unless the identity of the person or official seeking it is confirmed by the State Office of Children and Family Services or the local child protective service.

A person applying for an order of removal must notify the parent of the date, time and place where the application will be made and of the right to be present.

If a child is placed in protective custody, the parents or other person legally responsible for the child's care must be notified in writing of the name, title, organization, address and telephone number of the person removing the child, the name and telephone number of the agency with whom the child has been placed, the telephone number of the person to be contacted for visits with the child, the right to apply to the family court for the return of the child, the right to be represented by counsel, and if indigent, the procedures for obtaining counsel. Parents are guaranteed a prompt court hearing (usually within twenty-four hours but no longer than three business days).

¹ See NY Family Court Act, Sections 1022, 1024, 1026, 1028; NY Social Services Law, Section 422, 423, 424, 424-a.

After seeing to the safety of the child involved, the child protective service is required to immediately notify the alleged perpetrator and other persons named in the report in writing of the existence of the report and their rights pursuant to the law. When the alleged perpetrator is not a parent, the parents must be notified in writing of the existence of the report and their rights pursuant to law.

The subject of a report has the right not to cooperate in the investigation. The subject does not have to allow the caseworker into the home, and does not even have to speak with the caseworker.

If the subject does not cooperate, the child protective services cannot force their way into the home. The caseworker must go to Family Court, where the judge will evaluate the situation and decide whether there is sufficient information to order the subject to allow the child protective services to enter the home.

The protective caseworker is required to explain that the agency has no legal authority to compel the family to receive services. However, the child protective service has the authority to petition the Family Court for a determination that a child is in need of care and protection.

Unless an investigation of a report determines that there is some credible evidence of the alleged abuse or maltreatment, all information contained in the report must be sealed or, for reports made prior to February 12, 1996, **expunged** from the State Central Register and local district offices.

Access to a reported child's record when the reported child becomes 18 years of age is only permitted if a sibling or the offspring of the reported child is a suspected victim of abuse or maltreatment. The record of the report to the State Central Register must be **expunged** ten years after the 18th birthday of the youngest child named in the report.

At any time a subject of a report may receive, upon request, a copy of all information contained in the report. However, the State Commissioner of Children and Family Services may withhold data that would identify the person who made the report in some cases. In addition, the Office of Children and Family Services may prohibit the release of information identifying a person who cooperated in an investigation of a report, which he or she reasonably finds would be detrimental to the safety or interest of the person.

In any case, at any time, the Commissioner may amend, seal or expunge any record upon good cause shown and must give notice to the subject of the report and other persons named in the report.

Within ninety days from when the subject is notified that a report is indicated¹, the subject of a report may request the Commissioner to amend, seal or expunge the record of the indicated report. If the Commissioner does not amend, seal or expunge the report within ninety days after such request, the subject has the right to a fair hearing to determine whether the record of the report should be amended, sealed or expunged on the grounds that it is inaccurate or it is being maintained in a manner inconsistent with the law.

The Central Register is used to screen foster parents, adoptive parents and prospective and current employees who have or will have regular and substantial contact with children. Applicants who are screened for employment are afforded due process protection specified in law.

The Central Register must be checked to determine whether or not a person applying for any of the following positions is the subject of an indicated child abuse or maltreatment report: a foster parent; an adoptive parent; a child care worker; a private or public residential child care facility employee or an employee of an agency providing goods and services to a residential child care facility who has potential for regular contact with children in the facility; an employee of a day care center; an operator of a day care center, family day care home, group family day care home, school-age child care program or day and overnight camp; prospective employees of non-residential, family support, early intervention and pre-school programs of mental retardation and developmental disability services; and an assistant to an operator of a group family day care home.

Persons who are actively being considered for employment in a private or public residential child care facility or an agency providing goods and services to a residential child care facility or day care center who will have potential for regular and substantial contact with children in the care of the facility, are prohibited from having unsupervised contact with children until they have been screened through the Central Register.

Any person over the age of 18 who resides in the home of a person who has applied to become a foster parent, an adoptive parent, or to operate a family day care or group family day care home must also be screened.

In addition, the Central Register may be used to screen the following

¹ See p. 7, supra for a definition of an **indicated report**.

persons: current child care employees or other employees of child care facilities, day care center employees, consultants or prospective consultants or volunteers who will have potential for regular contact with children in child care facilities.

