

TASK FORCE TO ADDRESS THE
RELATIONSHIP BETWEEN
DOMESTIC VIOLENCE AND CHILD
ABUSE AND NEGLECT REPORT



Submitted in accordance with
S.B. 434, 82nd Texas Legislature, 2011

September 1, 2012
Texas Health and Human Services Commission

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TEXAS HEALTH AND HUMAN SERVICES COMMISSION

KYLE L. JANEK, M.D.
EXECUTIVE COMMISSIONER

September 1, 2012

To Whom it May Concern:

The Texas Health and Human Services Commission (HHSC) established the Task Force to Address the Relationship Between Domestic Violence and Child Abuse and Neglect, as directed by S.B. 434, 82nd Texas Legislature, Regular Session, 2011. The task force was responsible for studying the existing relationship, reviewing best practices and developing policy recommendations, if needed, to address issues and effects resulting from the relationship.

S.B. 434 directed the task force be comprised of subject matter experts from advocate organizations, family violence service provider agencies, state agencies, judicial and legal experts, medical and psychiatric experts, and victims of abuse, and then-Executive Commissioner Thomas M. Suehs appointed me as presiding officer.

Attached is the required task force report as developed and approved by the non-state agency task force members of the Task Force to Address the Relationship Between Domestic Violence and Child Abuse and Neglect. The members developed the recommendations in the report from four public meetings, subcommittee meetings, written and oral testimony, research of current studies, and use of resources outlined in S.B. 434, and the recommendations are specifically for the Texas Department of Family and Protective Services; family violence service providers, judiciary and attorneys that handle Child Protective Services cases; cross systems, and legislative policy.

If there are questions or additional information is needed, please contact me by phone at (512) 206-5172 or by email at ocs@hhsc.state.tx.us.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jeffrey C. Johnson".

Jeffrey C. Johnson
Presiding Officer
Task Force to Address the Relationship Between
Domestic Abuse and Child Abuse and Neglect

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EXECUTIVE SUMMARY

Under the Texas Family Code, Section 261.001, child abuse and neglect are defined to include various acts or omissions that result in significant harm to a child, or place a child at significant risk of harm (TEX. FAM. CODE ANN. §§ 261.001(1), (4) (Vernon 2008 & Supp. 2011)). The definition of abuse includes physical, emotional or sexual abuse of a child, but does not include accidental injury or reasonable discipline of a child (Id. § 261.001(1)). The definition of neglect includes the physical neglect, medical neglect, abandonment, or neglectful supervision of a child (Id. § 261.001(4)). Of particular relevance to the victims of family violence, under Texas law neglect of a child includes “placing a child in, or failing to remove a child from a situation that a reasonable person would realize requires judgment or actions beyond the child’s level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child” (Id. § 261.001(4)(B)(i)).

The Texas Family Code, Section 71.004, defines family violence as “an act by a member of a family or household against another member of the household that is intended to result in physical harm, bodily injury, assault or sexual assault, or that is a threat that reasonably places the member in fear of imminent physical harm, bodily injury, assault or sexual assault, but does not include defensive measures to protect oneself” (TEX. FAM. CODE ANN. § 71.004(1) (Vernon 2008)). Family violence includes dating (intimate partner) violence or actions taken by a member of a household against any child in the household (Id. § 71.004). Domestic violence is the term used throughout this report to describe a pattern of behavior that is used to gain or maintain power and control over a current or former intimate partner. It can include physical, sexual, emotional, economic, or psychological actions or threats of actions that influence another person. Domestic violence can happen to anyone of any race, age, sexual orientation, religion, gender socioeconomic background, or education level. It can happen to couples, both adults and minors, who are married, separated, divorced, living together or who are dating. Some examples of domestic violence would be considered family violence by the definition in the Texas Family Code and some would not (National Domestic Violence Hotline, <http://www.thehotline.org/get-educated/what-is-domestic-violence>).

All children and adults in Texas have the right to live in safe, nurturing homes. It is important to recognize that child maltreatment and adult domestic violence often occur together and it is necessary to develop a community response insisting that violence within families must stop. As the statutory agency responsible for child protection, the primary concern of the Department of Family and Protective Services (DFPS) is the safety, permanency, and well-being of children. The core mission of family violence service providers is to provide client-centered shelter and non-residential services, support, and advocacy to survivors of domestic violence and their children. An important focus of intervention in domestic violence situations should be the ongoing assessment of the safety threats posed to children by the presence of domestic violence. The challenge in providing intervention is maintaining child safety and enhancing the protective capacity of the adult victim of domestic violence while at the same time holding the alleged perpetrator accountable, without escalating the perpetrator’s violent behavior.

Recognizing that, historically, there have been competing priorities and differing approaches to ensuring safety for children and adults residing in a home where family violence is present, the 82nd Legislature passed Senate Bill 434 (Nelson), amending the Texas Government Code, Chapter 531, to establish a task force charged with examining the relationship between family violence and child abuse and neglect (Tex. S.B. 434, 82nd Leg. R.S. (2011) (codified as an amendment of TEX. GOV'T CODE ANN. § 531)). This task force was also charged with developing policy recommendations, if necessary, and developing comprehensive statewide best practices guidelines for both Child Protective Services (CPS) and family violence service providers (Id). Finally, Senate Bill 434 directed the task force to receive reports and testimony from individuals, state and local agencies, community-based organizations and other public or private organizations (Id).

Throughout the development of the full report to the legislature, the Task Force adopted and followed these guiding principles:

- In homes where domestic violence is present, the safety of a parent who is a victim of domestic violence is intertwined with the safety and well-being of the child.
- Enhancing the safety of the parent who is a victim of domestic violence enhances the child's safety.
- It is key that CPS accurately assess the efforts that a parent who is a victim of domestic violence is exhibiting to protect the child from direct harm.
- As the recognized community experts on domestic violence, family violence service providers are critical in the prevention of child maltreatment through support and advocacy with adult victims of domestic violence and their children, including those referred voluntarily and involuntarily by the child protection system.
- A child should remain in the care of an adult victim of domestic violence who demonstrates sufficient protective capacities to keep the child safe, consistent with the safety and best interest of the child. If it is determined that a child is not safe despite the efforts made by an adult victim of domestic violence, alternative placement should be considered.
- The victim of domestic violence should not be held accountable for abuse and neglect of a child solely based on being a victim of domestic violence. If a child is at risk of harm due solely to the violence committed against the adult victim, the adult victim should only be held accountable for failing to remove the child from that risk of harm if, after considering the totality of circumstances, CPS determines that the adult victim failed to take advantage of services or supports that would have protected the child and that were reasonably available to the adult victim in the past or are made available to the adult victim during the course of the CPS investigation.
- Domestic violence perpetrators impact the safety and well-being of children and should be held accountable for their actions on the safety and well-being of both the adult victim of domestic violence and child victims.
- In addition to appropriate services provided to the child, appropriate services should be made available to the adult victim of domestic violence to enhance that victim's safety and parental protective capacities.

- Sufficient resources are necessary to address the co-occurrence of domestic violence and child maltreatment and to achieve the safety and well-being of the adult victim and the child.
- Continuing collaborative relationships and efforts at the intersection of domestic violence and child abuse and neglect are vital for those working in the child protective services system, family violence service providers, the courts, law enforcement, and other advocacy groups in order to ensure: cross-system training and education; identification and resolution of problem areas; efficient and effective service delivery; and the development; and maintenance of holistic policies and practices.

During research and development, business of the Task Force was conducted broadly (in the case of a full task force roundtable and meetings), and through various committees, including an executive committee; and through special subcommittees, including a Policy subcommittee, a Family Violence Best Practices Committee and a Child Protective Services Best Practices Committee. Each committee and subcommittee met regularly, considering input from stakeholders and public comment when developing final recommendations.

The Task Force's report and recommendations were promulgated with regard for our state's already burdened Child Protective Services workforce. As a result, some of the Task Force's considerations are not viewed as final recommendations, but instead as opportunities for further collaboration between DFPS and non-profit organizations, victim's services providers, stakeholders, and the community at-large.

