

Child Protection Systems in the USA and England and Wales

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Introduction

This article is an analysis of child protection systems in the American states of Texas and New York and by way of comparison to the model in England and Wales. It should be remembered that there is both a federal and a state dimension to the systems of child protection, but that primarily each state has an opportunity to develop its own child protection systems which may be similar, but not identical to one another, and in the main the federal governmental role is in connection with funding and encouragement to states to meet certain minimum standards within their child protection systems, sometimes as prerequisites to obtain funds. The article may be read in conjunction with 'Child Abuse - A Legal Practitioner's Guide, Part II' [1998] Fam Law 337 which looked, *inter alia*, at the role of the social services department in the investigation and planning in child protection cases.

The state of Texas

Background

The Texas Department of Protective and Regulatory Services (PRS) became a separate agency on 1 September 1992. It is charged with protecting children from abuse and neglect and with protecting the elderly and people with disabilities from abuse, neglect, and exploitation. The PRS is governed by a six-member board appointed by the governor to staggered 6-year terms. The board sets policy and selects an executive director who is responsible for administration and operations. The headquarters of the PRS are in Austin, and it employs 5800 staff with offices located throughout the state, divided into 11 regions. This article will only look at the child protective services provided by the PRS.

Recent statistics

In 1996 there were nearly 45,000 confirmed victims of child abuse or neglect in Texas - children whose families were reported to authorities by concerned neighbours, teachers, doctors, relatives or friends. Of these 45,000 cases, neglect accounted for 17,650 cases, physical abuse for 14,329, and sexual abuse for 7567.

Operating procedures

The PRS maintains a 24-hour hotline for reporting abuse, and all reports which meet the statutory definitions of abuse and neglect are assigned a priority, based on the level of risk to the child, so that the most urgent cases receive immediate attention. A child protective services worker interviews the child, the parents and any witnesses, and determines whether child abuse or neglect has occurred and assesses the

continuing risk to the child. The PRS will then determine what civil action to take, if any and, if criminal misconduct is involved, law enforcement will conduct an investigation at the same time and will determine whether criminal charges should be filed.

One difference between child protection in England and Wales and the USA, including Texas, is the existence of centres called Children Advocacy Centres (CACs). In many areas, interviews and examination of children in abuse and neglect cases may be conducted at a Children's Advocacy Centre. The CACs provide a non-threatening, child-friendly setting, where professionals from child protective services, law enforcement, the prosecutor's office and others work together. Medical and mental health professionals and social workers are also part of the team providing services to victims. The PRS supports the development of CACs and provides matching funds for communities to start new CACs. By the end of 1996 there were 16 CACs operating in the state and eight more in development.

The PRS will also provide in-home services to reduce the risk of future abuse or neglect in the home. Child protective services workers and other professionals will develop a service plan to address the factors which cause abuse or neglect or place the child at risk, these include: the parent attending parent training classes; participation in counselling or drug and alcohol abuse treatment; or fulfilling other requirements to ensure the safety of the child. The PRS contracts with community organisations to provide many of these services. In some cases it is possible to avoid removal of the children or to return them home sooner through intensive intervention efforts. This is known as provision of intensive family services, and involves specially trained case workers with small caseloads working with these families.

Children's Justice Act project

The Texas Children's Justice Act (CJA) project promotes activities to improve the way in which child abuse cases are handled by investigation agencies and the court in order to limit additional trauma to the child victim. The CJA projects focus on a multi-disciplinary approach, bringing together professionals from the fields of law enforcement, social work, and medicine. In the past 6 years the project has supported development of CACs and child fatality review teams. Among the CJA's current projects is the Texas Tele Medicine Peer Review Network. The Network uses special software which captures images and transfers information between medical experts in the field of child sexual abuse. The system enables professionals to obtain an immediate second opinion on a finding or to consult with other practitioners.