If it is determined after a review by the State Office of Children and Family Services that there is a fair preponderance of the evidence¹ that the subject² of the indicated report³ committed the abuse or maltreatment, then the Office of Children and Family Services is required to also determine whether the act or acts are reasonably related and relevant to issues concerning employment or approval of an application of the subject based on guidelines developed for this purpose.

If it is determined that there is not a fair preponderance of the evidence or that the act or acts are not relevant and related to employment issues, the Office of Children and Family Services is precluded from informing the agency or employer making the request for screening that the person about whom their inquiry is made is the subject of an indicated report of child abuse or maltreatment.

When a person makes a report alleging child abuse or maltreatment knowing the report is baseless, the Office of Children and Family Services or the local child protective service is required to refer the suspected cases of false reporting to the district attorney's office or the appropriate law enforcement official. False (baseless) allegations of child abuse or maltreatment reported to the State Central Register victimize the children as well as those falsely accused. The ultimate tragedy is that the life of some other child may be at stake while child protective services investigates a false report.

¹ See *Valmonte V. Bane*, 18 F. 3d 992 (2d Cir. 1994).

² See p. 12 *supra* for a definition of a subject of a report.

³ See p. 7 *supra* for a definition of an **indicated report**.

Right to Counsel in Court Proceedings¹

In any proceeding in the Family Court or in the Criminal Court, a parent or other person alleged to have abused or neglected a child has a right to counsel. If they cannot afford a lawyer, one is provided for them at the public's expense.

In 1970, legislation was enacted requiring the Family Court to appoint a law guardian to represent a child in a child abuse or neglect proceeding. In addition, legislation enacted in 1990 specifies that a law guardian must be appointed to represent an allegedly abused or neglected child **at the earliest occurrence** of any of the following: the court receives notice of the emergency removal of the child, an application for an order for removal of the child (prior to the filing of a petition) or the filing of a petition alleging abuse or neglect.

The law guardian continues to represent the child until the expiration of the appointment order unless the law guardian makes an application to the Family Court to be relieved of his or her appointment. If the Court approves of such an application, it must immediately appoint another law guardian for the child.

¹ See NY Family Court Act, Section 1016. Also see *Matter of Ella B.*, 30 NY 2d 352, (1972).

Institutional Abuse and Neglect¹

The Child Protective Services Act of 1973 was designed to protect children from abuse and maltreatment in familial settings, but did not provide special procedures for the protection of children in care in out-of-home settings.

As a beginning in addressing the issue, legislation was enacted in 1980, 1982, 1985, and again in 1992 to protect children in residential care. The legislation establishes a statutory definition of abuse and neglect of a child under the age of 18 in residential care and provides for the reporting, investigation, treatment and prevention of abuse and neglect of children under the age of 18 in residential care, and persons ages 18 to 21 with a handicapping condition in specified residential care programs.

The definition of institutional abuse is essentially the same as the definition of abuse in familial, foster care home, or day care settings (see p.10); however, the definition of institutional neglect has been modified substantially.

An "abused child in residential care" means a child whose custodian (director, operator, employee or volunteer in a residential care facility or program):

- (a) inflicts or allows to be inflicted upon a child physical injury by other than accidental means which causes or creates a substantial risk of death, serious or protracted disfigurement, impairment of physical or emotional health or loss or impairment of the function of any bodily organ; or
- (b) creates or allows to be created a substantial risk of physical injury to a child by other than accidental means which would be likely to cause death, serious or protracted disfigurement, impairment of physical or emotional health or loss or impairment of the function of any bodily organ; or
- (c) commits or allows to be committed a sex offense against the child, as defined in the penal law; allows, permits, or encourages the child to engage in any act described in sections 230.25, 230.30 or 230.32 of the penal law (Promoting Prostitution in the third, second, and first degree respectively); commits any act described in section

¹ See NY Social Services Law, Sections 412, 413, 415, 417, 422, 424, 424-b, 424-c, 426, 460-c; NY Mental Hygiene Law, Sections 16.29, 29.29, 45.07; NY Executive Law, Section 501; NY Education Law, Sections 4212, 4314, 4358, 4403.

255.25 of the penal law (Incest); or allows such child to engage in any act described in article 263 of the penal law (Sexual Performance by a Child). However, the corroboration requirements contained in the penal law regarding the sections cited above and the age application of article 263 does not apply to child abuse and neglect proceedings in the Family Court; or

- (d) fails to comply with a rule or regulation involving care, services or supervision of a child promulgated by a state agency operating, certifying or supervising a residential facility or program, and such failure to comply results in death or serious or protracted disfigurement, impairment of physical health, or loss or impairment of the function of any organ where such result was reasonably foreseeable.