The Task Force recognizes the longstanding historical efforts made by DFPS, law enforcement, victim's services providers, and other stakeholders to provide services that result in the state's most overarching goal: the best interest of Texas children. In providing for these youngest and most vulnerable victims, there are often collateral concerns due to the unique family environments from which these children come. There are inherent challenges in working with (and providing services to) adult victims of domestic violence and their batterers, specifically because each individual has a critical role in contributing to their child's safety.

The report's recommendations were categorized into five overarching categories for the purpose of delineating the unique roles played by each stakeholder in serving the abovementioned populations:

- Recommendations for DFPS;
- Recommendations for Family Violence Service Providers (FVSP);
- Recommendations for the Judiciary and Attorneys (J&A);
- Recommendations for Cross Systems (CS); and
- Recommendations for Legislative Policy (LP).

Recommendations made by the Task Force for DFPS broadly include: reviews of policy, procedure, and intake processes pertaining to CPS cases with domestic violence involvement; clarification of CPS policies, assessment tools, and protocols pertaining to these unique cases; alignment of terminology and practices with nationally recommended practices in this field as it pertains to domestic violence involvement; a review, modification and augmentation of trainings and training requirements for intake and investigative professionals; and a consolidation of resources for CPS personnel pertaining to cases involving a domestic violence component.

Recommendations made by the Task Force for Family violence service providers broadly include: adherence to uniform training which can better inform the providers about CPS policy, procedure and intake processes; uniform training on the co-occurrence of domestic violence and child abuse; expanding the current role of the CPS Liaison (a staff family violence service provider role); increase adult client education pertaining to child abuse and domestic violence co-occurrence; increased knowledge of and collaboration with community-based organizations serving the adult and child populations involved in cases involving co-occurring domestic violence and child abuse.

Recommendations made by the Task Force for consideration by the Texas judiciary and attorneys assigned CPS cases include: considerations surrounding the appropriate and timely appointment of counsel in child protection suits involving allegations of domestic violence; increased knowledge of and training pertaining to the unique elements of child protection cases involving an allegation of domestic violence; increased familiarity with Batterer Intervention and Prevention Programs as a referral resource; and increased awareness as to the possibility of coercion in a mediated child protection suit involving an allegation of domestic violence.

Recommendations made by the Task Force which impact across systems broadly include: increased training and education for all stakeholders and interested parties pertaining to termination of parental rights in cases involving allegations of domestic violence; increased collaboration on the statewide and local levels across systems; and increased education and support for the availability of Batterer Intervention and Prevention Programs; and adherence to and strengthening of the memorandum of understanding signed between any two or more agency and stakeholder partners.

The Task Force's Recommendations for Legislative Policy include only those involving either dismissal or protective orders, specifically, appropriate legal representation in pursuit of a protective order and comprehensive court orders in the issuing of a dismissal order in a child protection case involving allegations of domestic violence.

Importantly, the Task Force recognizes that current appropriations to public and private providers of services to adult victims and children are not adequate to fully implement these recommendations. While this report is focused on substantive recommendations, we respectfully call for consideration by the Legislature of increasing appropriations that will support the practices suggested herein.

Finally, the Task Force recognizes that there is not a 'one size fits all' approach to protecting adult victims of domestic violence and their children. However, with increased resources, training, and collaboration among community partners, DFPS, law enforcement, and other professionals in this field, we believe the state of Texas can make positive strides toward healthier outcomes for children and families affected by violence and abuse.

GUIDING PRINCIPLES

Every child and adult in Texas has the right to live in a safe, nurturing home. It is important to recognize that child maltreatment and adult domestic violence often occur together and it is necessary to develop a community response insisting that violence within families must stop.

As the statutory agency responsible for child protection, the primary concern of DFPS Child Protective Services is the safety, permanency, and well-being of children. The core mission of family violence service providers is to provide client-centered shelter and non-residential services, support, and advocacy to survivors of domestic violence and their children. An important focus of intervention in domestic violence cases should be the ongoing assessment of the safety threats posed to children by the presence of domestic violence. The challenge in providing intervention services in domestic violence situations is to keep the children safe and enhance the protective capacity of the adult victim of domestic violence while at the same time hold the alleged perpetrator accountable, without escalating the perpetrator's violent behavior.

The Task Force holds the following guiding principles:

- In domestic violence, the safety of a parent who is a victim of domestic violence is intertwined with the safety and well-being of the child.
- Enhancing the safety of the parent who is a victim of domestic violence enhances the child's safety.
- It is key that CPS accurately assess the protective efforts that a parent who is a victim of domestic violence is exhibiting to protect the child from direct harm.
- As the recognized community experts on domestic violence, family violence service providers are critical in the prevention of child maltreatment through support, and advocacy with adult victims of domestic violence and their children, including those referred voluntarily and involuntarily by the child protection system.
- A child should remain in the care of an adult victim of domestic violence who demonstrates sufficient protective capacities to keep the child safe, consistent with the safety and best interest of the child. If it is determined that a child is not safe despite the efforts made by an adult victim of domestic violence, alternative placement should be considered.
- The victim of domestic violence should not be held accountable for abuse and neglect of a child solely based on being a victim of domestic violence. If a child is at risk of harm due solely to the violence committed against the adult victim, the adult victim should only be held accountable for failing to remove the child from that risk of harm if, after considering the totality of circumstances, CPS determines that the adult victim failed to take advantage of services or supports that would have protected the child and that were reasonably available to the adult victim in the past or are made available to the adult victim during the course of the CPS investigation.

- Domestic violence perpetrators impact the safety and well-being of children and should be held accountable for their actions on the safety and well-being of both the adult victim of domestic violence and child victims.
- In addition to appropriate services provided to the child, appropriate services should be made available to the adult victim of domestic violence to enhance that victim's safety and parental protective capacities.
- Sufficient resources are necessary to address the co-occurrence of domestic violence and child maltreatment and to achieve the safety and well-being of the adult victim and the child.
- Continuing collaborative relationships and efforts at the intersection of domestic violence and child abuse and neglect are vital for those working in the child protective services system, family violence service providers, the courts, law enforcement, and community based organizations in order to ensure: cross-system training and education; identification and resolution of problem areas; efficient and effective service delivery; and the development; and maintenance of holistic policies and practices.

FRAMEWORK/BACKGROUND INFORMATION

In 1999, a collaboration currently known as the Texas Family Violence Interagency Collaborative (TFVIC) formed between Adult Protective Services, Child Protective Services, Texas Council on Family Violence, and the Department of Health Services' (now Health and Human Service Commission's) Family Violence Program.

Over the years, this collaborative has conducted assessments to identify service barriers, has implemented cross-trainings, and has developed and facilitated the execution of a Memorandum of Understanding (MOU) between the HHSC funded family violence service providers and DFPS.¹ The MOU is a thoroughly vetted document, agreed upon by both DFPS and the HHSC Family Violence Program, developed to guide policy and protocol for working with families experiencing domestic violence. The MOU covers the following areas: Assessment; Reporting/Referrals; Investigations; Confidentiality; Liaisons; Resolution of Conflicts between DFPS and the Family Violence Center; and Interagency Training.

In the spring of 2010, two advocate attorneys, one from Denton County Friends of the Family and one from the Texas Rio Grande Legal Aid, presented information at the monthly TFVIC meeting regarding their interest in fostering the working relationship between Child Protective Services and family violence service providers. In many cases, the work of both entities intersects. However, historically, there have been competing priorities and different approaches to ensuring safety. Therefore, the advocates suggested that there was a need to study the relationship, review existing best practices, and develop recommendations to facilitate the working relationship and further the goal of keeping Texas families safe.

Shortly after the 2010 TFVIC meeting, the advocates convened an independent informal workgroup comprised of various stakeholders, including staff from Senator Jane Nelson's office, representatives from the Texas Council of Family Violence (TCFV), the Texas Association Against Sexual Assault (TAASA), local shelters, and other relevant organizations. Staff from DFPS HHSC attended to provide subject matter expertise. This informal workgroup continued to meet on an occasional basis to further discuss the topic. During the course of these meetings, Senator Nelson encouraged the stakeholders to develop recommendations for the consideration of the legislature.