Duty to report suspicion of child abuse and neglect

One particular difference between the law on child protection in the USA and that in England and Wales is the positive duty to report on anyone who suspects that child abuse or neglect has occurred or may occur. The duty is to report immediately to the PRS or a law enforcement agency, and failure to report suspected abuse or neglect is a punishable offence. The Texas family code provides definitions of child abuse, and includes:

- (1) mental or emotional injury to a child that results in observable and material impairment in the child's growth, development or psychological functioning;
- (2) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in such impairment;
- (3) physical injury that results in substantial harm or the genuine threat of substantial harm to the child, including an injury at variance with the history or explanation given and excluding an accident or reasonable discipline by a parent ... that does not expose the child to a substantial risk of harm;
- (4) failure to make a reasonable effort to prevent an action by another person that results in physical injury that results in substantial harm to the child;
- (5) harmful sexual conduct;
- (6) failure to make a reasonable effort to prevent harmful sexual contact.

The code also provides a definition for child neglect:

- (1) the leaving of a child in a situation where the child would be exposed to a substantial risk of physical or mental harm, and also failing to arrange for the necessary care for the child, and the demonstration of an intent not to return by the parent;
- (2) the following acts or omissions by a person:
 - (a) placing a child in or failing to remove a child from a situation that a reasonable person would realise requires judgment or actions beyond the child's level of maturity, physical condition or mental abilities or that results in bodily injury or a substantial risk of immediate harm to the child;
 - (b) failing to seek, obtain or follow through with medical care for a child, with the failure resulting in or presenting a substantial risk of death, disfigurement or bodily injury or with the failure resulting in an observable and material impairment to the growth, development or functioning of the child;
 - (c) the failure to provide a child with food, clothing or shelter necessary to sustain the life or health of the child, or
 - (d) placing a child in or failing to remove the child from a situation in which the child would be exposed to a substantial risk of sexual conduct harmful to the child.

As can be seen, the provision of a family code involves a much more specific definition of child abuse than is referred to in, for example, s 31 of the Children Act 1989 in England and Wales, in which the definition of 'significant harm' is less widely defined. Figure 1

(below) sets out the stages of a child protective services case.

The stages in Figure 1 can be compared with the typical system which operates in social services departments in England and Wales (see [1998] Fam Law 337 (above)). The report of suspected child abuse in a child protective services case (CPS) must meet the statutory definition of child abuse or neglect and only if that definition is made will any second stage in the process apply. Referral and immediate protection, including immediate analysis of risk and the issue of court proceedings if it is assessed that the child is not safe at home, is similar to the system in England and Wales. However, there does not appear to be a mirror role in Texas, for a child protection conference will often have to take place before the local authority will issue care proceedings in England and Wales. However, it is accepted that the local authority would, if necessary, issue proceedings for an emergency protection order or the police would apply for a police protection order prior to a case conference if required. In a case where it is not felt appropriate for there to be any rehabilitation of a child, the PRS would seek a court order for the termination of parental rights which, if granted, would lead to adoption.

Community schemes

There are a number of innovative community schemes within Texas which are not always duplicated in England and Wales. However, the Home Start movement is becoming more of a feature in some towns and cities in England and Wales as a preventive measure in families where there are a number of risk factors common to child abuse.

In Texas new programmes in several regions of the state help to prevent child abuse. There is a community programme called Positive Beginnings – a Dallas area programme which matches young parents' children who are at risk of abuse and neglect with volunteer mentors from the community. Mentors help parents with children from birth to the age of 4 to learn about their baby's development, parenting skills, and how to find community resources. They visit families in their homes at least once a week and may accompany them to medical appointments. Services are free and available to families in 27 targeted zones in the South Dallas area.

Family outreach is a community-based programme which helps families in times of stress. The programme enlists volunteers to provide support, encouragement, and parenting information, and its goal is to prevent child abuse and neglect by strengthening troubled families. There are 32 family outreach centres throughout Texas.

The PRS provides funding for 16 collaborative projects to provide health and child abuse prevention services to high risk families under the 'Texas families ... together and save program'. Projects were developed by local providers and government agencies to meet the specific needs of their community. A number of agencies will offer services at a single location, for example the Department of Mental Health, the PRS, the YWCA and other agencies. In the financial year 1996–97, approximately 55% of PRS funds were provided on a federal basis and 45% on a state and local funds basis.