A "neglected child in residential care" means a child whose custodian (director, operator, employee or volunteer in a residential care facility or program):

- (a) inflicts by act or omission physical injury, excluding minor injury, by other than accidental means; or
- (b) creates a substantial risk of physical injury, excluding minor injury, by other than accidental means; or
- (c) fails to comply with a rule or regulation involving care, services or supervision of a child promulgated by a state agency operating, certifying, or supervising a residential facility or program, and such failure results in physical injury, excluding minor injury, or serious emotional injury where such result was reasonably foreseeable; or
- (d) fails to meet a personal duty imposed by an agreed upon plan of prevention and remediation pursuant to law arising from abuse or neglect of a child in residential care and such failure results in physical injury, excluding minor injury, or serious emotional injury or the risk thereof; or
- (e) intentionally administers to the child any prescription drug other than in substantial compliance with a physician's, physician's assistant's or nurse practitioner's prescription.

An "institutionally neglected child in residential care" means a child whose health, safety or welfare is harmed or placed in imminent danger of harm as a result of a lack of compliance with applicable standards of the state agency operating, certifying or supervising such facility or program for the care and treatment of such child or an agreed upon plan of prevention and remediation pursuant to law arising from abuse or neglect of a child in residential care, including, but not limited to, the provision of supervision, food, clothing, shelter, education, medical, dental, optometric or surgical care.

Included in the definition of abuse and neglect are children living in: a group home, an agency operated boarding home or child care institution licensed by the New York State Office of Children and Family Services, excluding foster family care; the New York State School for the Deaf; the New York State School for the Blind; a private residential school which is approved for special educational services or programs by the New York State Commissioner of Education; a residential institution for the deaf and blind subject to visitation by the New York State Department of Education; a special act school district; or a facility licensed or operated by the New York State Office of Mental Health or the New York State Office of Mental Retardation and Developmental Disabilities, excluding family day care homes.

The State Office of Children and Family Services is responsible for the investigation of reports of child abuse and neglect in all residential care facilities, with the exception that the State Commission on the Quality of Care for the Mentally Disabled is responsible for the investigation of reports of abuse or neglect of children in facilities of the State Office of Mental Health, and the State Office of Mental Retardation and Developmental Disabilities.

The existing reporting procedures, timely investigation requirements, including actions taken to ensure the health and safety of the children in the facility, and the protection of individual rights apply equally to the reports of abuse or neglect of children in familial, foster care, day care or residential care.

When an investigation finds some credible evidence substantiating allegations of the abuse or neglect of a child in residential care, the facility or program subject to inspection and supervision by State agencies must submit a corrective action plan.

Furthermore, when the abuse or neglect of a child is the result of a residential care facility's non-compliance with the regulations of the State agency which supervises the facility, the facility director must develop a plan of remediation and prevention subject to the approval and monitoring by the State agency which inspects or supervises the facility.

In cases of severe or repeated abuse or neglect, the State investigating body is required to make recommendations regarding the appropriate preventive and remedial action, including legal action, that must be taken by the agency operating the residential care facility program.

Further Information

Persons wishing further information may contact:

Public Information Office
New York State Office of Children and Family Services
52 Washington Street
Rensselaer, New York 12144
(518) 473-7793

or

Assemblyman Roger Green, Chairman
New York State Assembly Committee on Children and Families
Room 622, Legislative Office Building
Albany, New York 12248

In addition, all persons should feel free to contact their local child protective agency for information. The local telephone numbers listed on the following pages are **not** for reporting cases of suspected child abuse or maltreatment.

