
CHAPTER 4

Evidence gathered during CPS investigations is not well documented

Chapter Summary

The most severe CA/N reports should be formally investigated by DFS.

A key part of CPS casework is investigating CA/N reports in which there is potential that a child is in “imminent danger.” Because the stakes are high, investigations need to take place promptly, and the findings that result need to be based on well-informed judgments of the facts. The consequences of findings can be drastic, both for the child victim and for the alleged perpetrator: if little credible evidence exists or the caseworker misses evidence, children may remain in a dangerous home or alleged perpetrators may be unfairly listed on the central registry.

Requirements to document the CPS investigation process and findings go largely unmet.

In reviewing DFS child protection investigations, we did not find a systemic problem with DFS caseworkers making arbitrary or unsupported findings to substantiate. Rather, findings generally had support from others, often professionals in the legal system such as police and county attorneys. However, we noted the general absence in narratives and case files of clearly written summaries of the steps caseworkers took and the evidence they gathered. Because of spotty documentation, we concluded that CPS caseworkers are not consistently putting into practice DFS’ structured decision-making methodology as laid out in the policy manual, taught in CORE training, and mandated in statute.

CPS investigations need better documentation for both substantiated and unsubstantiated findings. Ultimately, DFS as an agency and caseworkers individually need to be prepared to defend their findings. We recommend that DFS require caseworkers to improve documentation of their investigation steps, and summarize in writing their findings and the evidence supporting them.

Substantiated findings require a preponderance of credible evidence

Investigated CA/N allegations must be either substantiated or unsubstantiated.

A CPS investigation is a caseworker's gathering of information such as interviews and other evidence, on which to base a finding about whether CA/N took place as reported. A *substantiated* or *unsubstantiated* finding represents a DFS decision that there is, or is not, enough evidence that an alleged perpetrator committed CA/N. In incidents where caseworkers find no evidence is available or that the allegations had no basis in fact, investigations may be closed as *unfounded*.

For each finding, CPS caseworkers must weigh both quantity and quality of evidence.

The statutory requirement for reaching a finding has two linked requirements: the evidence must be credible, and all the evidence together must meet preponderance of evidence legal standards. Preponderance of evidence generally means that a reasonable person can conclude CA/N occurred as alleged, that there is more than a 50 percent probability CA/N occurred. If the evidence meets this standard, allegations are substantiated; if not, they are unsubstantiated.

Criminal and Juvenile Court actions may impact some investigations and findings

County attorneys may file criminal charges or child protection petitions against some of the families in the DFS investigation track. Title 6 of Wyoming Statutes, Crimes and Offenses, outlines offenses against the family including child endangerment and abandonment. Child protection petitions, filed in Juvenile Courts, involve multi-disciplinary team consultation and give the state a way to order that families accept services and comply with family service plans.

Neglect is the focus of most CPS investigations

Most high-profile child protection incidents featured in the media tend to involve overt physical or sexual abuse or child endangerment (dangerous acts). The vast majority of incidents DFS investigates, however, involve basic neglect or one of its variants, such as educational neglect or negligent treatment of

Physical and sexual abuse account for only 15% of reported allegations.

children. During the four-year time frame we reviewed, from 2004 to 2007, basic neglect accounted for about half of the 6,877 allegations investigated (see Figure 4.1). Physical abuse, sexual abuse, and dangerous acts represented 6, 9, and 3 percent, respectively (see Appendix F for other allegation/finding statistics).

Figure 4.1

**Allegations by type and finding
CY '04 – '07**

Allegation Types	All Allegations	Percent of All Allegations	Substantiated	Unsubstantiated
Neglect	3,559	51.75%	1,669	1,890
Abuse	971	14.12%	307	664
Sexual Abuse	646	9.39%	256	390
Physical Abuse	412	5.99%	137	275
Lack of Supervision	269	3.91%	111	158
Dangerous Act	213	3.10%	151	62
Physical Injury	189	2.75%	64	125
Educational Neglect	170	2.47%	71	99
Medical Neglect	148	2.15%	44	104
Negligent Treatment	120	1.74%	66	54
Other	68	0.99%	40	28
Abandonment	44	0.64%	22	22
Emotional Abuse	38	0.55%	11	27
Mental Injury	14	0.20%	2	12
Psychological Abuse	5	0.07%	1	4
Unknown	5	0.07%	1	4
Deprivation	3	0.04%		3
Malnutrition	3	0.04%	2	1
Total	6,877	100.00%	2,955	3,922

Source: LSO analysis of DFS-WYCAPS data.