Legal aspects

Solicitors in England and Wales will be aware that, in an emergency, a child may be removed from the care of his parents without a court order. However, whilst a police protection order may last for 72 hours, in Texas, if a child is removed in an emergency without a court order, an emergency hearing must be scheduled for the next working day. This is followed by a hearing called an adversary hearing, which is held within 14 days of the removal of the child. The judge has the power to return the child to the care of his parents at this hearing unless he or she decides that the child is still in danger. A status hearing is held within 60 days of the child's placement within foster care to ensure that there is a care plan and that parents understand that following that plan is a way for the child to return home.

Judicial reviews will take place approximately every 6 months while the child is in foster care, and the family situation will be reviewed at an administrative or court hearing. The culmination of the legal process is the final hearing, as in England and Wales, and it can involve the parent losing his parental rights in respect of a child. If the judge removes parental rights from the parent, then the PRS can apply for the child to be adopted and make other plans without discussing them with the parents. There is also provision within Texas at least for parents to continue to support their children financially, even if they are no longer in their care, through child support, at least until removal of their parental rights.

There is no provision of non-means, non-merits tested legal aid. The court will determine whether the parent is able to hire a lawyer, and a lawyer can be found using local legal aid services or a local lawyer referral service. If the PRS requests that the parental rights be taken away from the parents and they disagree, then the court must appoint an attorney for the parents if they cannot afford one. An attorney ad litem will be appointed by the court to ensure that the child's interests are represented in court. It would therefore seem that there is no team of representation in child care cases in Texas at least and that the attorney ad litem takes the place of the child's solicitor.

Although there is provision for the police and social services to work together in the investigation and response to child abuse in England and Wales, in Texas there is a positive duty provided by the law which requires the CPS to notify law enforcement agencies of all reports of alleged abuse or neglect. The law enforcement agency will then determine, separate from the CPS, whether to conduct a criminal investigation and whether any criminal offence has been committed. The courts have power to hear applications by the PRS on an ex parte basis in situations where there is an immediate danger to the physical health and safety of the child or the child has been a victim of sexual abuse and there is no time, consistent with the physical health or safety of the child, for an inter partes hearing. If an ex parte order is made, then it can have effect for no more than 14 days. The equivalent of an interim care order in England and Wales appears to be an order called managing conservatorship to the Texas Department Protective Regulatory Services (TDPRS). The court also has a power to make a temporary restraining order preventing the child's parents from removing the child from the state before the TDPRS

and the police have completed an investigation. The equivalent of the supervision order appears to be the power within the Texas Family Code for the court to order a child's parents or other household members to participate in the TDPRS services to alleviate the effects of child abuse or neglect and allow the child and the child's siblings to participate. If an individual fails to comply with the court order to participate in services, the court may impose community services as a sanction for contempt.

The state of New York

Background

The first child protective agency in the USA was the New York Society for the Prevention of Cruelty to Children which was incorporated in 1875. In 'Child Abuse - A Legal Practitioner's Guide' [1997] Fam Law 665 I referred to the case of Mary Ellen in the 1870s which marked a turning point at which the need for further services and powers to address child abuse became recognised. She was found by a New York city social worker, chained and starved by her adopted parents. There were no laws at that time addressing the abuse of children by their carers, and the New York Police Department refused to take action. The case led to the creation of the New York Society for the Prevention of Cruelty to Children in 1875. In 1964 legislation was passed requiring certain individuals to report suspected child abuse cases and, in 1966, the statewide central register was established. In 1973 the New York State's Child Protective Services Act expanded the list of professionals required to report suspected cases of child abuse and imposed penalties for failure to report. In addition, specialised child protective units in each county were formed to make immediate investigations and reports of alleged abuse or maltreatment. Co-operation between key service providers such as schools and hospitals, and new treatment resources such as parent anonymous and parent day programmes, have provided intensive support for families since that time. In 1983 there were almost 30,000 reports of suspected child abuse and maltreatment to the state central register.