To make a report, call the **statewide, toll-free** number:

1-800-342-3720

Local Child Protective Services

- Albany County Department of Social Services
Child Protective Services
112 State Street
Albany, New York 12207
(518) 447-7500
- Allegany County Department of Social Services
Child Protective Services
Court House
Belmont, New York 14813
(716) 268-9316
- Broome County Department of Social Services
Child Protective Services
36-38 Main Street
Binghamton, New York 13905
(607) 778-2647
- Cattaraugus County Department of Social Services
Child Protective Services
1701 Lincoln Ave., Suite 6010
Olean, New York 14760
(716) 373-8070
- Cayuga County Department of Social Services
Child Protective Services
County Office Building
160 Genesee Street
Auburn, New York 13021
(315) 253-1338
- Chautauqua County
Jamestown (North part of city)
110 East 4th Street
Jamestown, New York 14701
(716) 661-8040
* Sex abuse unit is here
- Dunkirk (South part of city)
Central Ave.
Dunkirk, New York 14048
(716) 363-3500
- Chemung County Department of Social Services
Child Protective Services
425-447 Pennsylvania Avenue
Elmira, New York 14904
(607) 737-5417
- Chenango County Department of Social Services
Child Protective Services
County Office Building, P.O. Box 590
Norwich, New York 13815
(607) 337-1558
- Clinton County Department of Social Services
Child Protective Services
13 Durkee Street
Plattsburgh, New York 12901
(518) 565-3310
- Columbia County Department of Social Services
Child Protective Services
25 Railroad Avenue
Hudson, New York 12534
(518) 828-0022
- Cortland County Department of Social Services
Child Protective Services
County Office Building
60 Central Avenue
Cortland, New York 13045
(607) 753-5298
- Delaware County Department of Social Services
Child Protective Services
111 Main Street
Delhi, New York 13753
(607) 746-2325

- Dutchess County Department of Social Services
Child Protective Services
60 Market Street
Poughkeepsie, New York 12601
(845) 486-3000
- Erie County Department of Social Services
Child Protective Services
478 Main Street
Buffalo, New York 14202
(716) 858-6478
- Essex County Department of Social Services
Child Protective Services
County Government Complex
Elizabethtown, New York 12932
(518) 873-3415
- Franklin County Department of Social Services
Child Protective Services
County Court House
Malone, New York 12953
(518) 483-6770
- Fulton County Department of Social Services
Child Protective Services
4 Daisy Lane
Johnstown, New York 12095
(518) 736-5600
- Genesee County Department of Social Services
Child Protective Services
3837 West Main Road
County Building 2
Batavia, New York 14020
(716) 344-8502
- Greene County Department of Social Services
Child Protective Services
465 Main Street
Catskill, New York 12414
(518) 943-3200
- Hamilton County Department of Social Services
Child Protective Services
P.O. Box 725, White Birch Ln.
Indian Lake, New York 12842
(518) 648-6131
- Herkimer County Department of Social Services
Child Protective Services
301 N. Washington St.
County Office Building
Herkimer, New York 13350
(315) 867-1249
- Jefferson County Department of Social Services
Child Protective Services
250 Arsenal Street
Watertown, New York 13601
(315) 785-3134
- Lewis County Department of Social Services
Child Protective Services
P.O. Box 193, Stowe Street
Lowville, New York 13367
(315) 376-5400
- Livingston County Department of Social Services
Child Protective Services
County Campus Building 3
Mt. Morris, New York 14510
(716) 243-7300
- Madison County Department of Social Services
Child Protective Services
P.O. Box 637
Wampsville, New York 13163
(315) 366-2384
- Monroe County Department of Social Services
Child Protective Services
111 Westfall Road, Room 562
Rochester, New York 14620
(716) 461-5690

Montgomery County Department
of Social Services
Child Protective Services
County Office Building
Fonda, New York 12068
(518) 853-8278

Nassau County Department
of Social Services
Child Protective Services
101 County Seat Drive
Mineola, New York 11501
(516) 571-5317

Niagara County Department
of Social Services
Child Protective Services
100 Davison Rd., P.O. Box 506
Lockport, New York 14095-0506
(716) 439-7707

Oneida County Department
of Social Services
Child Protective Services
County Office Building
800 Park Avenue
Utica, New York 13501
(315) 798-5538

Onondaga County Department
of Social Services
Child Protective Services
County Civic Center
421 Montgomery Street
Syracuse, New York 13202
(315) 435-2884

Ontario County Department
of Social Services
Child Protective Services
3010 County Complex Dr.
Canandaigua, New York 14424
(716) 396-4111

Orange County Department
of Social Services
Child Protective Services
23 Hatfiled Lane
Goshen, New York 10924
(845) 291-2800

Orleans County Department
of Social Services
Child Protective Services
14016 Route 31
Albion, New York 14411
(716) 589-7004

Oswego County Department
of Social Services
Child Protective Services
County Office Building
Spring Street
Mexico, New York 13114
(315) 963-5350