In recognition of these efforts and because TCFV's Public Policy Committee, family violence programs, and the Child Protection Roundtable² strongly prioritized addressing this issue during the 82nd Legislative Session, TCFV adopted the passage of a statutorily-mandated Task Force comprised of diverse stakeholders as a part of the TCFV Legislative Agenda.

¹ The MOU is available in Appendix B.

² The Child Protection Roundtable is a coalition of over 40 organizations that was created by, and is facilitated by, TexProtects, The Texas Association for the Protection of Children. It brings together research experts, advocates, and program providers with child protection expertise to generate and promote consensus public policy in the area of child protection.

The 82nd Legislature passed SB 434, amending Chapter 531 of the Government Code, to establish a task force charged with examining the relationship between family violence and child abuse and neglect (Tex. S.B. 434, 82nd Leg. R.S. (2011) (codified as an amendment of TEX. GOV'T CODE ANN. § 531)). The Task Force was also charged with developing policy recommendations, if necessary, and developing comprehensive statewide best practices guidelines for both child protective services and family violence shelter centers (Id). In addition, the statute directed the Task Force to receive reports and testimony from individuals, state and local agencies, community-based organizations, and other public and private organizations (Id).

SB 434 requires that the Task Force use two documents to guide its work: Susan Schechter & Jeffrey Edelson, Nat'l Council of Juvenile and Family Court Judges, Family Violence Dept., Effective Intervention in Domestic Violence & Child Maltreatment Cases: Guidelines for Policy and Practice (1999) [commonly referred to as "The Greenbook"] and Therese Roe Lund & Jennifer Renne, Am. Bar Ass'n, Child Safety: A Guide for Judges and Attorneys (2009) (Tex. S.B. 434, 82nd Leg. R.S. (2011)).

The Task Force is required to prepare a report detailing the activities of the Task Force and providing findings and recommendations of the Task Force, including any proposed policy recommendations and best practice guidelines. In addition, the report may include any legislation or other matter that the Task Force considers appropriate. The report is due to the Governor, the Lieutenant Governor, the Speaker of the House of Representatives, and the appropriate committees of the Senate and the House of Representatives by September 1, 2012.

SB 434 tasked HHSC with providing administrative support to the Task Force and designated the member appointed by the HHSC Executive Commissioner from HHSC's Family Violence Program to be the presiding officer (Id).

The presiding officer is responsible for the appointment of no fewer than 17 members representing:

- DFPS;
- A statewide family violence advocacy organization;
- A statewide sexual assault advocacy organization;
- A statewide advocacy organization that serves abused and neglected children in the foster care system;
- A statewide child abuse advocacy organization;
- A statewide organization with expertise in the establishment and operation of a children's advocacy center program;
- A mental health professional with experience working with clients affected by child abuse and domestic violence;
- A judge with experience working with cases involving child protective services;
- The University of Texas School of Law Domestic Violence clinic;
- The University of Texas School of Law Children's Rights clinic;

- Four different family violence centers reflecting the geographic diversity of the state;
- A legal assistance organization involved with child protection and family violence issues;
- The law enforcement community;
- A licensed physician who specializes in child abuse pediatrics; and
- Any other member that the presiding officer determines to be appropriate.

The Task Force met four times during fiscal year 2012: October, March, April, and August. The Executive Committee and special subcommittees were established to study specific issues and make recommendations to the Task Force, as a whole, for its consideration. Subcommittees included the Policy, Family Violence Best Practices, and CPS Best Practices committees. Members on the Policy Committee also served as subcommittee liaisons to the FV and CPS Best Practices Committees, to stay abreast of any topics or best practices that may shape policy and legislation recommendations. The subcommittees also solicited volunteers with relevant expertise to contribute to the special committee's work. These individuals were not members of the Task Force. On average, subcommittees met monthly, in between full Task Force meetings.

Each Task Force meeting was open to the public and public comment was solicited for each meeting. A few themes resulted from public comment including:

- Personal stories from Domestic Violence (DV) survivors with CPS cases and their experiences with CPS;
- Observations and personal experience as DV survivors;
- Possible collaborations and solutions to benefit both mother and child involved with CPS;
- General observations regarding CPS and DV advocacy collaborations; and
- CPS cases are not alike and generic solutions will not work for everyone. Individualized solutions are necessary and needed for each case.

The Task Force carefully considered public comment when discussing and developing final recommendations.

The SB 434 Task Force and the recommendations in this report are viewed as an extension of the collaborative work that has occurred throughout the years between DFPS and the many stakeholders involved in providing services to and for those suffering from violence and abuse.

National Council for Juvenile and Family Court Judges Roundtable

On March 6, 2012 and March 7, 2012, the Policy Committee of the Task Force hosted a facilitated roundtable discussion to address two core issues identified by the members of the Task Force:

- How an alleged role is assigned to a victim of domestic violence at the start of an investigation; and
- How abuse and neglect findings are handled for an adult victim of domestic violence in a CPS investigation when the only allegations against her/him are based solely on the exposure of the child to domestic violence. The Policy Committee enlisted the aid of the National Council for Juvenile and Family Court Judges (NCJFCJ).

The NCJFCJ is one of the largest and oldest judicial membership organizations in the nation. It serves professionals in the juvenile and family justice system including judges, referees, commissioners, court masters and administrators, social and mental health workers, police, and probation officers. Its mission is to provide all judges, courts, and related agencies involved with juvenile, family, and domestic violence cases with the knowledge and skills to improve the lives of the families and children who seek justice. The NCJFCJ set the agenda for the roundtable discussion and facilitated the proceedings by arranging for two moderators to lead the discussions. The moderators were Shellie Taggart, a child welfare consultant whose work focuses on improving the capacity of public child protection agencies to respond effectively and with compassion to families experiencing domestic violence; and Zulema (Ruby) White Starr, Assistant Director for the Family Violence Department of the National Council of Juvenile and Family Court Judges.

The goals of the roundtable were:

- Explore the use of the term alleged perpetrator verses non-offending parent / adult victim at intake;
- Understand the intake process and how it impacts an investigation;
- Get to a place where the roles assigned to describe the participants will not be detrimental to the adult victim of domestic violence without compromising an investigation;
- Explore the findings that can result against a victim of domestic violence that are solely formed upon the basis that the child was present when domestic violence occurred;
- Understand how such findings impact an adult victim of domestic violence; and Seek an alternative methodology that can better serve the victim without jeopardizing the safety of the child.

Outcomes of the Roundtable

During the two-day roundtable, members of the Task Force gained a greater understanding of how the state of Texas responds to child abuse and neglect reports including a detailed description of the process outlined in Appendix C.

Many of the ideas generated at the roundtable are incorporated in the recommendations contained within this report.

One idea, not contained within the other sections of this report, was the development of a forum for citizens to review cases where domestic violence and child maltreatment co-exist. This idea parallels work already in progress. CPS, as required by both federal and state statute, currently has 17 Citizen Review Teams (CRT) throughout Texas that were established to review cases as needed to provide feedback to CPS. Appointed members on each team meet and review actual CPS cases. Feedback is documented and reviewed at the state level through the CPS Child Safety Committee, which includes external stakeholders. This existing mechanism provides an ideal opportunity for CPS to examine how domestic violence issues are currently being handled. CPS has agreed that it will assess how to assure that domestic violence expertise is available within the CRT process.

Another endeavor that CPS agreed to undertake, as a result of the roundtable, is to include domestic violence stakeholders in their examination of CPS dispositional guidelines for investigations involving domestic violence issues.

CPS will hold stakeholder-informed reviews to ascertain how to incorporate the Task Force guiding principle of not holding a victim of domestic violence accountable for abuse and neglect of a child solely based on being a victim of domestic violence. Additionally, to better inform CPS's efforts in developing the most effective policies and practices for the handling of cases involving domestic violence, CPS is arranging for in-person consultation with child welfare experts from other jurisdictions that have undergone similar efforts to improve their practices with respect to domestic violence. This technical assistance would occur with domestic violence stakeholders as a part of the process.³

³ See Appendix C for more recommendations about the CPS investigations process and dispositions when there is domestic violence.

RECOMMENDATIONS FOR DFPS

DFPS 1: Statewide Intake regarding Suspected Child Abuse and Neglect

When reports of suspected child abuse or neglect first come into the DFPS Statewide Intake (SWI), the SWI intake specialist who receives the initial report gathers information from the reporter to determine whether it appears that a child:

- has been abused or neglected and is still at risk of being abused or neglected; or
- is at risk of being abused or neglected in the foreseeable future.