Operating procedures

In New York, state law requires the establishment of designated staff in every county (there are 58 different jurisdictions), to investigate reports of suspected child abuse and maltreatment and to ensure the safety of children in the reported families. The provision of services to such families in an attempt to remedy abuse must also be managed by the appropriate county, but there is more flexibility concerning whether to purchase the service or provide it directly within the county. The Department of Social Services in New York State maintains a central registry which is required to receive all reports of suspected abuse. The reports will then be sent onward to the appropriate county child protective services (CPS) unit for investigation.

Some funding is available from the federal government for child welfare services, but not specifically ear-marked for the CPS. Federal government provides a small amount of funding for CPS research and in order to be illegible for such funds states have to

meet some requirements on subjects such as confidentiality, investigative issues, and reporting.

There are 58 different CPS systems within New York state and the level and manner of co-operation across agencies differs from county to county. Of late, there has been more attention at both federal and state levels to the formation of multi-disciplinary teams for the provision of investigative and remedial services. Some counties in the state have had such entities for years, while in other jurisdictions, improvement in the level of coordination is required. Within the state of New York, there is again provision for compulsory reporting by numerous professionals who have day-to-day contact with children and families.

State laws and procedures pertaining to the CPS differ from state to state, although there are many similarities, more so than differences. There are requirements which relate to how long the CPS have to conduct the investigation and maintain information about families. Exact statutory definitions of abuse and maltreatment frequently vary.

If court proceedings are required, then a 'fair preponderance of evidence of abuse or maltreatment must be established in a fact-finding hearing (defined as a hearing to determine whether the child is an abused or a suspected abused child as defined in Art 10 of the Family Court Act). If the CPS can demonstrate to the court that a child is in 'imminent danger of life or health' the court can order the child to be placed or maintained in foster care, prior to the fact finding hearing. If the CPS finds the child in 'imminent danger' it is authorised to remove such a child from his home and seek the family court's approval for such a removal by the next business day, which compares with the system within the State of Texas.

The law requires the appointment of a law guardian for all children who are named in abuse or neglect petitions filed in a family court. Parents are entitled to attorneys at the family court hearings as well, and if they cannot afford one, one will be appointed for them.

CPS programme manual

The CPS has a programme manual which is comprehensive, to say the least, and which provides information about the following:

- local district child protective services;
- investigation/assessment;
- assessment and service plan;
- risk assessments;
- family court proceedings;
- state central register responsibilities;
- fatality reviews and confidentiality, inter alia.

The legal authority for child protective services can be found in Social Services Law, Art 6, title 6, ss 4.11-4.28.

New York State requires that each local department of social services will establish a child protective service capable of investigating suspected child abuse and maltreatment and providing protection for the child or children from further abuse or maltreatment as well as rehabilitative services. In each social service district the

CPS shall be a single organisational unit. The responsibilities of the CPS will include receiving reports of abuse, investigating them, providing or arranging for the care of children and coordinating rehabilitative services.

Reports are transmitted to the local CPS by the state central register (SCR). When reports are received from the SCR they are electronically transmitted to the CPS unit where a noisy alert will signal that a CPS case worker needs to sign on and retrieve the report from the system. The department's guideline is that CPS will acknowledge receipt of all reports within 15 minutes of the noisy alert during normal working hours.

When the SCR receives a report, either directly or from a local CPS, the SCR will exploit a database and provide all known protective cross-references, including whether the case is currently under investigation or whether the case had been previously investigated, whether the case is open or closed, and the nature of the previous reports. Here, there are similarities with the child protection register operated within England and Wales.

An investigation of each report must commence within 24 hours of receiving it. An examination and evaluation of immediate danger/risk must take place and a preliminary assessment of safety must be completed. A physical examination and/or medical examination may take place if there is suspected non-accidental injury and where there is clear non co-operation from parents/carers. Where access to a child is denied, consideration should be given to the removal of the child by way of protective custody/emergency removal or a temporary order of removal and the initiation of appropriate family court action.