Otsego County Department
of Social Services
Child Protective Services
197 Main Street
Cooperstown, New York 13326
(607) 547-4355

Putnam County Department
of Social Services
Child Protective Services
110 Old Route 6 Center, Bldg. 2
Carmel, New York 10512
(845) 225-7040

Rensselaer County Department
of Social Services
Child Protective Services
133 Bloominggrove Drive
Troy, New York 12180
(518) 283-2000, ext. 299

Rockland County Department
of Social Services
Child Protective Services
Sanatorium Road, Building C
Pomona, New York 10970
(845) 364-3512

St. Lawrence County Department
of Social Services
Child Protective Services
Harold Smith Office Building
Judson Street
Canton, New York 13617
(315) 379-2327

Saratoga County Department
of Social Services
Child Protective Services
152 West High Street
Ballston Spa, New York 12020
(518) 884-4151

Schenectady County Department
of Social Services
Child Protective Services
620 State Street - 4th Fl.
Schenectady, New York 12305
(518) 388-4390

Schoharie County Department
of Social Services
Child Protective Services
P.O. Box 687
Schoharie, New York 12157
(518) 295-8313

Schuyler County Department
of Social Services
Child Protective Services
County Office Building
105 Ninth Street
Watkins Glen, New York 14891
(607) 535-8322

Seneca County Department
of Social Services
Child Protective Services
1 DiPronio Drive
P.O. Box 690
Waterloo, New York 13165
(315) 539-1870

Steuben County Department
of Social Services
Child Protective Services
3 E. Pulteney Square
Bath, New York 14810
(607) 776-7611

Suffolk County Department
of Social Services
Child Protective Services
P.O. Box 18100
Hauppauge, New York 11788
(631) 854-9313

Sullivan County Department
of Social Services
Child Protective Services
P.O. Box 231, 16 Community Lane
Liberty, New York 12754
(845) 292-0100, ext. 2271

Tioga County Department
of Social Services
Child Protective Services
P.O. Box 240, Route 38
Owego, New York 13827
(607) 687-8300

Tompkins County Department
of Social Services
Child Protective Services
320 West State St.
Ithaca, New York 14850
(607) 274-5317

Ulster County Department
of Social Services
Child Protective Services
1091 Development Ct.
Kingston, New York 12401-1959
(845) 334-5100

Warren County Department
of Social Services
Child Protective Services
Municipal Center Annex
Gursey Lane Road
Lake George, New York 12845
(518) 761-6266

Washington County Department
of Social Services
Child Protective Services
383 Broadway
Fort Edward, New York 12828
(518) 746-2300

Wayne County Department
of Social Services
Child Protective Services
P.O. Box 10
77 Water Street
Lyons, New York 14489
(315) 946-4881

Westchester County Department
of Social Services
Child Protective Services
112 East Post Road
White Plains, New York 10601
(914) 995-6028

Wyoming County Department
of Social Services
Child Protective Services
466 North Main Street
Warsaw, New York 14569
(716) 786-8900

Yates County Department
of Social Services
Child Protective Services
County Office Building
110 Court Street
Penn Yan, New York 14527
(315) 536-5183

New York City

Bronx Field Office
192 East 151st Street
Bronx, New York 10451
(718) 579-9500
1775 Grand Concourse
Bronx, New York 10453
(718) 716-0377

Brooklyn Field Office
1274 Bedford Avenue
Brooklyn, New York 11216
(718) 623-4937

Queens Field Office
165-15 Archer Avenue
Jamaica, New York 11433
(718) 481-5700

Staten Island Field Office
350 St. Mark Place
5th Floor
Staten Island, New York 10301
(718) 720-2832

Emergency Children's Services
Special Services for Children
492 First Ave.
New York, New York 10016
(212) 966-8000

(Please note: at the time of publication, Manhattan field offices were closed as a result of the World Trade Center disaster of September 11th, 2001. The above number should be used until the field offices have reopened.)

Appendix The Children and Family Trust Fund Act (Chapter 960, Laws of 1984; Chapter 57, Laws of 1985; and Chapter 632, Laws of 1986)

The real solution to the problem of child abuse and maltreatment lies in prevention.

However, we traditionally have responded after a child has been injured by identifying a suspected case, conducting an investigation, taking court action and providing treatment. But this is not prevention.