An important aspect of CPS investigation is multiplicity: each child in a family may be the subject of one or several allegations in a single report, and an alleged perpetrator may have multiple allegations, each involving multiple children. Thus, one report does not necessarily equate to only one allegation or one

One report does not equal one allegation, one perpetrator, or one child.

perpetrator. For example, there were 4,571 different victims and 3,713 separate perpetrators in the almost 6,900 allegations from the period we reviewed. More than one child was involved in the average investigation, with an average of two allegations against each alleged perpetrator.

Statute, DFS policy, and training require written confirmation of facts for CPS investigations

Statute, the DFS policy manual, and DFS' training for new caseworkers, CORE, call for thorough CPS investigations. Key points in policy and training instructions are that caseworkers should plan their investigations and then summarize their evidence and interviews in a comprehensive written report. Thus, a thorough investigation should document that a finding is reasonable, given the quantity and credibility of the evidence.

Statute requires written confirmation of CA/N allegations for all accepted CPS reports.

As part of changes to CPS statutes in 2005, the Legislature required that allegations of child abuse or neglect be followed by a written report confirming or not confirming what was alleged. To the extent such information is available, written reports are to include basic demographic information on the child(ren), parents, caretakers and alleged perpetrator, and the reporter's concerns. The written report may also include evidence of previous injuries to the child along with photographs, videos and x-rays, and any other relevant information. Some of this information may have been recorded during intake and the preliminary track assignment but typically, much of it is gathered during the CPS investigation.

DFS policy requires a structured, documented decision-making methodology for investigations

DFS policy requires a summary of facts and evidence for each finding.

Longstanding policy at DFS requires a specific, outlined "structured decision making process" for CPS investigations. Summarized in Figure 4.2, the process includes ten basic steps, from the initial response priority (i.e. immediate response or within 24 hours) to caseworker follow-up after incident closure. Included in this stepped process is the investigative report, a comprehensive report that pulls together the facts and evidence of the investigation.

Figure 4.2

DFS Family Services Manual investigation methodology

1. Response Priority – Cases are divided into immediate and twenty four (24) hour response.	6. Risk Assessment – Evaluates future risk and is used to help make decisions related to service delivery.
2. Safety Assessment – Identify immediate threat of harm within seven (7) calendar days.	7. Findings – the allegations are substantiated or unsubstantiated.
3. Safety Planning – Identify potential protection intervention within seven (7) calendar days.	8. Case Assessment – Guides the development of the Family Service Plan.
4. Interviewing – Individual private interviews with the alleged perpetrator and victim(s), completed within seven (7) calendar days.	9. Family Service Plan – Guides service delivery and interventions.
5. Investigative Report – A comprehensive report documenting the facts and evidence.	10. Follow-up – In substantiated cases, follow-up should occur within three (3) months of case closure to determine how the children and family are doing and evaluate the need to re-open the case.

Source: DFS Family Services manual

DFS CORE training emphasizes investigative planning and a “defensible” investigation

DFS CORE training for new caseworkers includes several days on how to carry out a thorough investigation. According to trainers, the central principle of any investigation is to anticipate the “defense.” This reference to potential legal proceedings and a perpetrator’s defense against substantiated findings underscores the need for thoroughness in every investigation.

DFS trains caseworkers to plan and document CPS investigations.

CORE trainers stress the use of an investigation plan document to guide caseworkers through the evidence-gathering process. The document has space to record the allegations reported, review previous DFS and law enforcement contacts, list the people who need to be interviewed, note other possible evidence and its sources, and special circumstances that may affect the investigation. New caseworkers receive training on how to complete these plans; they also role-play how to conduct investigative interviews.

CPS investigation process and evidence summaries are largely undocumented

In reviewing case files from the investigation track, we looked for plans that outlined the steps to be taken and for summaries of evidence gathered. We found varied documentation, but generally, the evidence supporting findings was more implied than explicitly stated or summarized. We often had to scour many pages of narrative log to find references to interviews and other types of evidence. Such information was usually scattered within other casework management and correspondence notes.

Local office protocols tend to prevail.