The New York Child Protective Services Act 1973, and Title 6, Art 6 of the Social Services Law emphasise a social services approach to intervention and gives them responsibility for investigating reports of suspected cases of abuse, but permit a role for law enforcement involvement in certain investigations of suspected cases of child abuse, for example where a crime such as sexual abuse as defined under New York State penal law has also been committed. There appears to be much closer working relationships between social services and law enforcement agencies both in New York and in other states than in the UK. Sometimes there is a written understanding between the CPS and the district attorney's office to enhance communication between agencies and to reduce the likelihood of confusion as to the roles and responsibilities of each agency. This is comparable to *Working together - A Guide to arrangements for inter agency co-operation for the protection of children from abuse* (HMSO, 1991).

Measuring risk

A CRS case worker will often be involved in a risk assessment using the New York State risk assessment and service planning model, designed to support case workers in the assessment of the family in a consistent and comprehensive manner. There are similarities here with *Protecting Children: A Guide for Social Workers* (HMSO, 1995) (the Orange Book).

A risk scale is approved including a collection of

Features

assessment categories called influences. The five influences are significant in developing a full assessment of the entire family. Within these categories or influences, there are 22 risk elements. With one exception (severity of abuse/maltreatment), each risk element includes five scales of severity. These scales are defined by descriptions called anchors which offer a standard for assessing a severity rating by providing a narrative description which helps to define the status of a child, caretaker or family. The New York State Risk Assessment Field Guide contains detailed descriptions of the anchors in order to help the case worker complete an assessment of each risk element and select a risk rating in an accurate and reliable manner. Such a scientific basis for risk assessment is unlike the traditional approach to an Orange Book assessment in the UK which gives some degree of uniformity, but probably more discretion to the case worker to analyse the nature and degree of risk.

Following an initial assessment a service plan will be completed for all family members. The purpose of the initial risk assessment and service plan is to:

- (1) renew and update all behaviours and or conditions that placed any child in immediate danger of serious harm;
- (2) support the decision as to whether any child is presently unsafe;
- (3) support the decision as to what specific safety interventions are presently necessary to protect a child;
- (4) to provide an explanation and justification for any placement decisions;
- (5) describe what the visiting plan would be for all children in placement;
- (6) support an assessment and description of specific risk elements which may affect the likelihood of future abuse or maltreatment which may be used to help assess future case progress;
- (7) support the development of a risk assessment analysis that will:
 - (a) integrate and weigh the significance of the completed risk scales and other important areas of family functioning;
 - (b) incorporate the family's perspective.;
 - (c) identify those family strengths that maybe used as part of the service plan to resolve and identify problems and reduce future risk.
- (8) support the selection of an overall case risk rating which differentiates cases using a risk continuum.

Later, a comprehensive risk assessment and service plan will be completed to provide a review and update since the last risk assessment which amongst other things will identify and justify the program choice and identify each child's permanency planning goal and anticipate its completion date.

Legal proceedings

The purpose of the CPS services is to prevent injury or harm to children and to safeguard their welfare and to preserve and stabilise the family wherever possible. However, when required the authority of the family court is used to effect necessary protective measures and

to obtain adjudication of abuse or neglect and to obtain services.

Article 10 of the Family Court Act is designed to establish procedures to protect children from injury or mistreatment and to help safeguard their physical, mental and emotional well being. It is designed to provide a due process of law for determining when the state through its family court may intervene against the wishes of the parent on behalf of a child so that his needs are properly met. The family court may transfer a child protective case to a criminal court or vice versa where the facts involve both civil defined child abuse and a crime; concurrent proceedings may also be held in both the family court and the criminal court. One very interesting provision is that a family court may order a social services official to arrange or provide for services or assistance to the child and his or her family to facilitate the protection of the child, the rehabilitation of the family, to prevent or eliminate the need for placement and as appropriate the discharge of the children from foster care. If the court finds that a local social services official has violated such a court order the court has power to fine and or imprison the social services official who violated the order.