We know that child abuse {and maltreatment are} the “linchpin of so many social problems. By preventing child abuse, we can save ourselves tremendous social upheaval, pain and expense.”¹

The Children's Trust Fund has become recognized as a significant approach to support programs to prevent child abuse and maltreatment. The notion of Children's Trust Fund was first conceived by Dr. Ray E. Helfer, a pediatrician and nationally recognized expert in the field of child abuse. In 1980, Kansas was the first state to enact such a trust fund. In 1984, New York was the twenty-third state to enact a Children's Trust Fund and the first state to create a Trust Fund designed to address family violence with an intergenerational approach aimed at prevention of child abuse and maltreatment, domestic violence and elder abuse.

In 1985, the United States Congress enacted the National Child Abuse Prevention Federal Challenge Grant program to encourage states to establish and maintain Children's Trust Funds. The Federal Challenge Grants match 25% of the funds each state appropriates to its Children's Trust Fund with an annual funding cap of \$5,000,000. Since Congress began this program, an additional twenty-six states have established Children's Trust Funds bringing the total to forty-nine states with Children's Trust Funds as of 1991.

The Children's Trust Fund approach is flexible, and each state has taken the concept and adopted it to suit its own constituency. A few of these states which enacted a trust fund include family violence — child abuse and maltreatment, domestic violence and elder abuse. The passage of New York's Children and Family Trust Fund Act in 1984 signified our State's

¹ Cohen, Ann, "Can We Prevent Child Abuse? Can We Prove We Prevent It?", Human Ecology Forum, pp. 8-9, (Summer 1984); The New York State College of Human Ecology at Cornell University, Ithaca, NY

recognition that family violence is a widespread problem that needed to be addressed in terms of prevention.

The New York State Children and Family Trust Fund Act created a special fund to provide money to programs for the prevention of family violence. Through a program of grants administered by the State Office of Children and Family Services and with the advice and recommendation of a thirteen member appointed Advisory Board, Trust Fund grantees operate programs dedicated to prevention, services, and treatment of family violence.¹

The Trust Fund is a four year program development funding source with the first two years funded at 100%, the third year at 75% and the fourth year at 50%. The Trust Fund money may only be used for primary prevention programs, secondary prevention programs and programs which provide services to victims of family violence and/or their family and household members. In 1997, family resource and support programs were added to those services funded by the trust fund.² The funds are to be divided in the following manner: 40% for local child abuse and maltreatment prevention; 40% for local domestic violence and elder abuse prevention or service programs; and 20% for regional or statewide family violence prevention programs. The Act further requires the funds to be a new source

¹ New York State Children & Family Trust Fund Annual Report, Executive Summary, (1988).

² Primary prevention is defined as strengthening family functioning to insure that family violence never takes place or is less likely to occur. Primary intervention includes: educating family or household members or prospective parents in order to avoid patterns which can lead to family violence, increasing in-home services to new and prospective parents; strengthening the relationships among community resources, child protective service units, and citizen groups to promote and encourage the development of family violence prevention programs; increasing the awareness of professionals and the public to the effects of stress, social isolation and the lack of social and parenting skills for the purpose of making available programs deemed helpful for children and adults; and any other program deemed helpful in the primary prevention of family violence.

Secondary prevention is defined as addressing the early signs of family violence or risk of family violence through treatment of presenting problems to prevent further problems from developing. Secondary prevention includes: providing supportive services and temporary shelter to family or household members who are considered at risk of family violence; strengthening self-help groups composed of individuals with a history of, or at a risk of, family violence; increasing in-home services to families at risk of violence; promoting and encouraging the development of community resources for the treatment of, and improving the response to family violence; providing information and referral services to resources and/or establishing linkages among services which are in the community; and any other program deemed helpful in the treatment of persons at risk of family violence. See NY State Social Services Law, Section 481.

of funding and not be used as a substitute for funds currently available from federal, state or local sources for prevention or treatment services to victims.

In 1998, New York State allocated \$1 million to the Trust Fund to continue funding for sixteen projects initiated in 1997, and \$203,125 for new programs. Also in 1998, the state received federal grant funds in the amount of \$1,481,286 to support the continuation of fifteen child abuse prevention and family support programs and the implementation of new child abuse prevention programs selected through the 1999 RFP.

Programs funded by the Children and Family Trust Fund make a difference. The services and prevention activities contribute to educating and strengthening families as well as protecting children from abuse and neglect.