SWI is responsible for:

- reviewing and documenting the reporter's concerns;
- determining initial allegations based on information provided by the reporter and following the definitions of abuse and neglect in the Texas Family Code and CPS policy;
- assigning roles to individuals referenced within the report; and
- assessing an initial priority in accordance with the Texas Administrative Code and CPS policy.

The role assigned by SWI depends upon the information provided by the reporter. Potential role assignments for the caregivers of alleged child victims include:

- alleged perpetrator;
- unknown role; or
- no role.

SWI has two documents which are available to intake specialists and which provide some assessment questions regarding domestic violence (“Intake Interview Questions” and “Safety and Risk Assessment Areas of Concern”). After making an assessment, the intake specialist refers reports for possible investigation to the appropriate CPS regions and forwards all reports to local law enforcement. Intake specialists currently receive basic training; supervised, structured on-the-job training; and access to optional advanced training regarding the dynamics domestic violence.

Members of the Task Force have raised the concern that during the intake process, some adult victims of domestic violence are being inappropriately identified as alleged perpetrators due to neglectful supervision when the primary presenting issue is domestic violence. The Task Force recommends that the intake process be further reviewed in collaboration with stakeholders to:

- Ensure that intake specialists are aware that the presence of domestic violence in the home is not, in and of itself, indicative of abuse or neglect that meets legal definitions for the generation of an intake. If a child has no known disabilities, can remove him/herself from the domestic violence by going to another room, going outside, going to a neighbor's home, etc., and has never been injured or directly threatened, then there must be other safety factors present to justify an allegation of abuse or neglect.
- Explore revisions to interview questions that may be used during the assessment process, regarding the power and control dynamics of domestic violence to be in line with national recommended practices.⁴
- Review and clarify appropriate protocols for responding to reports that involve domestic violence, for documenting the power and control dynamics within domestic violence and for determining how the dynamics relate to the assignment of the available roles of unknown, alleged perpetrator, or no role.
- Modify, as needed, the training requirements regarding the dynamics of domestic violence that intake specialists at SWI receive.

DFPS 2: Child Protective Services⁵

The Task Force identifies three areas of recommendations, which address the challenges within the CPS system to ensure safety for children and to ensure appropriate evaluation of the parent who is also an adult victim of domestic violence. These three areas include the need for:

- Consistent and appropriate use of labels and language when addressing the complex dynamics of domestic violence and child maltreatment;
- Review, clarification and potential change to CPS policy, assessment tools and procedures in every stage of the CPS system when cases involve domestic violence; and
- Enhanced training for staff working in all stages within CPS, including any changes to assessment tools or policy and including information about the current Memorandum of Understanding (MOU) between domestic violence service providers and CPS.

⁴ See H. LIEN BRAGG, U.S. DEP'T OF HEALTH AND HUMAN SERVS, CHILD PROTECTION IN FAMILIES EXPERIENCING DOMESTIC VIOLENCE 36 (2003), for examples of initial screening questions, available at <http://www.childwelfare.gov/pubs/usermanuals/domesticviolence/domesticviolence.pdf>

⁵ The CPS sub-committee of the Task Force identified the following theme as guiding their recommendations: Taking bold actions to promote protective capacity.

These recommendations strive to assist all stakeholders in enhancing families' and CPS staff's safety and in moving towards the adoption of nationally recommended practices⁶ that aim to keep children in the care of adult victims of domestic violence who demonstrate sufficient protective capacity to keep their children safe. Collaboration is needed around the intersections of child maltreatment and domestic violence among CPS, domestic violence advocates, those providing services to victims of child abuse and other community based organizations. This collaboration is needed to continue to support CPS' goal of keeping children safe.

DFPS 3: Use of Language within CPS

The Task Force recognizes the implications of labels and language used when assessing and addressing the dynamics of domestic violence and child maltreatment at every stage in the CPS system. Currently, CPS does not standardize terminology for describing the adult victim of domestic violence, which has led to concerns that some victims of domestic violence are being labeled as "alleged perpetrator" along with the batterer when domestic violence is the sole presenting issue.

Language used in CPS case documentation should reflect the power and control dynamics when domestic violence is in the home and how that relates to a child's safety. Language used in documentation should aim to:

- Document the power and control dynamics within the family;
- Capture the pattern of abusive behavior against the adult domestic violence victim;
- Accurately capture the domestic violence victim's reported motives for staying, leaving or returning to a violent relationship; and
- Document the domestic violence victim's reported steps to protect any children in the household.
- CPS should consider the implications of terminology used when addressing domestic violence. The agency should avoid the use of labels/language in CPS case documentation that impedes rather than assists in a complete understanding of the power and control dynamics in the family, including the avoidance of labels and language which can lead to the appearance that perpetrators and their victims are equally responsible for violent behavior. Examples include:
 - Mutual combat;
 - Partners "engage in" domestic violence; and
 - Typical battered woman/ battered woman syndrome.

CPS should stay abreast of nationally recommended terminology as it relates to domestic violence and when appropriate incorporate the language for consistent use in CPS training, policy, and practice.

⁶See BRAGG, *supra* note 4; SUSAN SCHECTER & JEFFREY EDELSON, NAT'L COUNCIL OF JUVENILE & FAMILY COURT JUDGES, FAMILY VIOLENCE DEP'T, EFFECTIVE INTERVENTION IN DOMESTIC VIOLENCE & CHILD MALTREATMENT CASES: GUIDELINES FOR POLICY AND PRACTICE (1999) [hereinafter THE GREENBOOK], available at <http://www.childwelfare.gov/pubs/otherpubs/ncjfcj.pdf>

DFPS 4: CPS Process/Practice

The Task Force recognizes the challenges inherent in working with both adult victims of domestic violence and their batterers to hold them responsible for their respective roles in contributing to the child's safety or lack thereof. The Task Force encourages CPS to continue reviewing other states' child welfare systems policies/practices on domestic violence as part of the review process. One state's policies that were extensively reviewed was North Carolina. In its continued efforts to enhance Texas policy and practice, the Task Force recommends that CPS focus on aligning with and/or incorporating nationally recommended practices.

Related to Investigations, the Task Force recommends:

- CPS, with input from domestic violence advocates and other stakeholders, continue developing CPS disposition guidelines for cases involving domestic violence that:
 - Do not unduly hold the victim of domestic violence responsible for the batterer's actions.
- Adhere to the guiding principle that the victim of domestic violence should not be held accountable for abuse and neglect of a child solely on the basis of being a victim of domestic violence. If a child is at risk of harm due solely to the violence committed against the adult victim, the adult victim should only be held accountable for failing to remove the child from that risk of harm if, after considering the totality of circumstances, CPS determines that the adult victim failed to take advantage of services or supports that would have protected the child and that were reasonably available to the adult victim in the past or are made available to the adult victim during the course of the CPS investigation.
 - Take into consideration the dynamics of power and control when domestic violence is present.
 - Determine when it may be more appropriate for an adult victim of domestic violence to be given a disposition of "Ruled Out" as opposed to "Reason to Believe." Protective efforts made by the adult victim such as their willingness to access services, utilize law enforcement, cooperate with CPS, and the child's current level of safety should be taken into consideration prior to making a disposition.
 - Batterers should not receive a disposition of "Unable to Determine" based solely on their refusal to cooperate when there is otherwise enough information from the adult victim or other persons to justify a "Reason to Believe" disposition.
- Explore strategies to enhance knowledge about the power and control dynamics of domestic violence throughout the investigation stage including but not limited to the feasibility and effectiveness of creating domestic violence investigation teams or domestic violence subject matter experts in certain areas of the state.
- Child safety plans developed during any stage of service should reflect the same principles as outlined in the service plan section below.