There is a statutory definition of abuse which is comprehensive and provides specific examples of defined abuse. If a case worker determines that a child is at risk of defined abuse or neglect, then the child may be removed if his parent gives written consent to the removal. A section of the Act provides that if the child is not returned within 3 days of removal an abuse or neglect petition must be filed at court.

Emergency remedies

In those instances, when a parent legally responsible for a child's care refuses to consent to a removal or is absent when removal is necessary, a case worker must go before a family court before removal and ask for a temporary order for removal prior to filing of a petition. The family court will grant this order only if immediate removal is necessary to avoid imminent danger to the child's life or health and there is not sufficient time to file a petition and hold a preliminary hearing. Particularly the court is required to consider and determine whether imminent risk to the child would be eliminated by the issuing of a temporary order of protection directing the removal of the perpetrator from the child's residence.

When the court asks the CPS to remove the child from his or her home, the court must direct the local district to conduct an immediate investigation to locate relatives of the child. Relatives who are located must be informed of the family court proceedings and of procedures to become foster-parents or for seeking custody or care of the child.

The local district may determine whether there is a suitable relative with whom the child may appropriately reside. If the court determines after reviewing the local district investigation report that a child may appropriately reside with a relative, the court must order either direct placement with the relative or placement with the local Commissioner of Social Services (equivalent to the Director of Social Services) with a view to the child residing with the relatives. In the latter instance, the court must order the commissioner to investigate the home of the relative

within 24 hours and thereafter approve the relative as a foster-parents if qualified. Where no suitable relative is located, the court must place the child in the custody of a suitable person or remand the child to the custody of the local commissioner of social services. In the latter case, the court, in its discretion, may direct that the commissioner have the child reside with a specific certified foster home where the court determines that such placement is in the furtherance of the child's best interests. Particularly, as an alternative to removing the child, the family court is authorised to issue a temporary order of protection to remove the abusive or neglectful parent from the home. A temporary order of protection may be used as an alternative to, or in conjunction with, any other court order or disposition authorised by the court prior to a petition being filed. A temporary order appears to be the equivalent of the emergency protection order in England and Wales, but the act provides that unless the child is returned within 3 days of the granting of the temporary order, an abuse or neglect petition must be filed.

If a case worker finds an emergency removal of a child is necessary to avoid imminent danger to the child's life or health and there is not time to obtain a temporary order for removal from the family court the worker may take protective custody of the child without the consent of the parent or person legally responsible for a child's care. The nearest equivalent in England and Wales appears to be the police protection order. If the case worker does not return the child to the parent, the CPS must file a petition within the family court immediately or apply for an extension of the emergency removal but no more than 3 working days from the date of the initial removal.

Filing a petition

The family court must hold a hearing as soon as practicable after the filing of an abuse petition to determine whether the child needs protection pending a final order. At the preliminary hearing a temporary order may be continued, provide for reasonable visitation between the child and the parents unless it would endanger the life or health of the child, release the child to the care of the parents or order the temporary removal of the perpetrator from the child's residence.

Initially, a fact-finding hearing will take place which may lead to a reasonable adjournment to allow time to consider the case, including any court order for investigation prior to the final dispositional hearing (a hearing of what order of disposition should be made).

Adjournment in contemplation of dismissal (ACD)

The court can adjourn the hearing in contemplation of dismissal for up to one year and the proceedings will be deemed dismissed if the case has not been returned to the court due to a failure to comply with the terms and conditions of the order. An ACD order will describe the terms and conditions applicable to the parties which must be met to fulfil the order. One term and condition that must be included in each ACD order is that the child and the respondent must be under the supervision of the local CPS during the adjournment period. An

ACD order should also direct the local CPS to make a progress report to the court, the parties and the child's law guardian no later than 90 days after the ACD has been ordered (under Art 10 of the Family Court Act the court should appoint a law guardian to represent a child who has been allegedly abused or neglected at the commencement of appropriate proceedings – it would appear that this is the lawyer, rather than the guardian ad litem and lawyer which is the case in England and Wales). During the duration of the order either the respondent, the CPS or the child's law guardian may petition the court to direct the child protective services to provide the supervisory services required by the order if the CPS is substantially failing to do so. The court may also order other agencies or institutions to provide information, assistance, and co-operation to assist the court in providing protection aid to the child or family.