In the process, we learned that much of the documentation of CPS investigations is guided by local protocols or preferences, and that some local offices have developed their own practice aids. For example, a few offices use procedural checklists to help organize incident and investigative decision points. Some require summary or evidence reports in specific circumstances, such as when a case goes to juvenile or criminal court.

From our review, facts and evidence generally were not summarized in case files or WYCAPS.

However, after combining WYCAPS information with hardcopy files, we found that case files generally do not contain investigation plans or comprehensive investigation reports. Caseworkers rarely summarized findings in a case narrative, and when they did, the summary was usually short, with little detail to support how the preponderance of evidence standard for substantiated findings was met. We concluded that for any one incident, complete documentation was unlikely to be present, and that evidentiary support of findings was scattered, at best.

Burden of proof for substantiated findings is on the Department

Unreasonable or unsupported findings may impact children or adults.

The impact of both unsubstantiated and substantiated findings can be crucial. If a caseworker misses evidence and unsubstantiates allegations, an alleged perpetrator may continue to abuse or neglect children, with possible dire consequences. In that case, DFS will have to answer questions about its decision not to substantiate. If allegations are substantiated, the perpetrator is listed on the central registry, which can inhibit that person's ability to obtain employment in certain sectors. If a perpetrator appeals a

substantiation, DFS needs to be prepared to defend its finding internally and to outside authorities.

Substantiated findings appear to be supported by other professionals

Caseworkers may use non-DFS professionals' documents to support findings.

Many findings in our sample appeared to be supported by evidence from non-DFS professionals; few had only DFS caseworker and supervisor judgments. On most reports, even for those in prevention and assessment tracks, there was documentation of law enforcement involvement, generally when a caseworker attempted the first face-to-face contact with a family. Police reports were either referenced in the narrative or sometimes attached to the hard-copy file; these reports tended to be well-written and specific to the circumstances and conditions that elicited the CPS report. Similar documentation came from medical and educational professionals, although most files did not tie these pieces together.

In all steps of the investigation process, the burden of proof is on DFS to show that a preponderance of evidence exists to warrant substantiation. Without summaries, we remain concerned that other evidence which supports DFS findings may be overlooked or not fully examined. Also, when perpetrators appeal substantiated findings, the scattered nature of the evidence in files may hamper the state in defending caseworkers' actions.

Some DFS investigation practices do not match with statute, manual, and training

Trainers emphasize adhering to local protocols.

Statute and DFS policy require written confirmation of the facts of each report of CA/N; CORE training reinforces this point. DFS appears to want to guide new caseworkers to do their jobs consistently and effectively. However, we believe caseworker practices in this regard are not meeting the expectations set in statute, policy, and CORE training. Also, we found it unsettling that trainers emphasized supervisor discretion to set local protocols; this seems to undermine policy and training that stress using consistent and documented processes.

The CORE training we attended stressed the importance of using investigation plans, yet in our sample of investigation incidents, we did not see these plans being used. As a result, we are unable

Supervisors noted training for new caseworkers does not cover important investigation techniques.

to conclude that investigations are well-planned. We also did not see consistent use of comprehensive investigation reports. The supervisors we surveyed noted similar concerns, and two-thirds of those responding stated it would be helpful to have standardized, statewide checklists for monitoring investigations. Also, supervisors noted that current CORE training on investigations is general in nature and does not train workers in important areas such as proper child interviewing and other advanced techniques.

Recommendations:

- **DFS should require caseworkers to prepare investigative plans or use a standardized investigation checklist.**
- **DFS should require caseworkers to prepare evidence summaries after each CPS investigation.**

Investigations cover the most severe CPS reports DFS receives. They need to be detailed, accurate, and comprehensive because they set the stage for so much of what follows. The facts are important in unsubstantiated and substantiated findings alike, and when findings are challenged, caseworkers need to be able to clearly support what they did.

DFS needs to support caseworkers to do a better job of documenting CPS investigations.

We recommend that DFS require caseworkers to handle investigations in a more uniform and well-documented manner. This can be done by expanding policy to adopt the investigative plan or by approving a standard checklist that follows the investigation methodology already in policy. Also, after investigations, caseworkers need to prepare evidence summaries that are consistent with the comprehensive investigation report required in policy. In all, DFS can support caseworkers to do a better job of fulfilling statutory and policy requirements on investigations.