Related to Service Plans, the Task Force recommends:

- Separate service plans should be developed for the adult victim of domestic violence and the batterer to address their unique needs, keeping in mind the power and control dynamics within the family.⁷
- Service plans should be designed to hold batterers accountable for the domestic violence, not the adult victims of domestic violence; goals/strategies in service plans should focus on the batterers changing their violent behavior as opposed to the adult victims of domestic violence controlling the batterer's behavior.
- The adult victim of domestic violence is held accountable for the components of the service plan that related directly to his/her own parenting.
- The batterer of domestic violence is held accountable for the components of the service plan that relate directly to his/her own parenting.⁸
- Staff should avoid making the adult victim of domestic violence “mutually” or solely accountable for the batterer's actions or the batterer's compliance, because this reinforces the batterer's ability to use the service plan as a coercive tool to continue the domestic violence.
- Whenever possible and available, staff should utilize accredited Batterer Intervention and Prevention Programs (BIPPs) funded by the Texas' Department of Criminal Justice's Community Justice Assistance Division (CJAD) for service plans for the batterer parents.
- Guidelines/examples are created to assist CPS staff in determining when significant progress has been made in domestic violence cases that would ensure the batterer and adult domestic violence victim are able to safely parent the child.

⁷ The Task Force embraces the following statement from the Greenbook:

Rather than impose one formula on every case, courts and community agencies should provide battered mothers with independent advocacy and support resources to help them develop a set of strategies to reduce or eliminate the particular risks they and their children face. These plans will include strategies to respond to physical danger and meet basic human needs, strategies which are developed in the context of available community supports and services and consider the victims' strengths and resources. Safety planning should be available for women who are leaving, returning to, or staying in their relationships.

THE GREENBOOK., *supra* note 6, at 22-23.

⁸ See FERNANDO MEDEROS, MASS. DEP'T OF SOCIAL SERVS, ACCOUNTABILITY AND CONNECTION WITH ABUSIVE MEN: A NEW CHILD PROTECTION RESPONSE TO INCREASING FAMILY SAFETY (2004), *available at* <http://www.thegreenbook.info/documents/Accountability.pdf>

Related to assessing/documenting domestic violence, the Task Force recommends:

- The CPS' process of assessing/safety planning for domestic violence is reviewed with domestic violence stakeholders to ensure that the most important information is being collected and utilized in the safest way possible.
 - Such a review should include examining the existing structured assessment tools and guides to enhance as needed. Special attention should be given to the process for assessing lethality for cases involving domestic violence.
 - Tools developed by the U.S. Dept. of Health and Human Services and other states for cases involving domestic violence could serve as a guide including:⁹
 - Children's Assessment Tool;
 - Non-offending Parent Assessment Tool;
 - DV Perpetrator Assessment Tool;
 - Personalized Safety Plan for the Adult Victim of Domestic Violence; and
 - Resources for Enhanced Practice.

Related to streamlining domestic violence policies and guidance, the Task Force recommends that:

- The information related to domestic violence currently found in the policy/handbook is consolidated so that domestic violence information is emphasized and located in an easily accessible fashion.
- CPS expand current policy to include areas such as:
 - An introduction referencing the guiding principles and policy statements for working with CPS cases involving domestic violence;
 - Definitions of domestic violence and related terms that reflect the power and control dynamics of domestic violence;
 - Guidance for utilizing assessment tools for domestic violence;
 - Interview questions/procedures for adult victims, children and batterers of domestic violence;
 - Information on case documentation;
 - Information on dispositioning cases involving domestic violence;
 - Information on safely closing domestic violence cases;
 - Strategies for successful community collaboration.

Other Task Force recommendations regarding CPS Services:

- Pilot at least one specialized domestic violence unit within Family Based Safety Services (FBSS) to work cases involving domestic violence. CPS should evaluate the results in terms of enhanced safety for children, adult victims, and CPS workers. It is recommended that the Texas pilot be modeled after other states that have effectively developed these specialized units.
- Review current policy/practice around inviting domestic violence service providers' DV Liaisons to CPS family group conferences (FGC), family team meetings (FTM), and permanency conference (PC) meetings, and enhance as needed.
- Explore barriers and possible solutions to contracting with Domestic Violence Service Providers to provide BIPP and services for adult victims of domestic violence.

⁹See BRAGG, *supra* note 4; THE GREENBOOK, *supra* note 6.

DFPS 5: CPS Staff Training

Due to the complexities of the dynamics of power and control and the safety issues for families' experiencing domestic violence and for staff responding in these cases, intensive training is necessary on these issues. CPS workers currently receive eight hours of Basic Skill Development (BSD) training specifically regarding domestic violence. There also exist optional advanced domestic violence trainings.

The Task Force recommends the following strategies to enhance training opportunities for CPS staff:

- Review current training regarding the dynamics of domestic violence and the overlap of domestic violence and child maltreatment in collaboration with stakeholders.
- Incorporate any changes or clarifications of CPS policies regarding domestic violence into existing training.
- Place a priority on developing expertise and providing ongoing training opportunities to supervisors and directors in all stages of CPS services on these issues in order to cultivate leadership through all stages of CPS services and departments.
- Develop specialized trainings on domestic violence assessment tools, assessments for coercive control, and implications of language.
- Explore recommending that CPS contracted evaluation and treatment service providers have training on or have expertise about domestic violence.
- Continue the use and explore the possible expansion of distance education approaches regarding training on the dynamics of domestic violence, including webinars, teleconferencing and interactive technologies (e.g. Skype) to permit and facilitate participation of professionals in more remote rural communities.
- Continue regional cross trainings and collaboration between CPS regional offices and local domestic violence service providers as detailed in the current MOU,¹⁰ including the confidentiality limits and privacy protections of both CPS and family violence service providers.

¹⁰ See *infra* Appendix B.

RECOMMENDATIONS FOR FAMILY VIOLENCE SERVICE PROVIDERS

The Task Force recommends that family violence service providers across the state improve their individual response to the co-occurrence of domestic violence and child maltreatment. The Task Force also recommends family violence service providers improve their collaboration with DFPS and embrace the following recommendations to create a better overall response and to enhance the services to and safety of adult victims of domestic violence and their children.¹¹

FVSP 1: Training for Family Violence Service Providers

Aside from the trauma of being a victim of domestic violence, victims seeking services or who are mandated to receive services from family violence service providers may be facing one of their greatest fears: the removal of their children by CPS. Therefore, it is imperative that family violence service providers become knowledgeable in the policies and procedures of CPS interventions.¹²

Although training and education for family violence service provider staff is already required under the Texas Administrative Code,¹³ the Task Force recommends that all family violence service providers in Texas receive the same uniform training on the co-occurrence of domestic violence and child maltreatment, and that a training model be created for this purpose. As is true for CPS and child advocacy organizations, the Task Force specifically recognizes that family violence service providers face ongoing and significant resource challenges.¹⁴ Because of the frequent co-occurrence, the Task Force recommends that all direct services staff, direct services supervisors, and program policy makers prioritize the cultivation of expertise on co-occurrence and receive regular training and resource materials on this topic.

¹¹ Domestic violence organizations should further develop their internal capacity to respond to the safety and support needs of families experiencing domestic violence and child maltreatment. THE GREENBOOK *supra* note 6, at 80.

¹² *See id.* at 81.

¹³ 1 TEX. ADMIN. CODE § 379.404, .616 (2007).

¹⁴ According to the National Network to End Domestic Violence's one day census of domestic violence programs, Texas programs reported 1,212 unmet requests for services on September 15, 2011 alone. See NAT'L NETWORK TO END DOMESTIC VIOLENCE, DOMESTIC VIOLENCE COUNTS: A 24-HOUR CENSUS OF SHELTERS AND DOMESTIC VIOLENCE SERVICES 9 (2011) available at <http://www.nnedv.org/resources/census/2011-report.html>. According to the 2012 Mary Kay Truth About Abuse Survey, 43% of shelters have reduced services due to the economy and 79% of service providers reported reductions in funds they previously received from government sources. MARY KAY, 2012 TRUTH ABOUT ABUSE SURVEY 2, 6 (2012), available at <http://content2.marykayintouch.com/Public/MKACF/Documents/2012survey.pdf>

The Task Force recommends that family violence service providers implement a required training curriculum for the above-mentioned staff. Topics in this curriculum would include:

- Recommended practices in working with clients with open CPS cases, consistent with the recommendations in this section;
- An overview of the DFPS/CPS process, including:
 - Intake
 - Investigations
 - Family Based Services
 - Conservatorship Proceedings
- How to make a report to DFPS Statewide Intake (SWI), including:
 - What is reportable;
 - When to report;
 - Whether to report either alongside a client or with the client not present;
 - When to advocate that the client make the report themselves in addition to the mandatory professional reporting requirement;
 - How to respond to CPS follow up questions when concerns or suspected abuse/neglect has been reported by a domestic violence agency;
 - What policies and procedures should be in place for reporting;
 - Parents' rights while navigating the CPS process
 - How to identify, encourage, and foster protective capacities for clients

FVSP 2: Family Violence Service Providers' CPS Liaison Role

The Task Force recognizes that the liaison identified for each family violence service provider, in accordance with the MOU between that program and DFPS, should develop expertise in all CPS matters for that organization. The Task Force also recognizes that some programs with limited staff and funds may not be able to designate one full-time position to this function; however, this should be a goal for each program. The Task Force also recognizes that legal advocate and children's advocate, both positions that HHSC-funded family violence service providers are required to have, would benefit from enhanced training and information about CPS.