When an ACD is agreed to and ordered, the local CPS will be required to supervise the child and the respondent during the adjournment period. It will also be required to report to the court, the parties, and the law guardian on the implementation of the order no later than 90 days after it was issued unless the court determines that the facts and circumstances of the case do not require such reports to be made. If, during a portion of the period of adjournment, the terms and conditions of the order are not met, the local CPS must request that the original petition be restored to the court and unless there is not an adjudication by consent or a dismissal of the petition, the court must hold a fact-finding hearing no later than 60 days after the request to restore the petition is made. Non-compliance with the terms and conditions of the court order issued at the time of the ACD is not sufficient alone for the finding of abuse or neglect. There must be a formal fact-finding hearing and a demonstration by fair preponderance of the evidence that the child in question has in fact been neglected or abused as alleged in the original petition or as a result of the parents' failure to abide by the condition of the ACD. The local CPS must notify the child's law guardian of any subsequent indicated reports of child abuse in which the respondent is the subject of a report or other person named in the report while an adjournment in contemplation of dismissal is in effect. The local CPS must report to the courts, the parties, and to the child's law guardian 60 days prior to the conclusion of the period of adjournment in contemplation of dismissal.

Other orders of the court

At the conclusion of the dispositional hearing, the court shall state the grounds for any disposition to warrant one or more of the following types of orders or disposition:

- suspend judgment;
- release the child to the custody of the parents;
- place the child;
- make an order of protection;
- place the respondent under supervision.

Each of the above orders (except for orders of

protection) may also direct the local CPS agency to make progress reports to the court, the respondent and the law guardian on the implementation of the order.

Suspend judgment

The terms and conditions must relate to the act or omissions of the parents and will be for a maximum duration of one year. The order of suspended judgment shall direct the respondent to do or not to do various acts, including:

- refraining from or eliminating specified acts found at the fact-finding hearing to constitute or to have caused neglect or abuse;
- provide adequate and proper food, housing, clothing, medical care and other needs of the child;
- provide proper care and supervision to the child and co-operate in obtaining, accepting or allowing medical or psychiatric diagnosis or treatment, alcoholism or drug abuse treatment, counselling or child guidance services for the child;
- take proper steps to ensure the child's regular attendance at school;
- co-operate in obtaining and accepting medical treatment, psychiatric diagnosis, child guidance, etc.

Release the child to the custody of the parents

If the child is released into the custody of the parent, the order may contain one or more of the following terms:

- co-operate with supervising agencies in remedying specified acts or omissions found at the fact finding hearing to constitute or caused the neglect or abuse;
- meet with the supervising agency when directed;
- co-operate with the supervising agency in allowing visitation in the home or other place;
- notify the agency of any change of residence or employment;
- refrain from doing any other specified act of omission or commission that in the judgment of the court is necessary to protect the child from injury or mistreatment.

Placement

If the court places the child, then the court in its dispositional order shall determine whether continuation in the child's home would be contrary to the best interests of the child and where appropriate that reasonable efforts were made prior to the date of the dispositional hearing to prevent or eliminate the need for removal of the child from his home. If the child was removed from his home prior to the date of such hearing, the court shall determine that such removal was in the child's best interests and, where appropriate, that reasonable efforts were made to make it possible for the child to return home. If, at the dispositional hearing the court orders that the child should be placed in the care and custody of the local

commissioner of social services, then the initial placement may be up to a maximum of one year. At the end of this period of time a report and recommendation must be submitted by the worker to the court. An application for an extension of placement may be made.