The Task Force recommends that the role of the family violence service providers' CPS liaison be expanded either in the MOU or in the MOU's Implementation Guide.

Specifically, the Task Force recommends that liaisons should:

- Maintain expertise on the following:
 - The laws, rules, and policies involved with the various DFPS processes and
 - Informed services for clients;
- Be proactive in the role of liaison and in communications with local regional CPS staff;
- Schedule, coordinate and organize joint and cross-trainings with CPS;¹⁵
- Be familiar with the MOU and MOU Implementation Guide and assist other staff in understanding these documents;
- Be the contact person to coordinate a family violence service providers' involvement in Family Team Meetings and Family Group Conferences, as requested by CPS and as resources allow;
- Work collaboratively, when appropriate and when possible, with the family violence service provider's required legal advocate and children's advocate.

¹⁵ Every community must cross-train its child welfare, domestic violence and juvenile court system personnel and provide written materials to them on identification, assessment, referral, and safety interventions with families experiencing child maltreatment and adult domestic violence. TEX. ADMIN. CODE § 379.404 (2007) sets out requirements for new employee training at domestic violence shelter centers.

FVSP 3: Services to Adult Victims of Domestic Violence

The Task Force embraces the concept in THE GREENBOOK that states:

[B]laming a battered mother for being abused, for not leaving the domestic violence perpetrator, or for not stopping his violence is simply counterproductive. The battered woman cannot change or stop the perpetrator's violence by herself. If she does not have adequate support, resources, and protection, leaving him may simply make it worse for her children. The battered woman and her children need the community's help.¹⁶

In direct reflection of this, the Task Force recommends that family violence service provider leadership and staff:

- Discuss with clients the pros and cons of signing a release of information between CPS and the family violence service provider and make sure that the release:
 - Is in compliance with HHSC Family Violence Program TAC rules, Violence Against Women Act and Family Violence Prevention and Services Act regulations;
 - Is tailored specifically to the individual needs of the client; and
 - Includes informed consent regarding an explanation to the clients about the purpose and availability of CPS services and what and how family violence service provider staff will communicate with CPS regarding their case.
- Educate clients with open CPS cases about the process, including:
 - Discussing with clients the program staff's mandatory reporting guidelines;
 - Assisting clients in meeting the specific goals that CPS has set with clients regarding the services they are requiring of the victim of domestic violence;
 - Understanding clients' options and rights when it comes to involvement with CPS;
 - Helping and assisting clients in developing and identifying how they are protecting themselves and their children by enhancing and using their parental protective capacities.¹⁷
- Explore the program's capacity to establish specialized CPS-related support groups that would be available to adult victims of domestic violence who are referred by CPS voluntarily and involuntarily.
- Explore the program's capacity to create a class, available for the adult victim of domestic violence living with domestic violence, which discusses the dynamics of power and control in domestic violence relationships, safety planning strategies, the potential effects of exposure to domestic violence on children, how resiliency can be developed in children, and what healing and empowering resources both at the community and national level are available for both adult victims of domestic violence and their children.
- Educate clients with any DFPS involvement about CPS' parent collaboration groups (if these services are available in their area).
- Explore the creation of peer mentoring networks that empower clients.

¹⁶ THE GREENBOOK *supra* note 6, at 19.

¹⁷ The sub-committee reviewed Austin's SafePlace's CPS Advocacy program in detail.

FVSP 4: Development of Statewide Tools and Resources for Family Violence Service Providers

The Task Force recommends that CPS and the domestic violence coalition (TCFV) should collaborate to assist programs serving adult victims of domestic violence and their children who may be involved with the CPS system.

The taskforce specifically recommends that stakeholders review the:

- Potential for creating a “Frequently Asked Questions” resource that is available to programs at a centralized location (i.e. TCFV website) that also includes questions CPS may have for family violence service providers; and
- Existing CPS brochure available for victims of domestic violence in family violence programs, The Parent’s Guide to CPS, and explore the creation of additional resources/ brochures for victims of domestic violence about their rights in the CPS system that include a discussion of protective capacities and barriers encountered by victims in their attempts to create safety for their families.

FVSP 5: Batterer Accountability and Family Violence Service Providers

BIPPs have been recognized as an integral part of a comprehensive approach to domestic violence. Furthermore, THE GREENBOOK recognizes batterer intervention groups as one type of intervention that helps adult victims and removes the risk to children exposed to domestic violence.¹⁸

Individual family violence service providers that do not also operate a BIPP program should:

- Be familiar with the funded and accredited BIPP programs in their service area;
- Educate their local CPS staff on the benefits to referring batterers to funded or accredited BIPP programs;¹⁹
- Recommend to CPS when BIPP services should be utilized in individual cases
- Educate their staff to discuss with clients the benefits of a BIPP program as a referral for their batterers whether it is court mandated or voluntary; and
- Join the efforts and advocacy for BIPP programs to become CPS contractors for referrals for domestic violence perpetrators as opposed to anger management programs.

¹⁸ THE GREENBOOK at 20.

¹⁹ The Task Force recognizes that not every community has a BIPP program.

FVSP 6: Increasing Family Violence Service Providers Focus on Children Exposed to Domestic Violence

Family violence service providers across Texas provide various levels of services for children exposed to domestic violence, such as shelter, advocacy, school-based support groups, counseling, after school activities and family shelter activities.²⁰ Family violence service providers also work to educate the broader community and systems about the impact of domestic violence on children and how children are used in the power and control dynamics of domestic violence. The Task Force recognizes that when children exposed to domestic violence become involved in the CPS system, they can become even more confused and scared, particularly if there is the possibility of removal from their families.

Because of this, the Task Force makes the following recommendations:

- In cases where domestic violence is the reason, or a primary factor for a CPS intervention, and a parent is referred to the family violence service provider for services, the family violence service provider should offer services to the parent for the child and reach out to provide those services, resources and/or referrals for the child.
- As appropriate, family violence service provider staff, through their child advocate position(s),²¹ should provide support directly to the children that are in their services about the CPS system and offer family or children's counseling addressing these issues, if such services are available at the program.
- As appropriate, family violence service providers should explore collaborating further around referrals for services with organizations such as Child Advocacy Centers and other groups providing services for children who have experienced abuse or neglect.

²⁰ See TEX. ADMIN. CODE §§ 379.713-.714 (2007), for a list of required services.

²¹ HHSC-funded programs must have a child advocate. *Id.* at § 379.405.

FVSP 7: Enhanced Community Outreach to Multiple Points of Entry

There are many professionals in every community who may interact with adult victims of domestic violence or their children, including health care providers, law enforcement, prosecutors, courts, educators, and treatment providers. Each of these professionals may serve as the initial point of entry for children who are referred to CPS due to the actual or perceived co-occurrence of domestic violence and child maltreatment. It is critical that each of these professionals not only understand the dynamics of power and control between the batterer and victim, but also is aware of domestic violence resources and services that may prevent or address the co-occurrence of domestic violence and child maltreatment. To this end, the Task Force recommends that family violence service providers:

- Communicate with state, regional and local external agencies that may see the co-occurrence of domestic violence and child maltreatment to educate about local domestic violence resources and services.
- Participate in local task forces for domestic violence, sexual assault, and child welfare issues.
- Make courts aware of the domestic violence resources available within their communities and offer courts walking tours of domestic violence shelters.

RECOMMENDATIONS FOR THE JUDICIARY AND ATTORNEYS HANDLING CPS CASES

The Task Force recognizes that court proceedings play pivotal roles in how we confront the problem of domestic violence, how we manage the co-occurrence or risk of child maltreatment in affected families and in how we pursue safety and protection, including judges, prosecutors and all attorneys appointed to represent individuals in CPS related matters. Although the Task Force membership was not broadly representative of the judiciary or attorneys handling CPS cases, the Task Force believes that the following recommendations are crucial to the protection of the adult victims and children.

J&A 1: Separate Appointment of Counsel

Section 107.013 of the Texas Family Code, provides that when both parents in a child protection suit are legally entitled to appointment of counsel, the court may only appoint a single attorney *ad litem* to represent the interests of both parents if the court finds that the interests of the parents are not in conflict. (TEX. FAM. CODE ANN. § 107.013(b) (Vernon 2008).

Under Rule 1.06(b) of the Texas Disciplinary Rules of Professional Conduct, an attorney may not represent a person if the legal representation “involves a substantially related matter in which that person’s interests are materially and directly adverse to the interests of another client of the lawyer or the lawyers firm.” (TEX. DISCIPLINARY R. PROF’L CONDUCT 1.06(b)(1)).

This general prohibition against representing multiple clients whose interests may be adverse to each other can be overcome if the attorney provides a full disclosure regarding the possible conflict of interest to both persons and both persons agree to the mutual representation (*Id* § 1.06(c)). Given the dynamics of fear and control inherent in most domestic violence situations, however, there is concern that adult victims may not be able to provide non-coerced/informed consent to mutual representation with the other parent in a child protection case.

Numerous national organizations that have studied and made recommendations concerning the intersection between child welfare and domestic violence have recognized the importance of separate legal representation for parents with a history of domestic violence. The National Council of Juvenile and Family Court Judges (NCJFCJ) included the following guidance for courts in Recommendation # 66 of THE GREENBOOK: “Judges should appoint separate attorneys for each parent in dependency cases involving domestic violence.”

Similarly, in its 2006 publication *STANDARDS OF PRACTICE FOR ATTORNEYS REPRESENTING PARENTS IN ABUSE AND NEGLECT CASES*, the American Bar Association included the following language under Standard # 14: “The parent’s attorney must not represent both parents if their interests differ. The attorney should generally avoid representing both parents when there is even a potential for conflicts of interests. In situations involving allegations of domestic violence the attorney should never represent both parents.” (THE GREENBOOK, *supra* note 5, at 112; A.B.A. *STANDARDS OF PRACTICE FOR ATTORNEYS REPRESENTING PARENTS IN ABUSE AND NEGLECT CASES* 15 (2006), *available at* http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentStds.authcheckdam.pdf).

In accordance with these recommendations, the Task Force recommends that when applying Section 107.013 of the Family Code, courts appoint separate counsel to represent each parent in any child protection suit in which there is an allegation of domestic violence committed by one parent against the other (TEX. FAM. CODE ANN. § 107.013 (Vernon 2008)).

J&A 2: Early Appointment of Counsel

The U.S. Department of Justice’s Office of Juvenile Justice and Delinquency Prevention (OJJDP) has encouraged child abuse and neglect courts to measure how early parents’ advocates are appointed and whether these appointments are made early enough in the process to allow for meaningful participation in the first hearing. The OJJDP has stated that, in child abuse and neglect proceedings, it is important for parents’ attorneys to be appointed in time to play an active role in what is usually the first critical stage of litigation – the emergency removal hearing. The OJJDP noted that:

The earlier the appointment occurs, the sooner the interests of the parent begin to be represented. Early appointment may enable the case to proceed faster, minimizing the length of separation between parent and child and clearing the way for delivery of needed services earlier rather than later.²²

The Task Force recommends that in CPS cases involving allegations of domestic violence, courts should assign attorneys to all parents named in a CPS petition who are eligible for appointed counsel as early as possible for the purpose of representing the individual parents’ interests at statutory hearings and throughout the pendency of the lawsuit.

²² MARK HARDIN & SUSAN KOENIG, U.S. DEP’T OF JUSTICE, OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION, COURT PERFORMANCE MEASURES IN CHILD ABUSE AND NEGLECT CASES: TECHNICAL GUIDE 104 (2009), *available at* <https://www.ncjrs.gov/pdffiles1/ojjdp/223570.pdf>

J&A 3: Training of Counsel

Attorneys appointed to represent parents in a child protection case are required by Section 107.0131 of the Family Code to be familiar with the American Bar Association's STANDARDS OF PRACTICE FOR ATTORNEYS REPRESENTING PARENTS IN ABUSE AND NEGLECT CASES which are available on the ABA's public website (TEX. FAM. CODE ANN. § 107.0131(1)(H) (Vernon 2008); A.B.A. STANDARDS OF PRACTICE FOR ATTORNEYS REPRESENTING PARENTS IN ABUSE AND NEGLECT CASES 15 (2006), *available at* http://www.americanbar.org/content/dam/aba/administrative/child_law/ParentStds.authcheckdam.pdf).

Because of the significant overlap between domestic violence and child abuse, such lawyers should particularly be familiar with the dynamics of domestic violence and how those can affect the child protection case, as explained in two publications by the National Council of Juvenile and Family Court Judges: SAFETY STABILITY AND WELLBEING: REASONABLE EFFORTS CHECKLIST FOR DEPENDENCY CASES INVOLVING DOMESTIC VIOLENCE and CHECKLIST TO PROMOTE PERPETRATOR ACCOUNTABILITY IN DEPENDENCY CASES INVOLVING DOMESTIC VIOLENCE, as well as the national collaborative report, THE GREENBOOK, specifically Chapter 5, which focuses on court responses.²³

J&A 4: Batterer Intervention and Prevention Programs

The Task Force recommends that courts become familiar with funded and accredited BIPPs in their area and use these as a priority referral as available.

J&A 5: Mediations

Any voluntary or mandated mediation process must be carefully monitored to avoid providing a batterer an opportunity to coerce and/or manipulate the adult victim of domestic violence.

²³ LEIGH GOODMARK, NAT'L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, REASONABLE EFFORTS CHECKLIST FOR DEPENDENCY CASES INVOLVING DOMESTIC VIOLENCE (2008); NAT'L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, CHECKLIST TO PROMOTE PERPETRATOR ACCOUNTABILITY IN DEPENDENCY CASES INVOLVING DOMESTIC VIOLENCE (2011), *available at* http://ncjfcj.org/sites/default/files/checklist-to-promote-accountability_0.pdf; THE GREENBOOK, *supra* note 6, at ch. 5. September 1, 2012 Recommendations for the Judiciary and Attorneys Handling CPS Cases 24

RECOMMENDATIONS FOR CROSS SYSTEMS

CS 1: Termination of Parental Rights of One Parent

Advocates continue to report confusion on the issue of whether or not only one parent's parental rights can be terminated in a CPS case. A Texas Administrative Code provision, repealed in 2007, prohibited the termination of rights as to one parent.²⁴ However, the current framework allows for the termination of parental rights as to just one parent.²⁵ The Task Force recommends that all systems be made aware that in situations when it is in a child's best interest, the parental rights of one parent can be terminated.

²⁴ 40 TEX. ADMIN. CODE §700.1341 provided: ,

Requesting Termination of Parental Rights. The Texas Department of Protective and Regulatory Services does not ask the court to terminate the parental rights of a child's parents until all three of the following conditions are satisfied:

- (1) the child's worker has determined that:
 - (A) the parents are unwilling or unable to make the changes needed to reduce the risk of abuse or neglect;
 - (B) it is neither in the child's best interest nor feasible to transfer conservatorship to relatives; and
 - (C) it is in the child's best interest to:
 - (i) sever the parent-child relationship; and
 - (ii) either place the child for adoption or pursue another permanency plan that entails termination of parental rights;
- (2) one or more of the conditions for terminating parental rights under Chapter 161 of the Texas Family Code are satisfied;
- (3) if the child has two legal parents, it is feasible to terminate the rights of both.