Children who are placed in care pursuant to Art 10 of the Family Court Act and who are subsequently freed for adoption undergo court reviews pursuant to s 1055-A of the Family Court Act. This section of law which focuses on permanency through adoption sets out the procedure for filing the petition, for periodic foster care reviews, the procedures for serving notice of these reviews and the factors to be considered by the court determining its order of disposition.

Order of protection

An order of protection may be issued as a condition of any other court order and can include conditions that a parent or other person legally responsible for the child's care or his or her spouse or both must stay away from the home and abstain from offensive conduct against the child.

Supervision

The court may order the parent responsible for the child's care to submit for supervision by the Child Protective Agency. This may be in conjunction with the child being released to his parents custody and an order of protection or the placement of the child.

Severe or repeated abuse

State law provides that a severely or repeatedly abused child may be freed for adoption and parental rights terminated. Where appropriate, case workers should consider filing a petition in the Family Court on the grounds of severe or repeated abuse which is defined in accordance with penal law. In brief, a severely abused child is defined as a child who has been found to be an abused child as a result of reckless or intentional acts of the parent, committed under circumstances showing a depraved indifference to human life, resulting in serious physical injury or protracted impairment of health. A repeatedly abused child is a child of the same parent or parents who has been adjudicated as an abused child within the previous 5 years. Before a petition based on either of these grounds may be brought, the authorised agency having care of the abused child must make diligent efforts to encourage and strengthen the parental relationship, including efforts to rehabilitate the parents. The agency must show that these efforts have been unsuccessful and are likely to be unsuccessful in the foreseeable future. When an authorised agency can show that these efforts could be detrimental to the best interests of the child, a diligent effort requirement may be waived. Initiation of proceedings on these grounds may begin only after the child has been in the care of an authorised agency for a period of one year. The court's finding of severe or repeated abuse must be based on the evidential standard of clear and convincing proof.

One interesting difference between the law of New York and that of Texas is that certain persons can take protective custody of the child. These include child protective case workers (social workers) and even

doctors within hospitals which may enable them to keep the child in their custody without the consent of the child's parents, where the circumstances or the condition of the child are such that continuing in his place of residence or in the care and custody of the parent would mean an imminent danger to the child's life or health. In all cases, the local CPS must commence an investigation and the parents immediately notified.

Children Advocacy Centres

A CAC is a child-focused facility-based programme in which representatives from many disciplines meet to discuss and make decisions about investigation, treatment, and prosecution of child abuse cases. A multi-disciplinary team approach brings together under one umbrella all the professionals and agencies needed to offer comprehensive services, law enforcement, child protective services, prosecution, mental health, and the medical community. CACs are community-based programmes designed by professionals and volunteers to meet the unique needs of the community.

The core components of the CAC are:

- separate child-friendly facilities for interviewing and providing services to child victims and their non-offending family members;
- five core disciplines: law enforcement, child protective services, prosecution, mental health, medical;
- coordinated multi-disciplinary investigation team;
- regular interdisciplinary case review;
- interview case follow up;
- specially trained professionals.

Regional CACs and the National Network of CACs assist with training, technical assistance, establishment of local CACs, and national standards.

Conclusion

This article has focused on systems, procedures, and law in two states in the USA picked at random. The greatest diversity appears to be in the legal process rather than the function of the equivalent body in the relevant state to the social services department in England and Wales. The terminology and the range of orders within legal proceedings is starkly different between the states of Texas and New York, although there are also similarities. The burden of proof in New York State at least differs depending on whether a case of abuse or repeated abuse is alleged. The 'fair preponderance' test equates with the balance of probabilities test but in England and Wales it is case-law rather than codified law which determines when a higher standard of proof is required. The Family Law Act 1996 in England and Wales provides for the removal of suspected abusers from the home, and this power, albeit going by a different name, is also available in the USA. However, the range of powers in New York State under the Family Courts Act available at 'dispositional' hearings appears much wider than whether to make a care order, supervision order or no order at all as in England and Wales. In Texas and New York the child is represented although not by a team of a guardian ad litem and an independent solicitor. Whether that is in the best interests of the child is the subject of current debate.

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