⁴⁰TEX. ADMIN. CODE § 700.1341, *repealed* by 32 Tex. Reg. 552 (2007).

²⁵ The CPS Policy Handbook provides, in relevant part:

If Adoption Is Not the Child's Plan:

If a permanency goal other than adoption is selected for a child, DFPS staff may ask the court to terminate parental rights of one or both of the child's parents, if it is in the child's best interest.

If one of a child's parents, but not the other, is such a danger to the child that all of the parent's legal avenues to the child must be closed, DFPS may ask the court to terminate the parental rights of that parent only, in order to protect the health and safety of the child.

CHILD PROTECTIVE SERVS, TEX. DEP'T OF FAMILY AND PROTECTIVE SERVS, CHILD PROTECTIVE SERVICES HANDBOOK CH. 6233 (2009), *available at* <http://www.dfps.state.tx.us/handbooks/CPS/Menu/MenuCPS6000.asp>

CS 2: Expanding Community Collaborations

When developing future responses to the complex issues at the intersection of domestic violence and child maltreatment, the Task Force recommends that statewide and community level collaborations continue to expand to include other systems. It is recommended that every entity that deals with the intersection of domestic violence and child exposure to domestic violence and child maltreatment should make an active effort to collaborate with one another to accomplish a comprehensive, community-level response. Relevant agencies and entities include CPS, child advocates, domestic violence advocates, hospitals, schools and law enforcement.

- It is important that points of entry into the CPS system such as law enforcement, medical providers, and schools receive training on the dynamics of domestic violence as it relates to child maltreatment. These entities should review the training currently in existence and enhance as needed.
- Law enforcement plays an especially critical role in the efforts to hold batterers' accountable and to help adult victims of domestic violence and their children stay safe. Because law enforcement is also often the reporter, relaying information to CPS about violence in the home, it is critical that efforts be made to continue to work collaboratively, to review and enhance practices addressing the intersection of these issues.
- Organizations working on issues of child maltreatment and domestic violence should continue existing and explore the creation of ongoing cross-system training opportunities both statewide and at the local level.
- Domestic violence professionals and child abuse professionals should work together locally to foster collaborative relationship which enable information sharing.
- All key entities should strive to enhance community awareness about the intersection between domestic violence and child maltreatment.
- Review the possible expansion of statewide collaboration between DFPS and domestic violence advocates (TFVIC) to include frontline service providers and greater statewide representation.

CS 3: Batterer Intervention and Prevention Programs

Batterer Intervention and Prevention Programs (BIPPs) are group sessions for domestic violence offenders in which offenders are held accountable for abusive behavior and taught the fundamentals of leading a nonviolent lifestyle. Although BIPPs work directly with offenders, the underlying goal of these programs is to enhance the safety of adult victims of domestic violence and their children.

There are currently 22 BIPPs funded by the Texas Department of Criminal Justice's Community Justice Assistance Division (CJAD) and more than 70 programs undertaking the accreditation process to become fully accredited programs.

Funded programs are established and work closely with local victim service agencies. TCFV contracts with CJAD to monitor those programs through desk and onsite audits. Probationary Accredited Programs and Accredited Programs are two other categories of programs that have not been monitored as thoroughly as funded BIPPs. In a review of 13 major studies of BIPP programs across the country, all but one found that the programs showed some level of success,²⁶ acknowledging that success in these programs is very difficult to measure.

Currently, funded programs must focus on providing batterers with information about the effects of violence on children and how to play a positive role in their children's lives. BIPPs cover the following topics: non-violent discipline of children; promoting batterers' empathy for victims' experiences and the negative effects their abuse has caused the victims and their families; the effects of domestic violence on children, including discussions and exercises designed to make batterers aware of the impact of their violence towards their partners or children; discussion and exercises designed to help batterers develop empathy for children affected by their violence; and information on child development and realistic and unrealistic expectations of children at various ages.

The Task Force recommends the following:

- Additional resources should be made available to support the use of effective BIPPs when addressing the intersection of child maltreatment and domestic violence.
- Currently TCFV is tasked with monitoring state-funded BIPP programs for compliance, and to provide training and technical assistance to BIPP providers. It is recommended that TCFV incorporate a section in the BIPP training and curriculum that focuses on the effects of domestic violence on children.

²⁶ Based on a TCFV review of the research conducted on BIPPs between 1995 to the present.

CS 4: Current Memorandum of Understanding 2012

The Task Force recommends that:

- Both CPS and family violence service providers thoroughly review, understand, and follow the provisions, policy, and protocols set forth by the MOU to promote clarity among those working with families and consistency in practice to better serve families engaged with both entities.
- When feasible, the capacity and role of liaison be expanded at both family violence service providers and regional CPS offices to enhance the effective implementation of the MOU.
- Guidance and implementation of the MOU incorporate the recommendations and expertise coming out of this report and Task Force.

RECOMMENDATIONS FOR LEGISLATIVE POLICY

LP 1: Protective Orders

Victims of domestic violence have reported difficulties in obtaining assistance in getting protective orders. To address this concern, the Task Force recommends amending Section 81.0075 of the Family Code to make it clear that a prosecuting attorney who assists a victim of domestic violence in obtaining a protective order is not precluded from representing DFPS in a concurrent action (TEX. FAM. CODE ANN. § 81.0075 (Vernon 2008 & Supp. 2011)).

LP 2: Dismissal Orders

Victims of domestic violence have voiced concern that in some CPS cases in which one or more children are removed from the victim and later reunified with that victim, courts often dismiss the CPS lawsuit without amending or issuing appropriate orders on issues such as custody, visitation, and child support that decrease future risk to children from the domestic violence batterer and serve the best interests of children.

To address this concern, it is recommended that the Texas Family Code be amended to include provisions to require judges, before approving the dismissal of a CPS suit, to consider whether any preexisting child support, visitation, or other orders affecting the children would continue in effect after dismissal and whether the dismissal would be in the best interest of all children. Amendments would further require judges to ensure that any final order dismissing a CPS suit includes appropriate orders that are necessary and in the best interest of the children

APPENDIX A: DEFINITIONS

Throughout this report there are terms used by the systems that serve and treat abused and neglected children and adult victims of domestic violence; many times, the definitions of those terms vary across systems. The Task Force has adopted the following definitions in order to ensure understanding of the concepts contained in this report.

Adult Victim of Domestic Violence is a person who is a victim of violence in a, current or former, intimate partner relationship. An adult victim of domestic violence, for the purposes of this report, includes minors in abusive intimate partner relationships.

Child maltreatment means abuse and neglect as defined in Section 261.001 of the Texas Family Code and includes physical, sexual, and emotional abuse, and physical neglect, medical neglect, abandonment, neglectful supervision, and refusal to accept parental responsibility (TEX. FAM. CODE ANN. §§ 261.001(1), (4) (Vernon 2008 & Supp. 2011)).

Domestic violence is a pattern of behavior that is used to gain or maintain power and control over a current or former intimate partner. It can include physical, sexual, emotional, economic or psychological actions or threats of actions that influence another person. Domestic violence can happen to anyone of any race, age, sexual orientation, religion, gender socioeconomic background or education level. It can happen to couples, both adults and minors, who are married, separated, divorced, living together or who are dating. In the Texas Family Code, domestic violence is defined as family violence.²⁷ Intimate partner violence (IPV) is another term often used to describe the dynamics of domestic violence.

Family Violence Service Providers are locally operated, community-based nonprofit organizations that offer quality victim-centered services to adult victims of domestic violence and their children. Services offered vary by community. The Texas Health and Human Services Commission's (HHSC) Family Violence Program funds 69 Shelter Centers and 10 Nonresidential Centers across the state. HHSC-Funded Centers provide comprehensive residential and/or nonresidential services to victims of domestic violence and their children. These comprehensive services include, but are not limited to, 24-hour emergency shelter, crisis hotlines, and supportive services specific to the needs of victims of family violence and their families.

Neglectful Supervision includes acts or omissions by a person that place the child in or failing to remove the child from a situation that a reasonable person would realize requires judgment or actions beyond the child's level of maturity, physical condition, or mental abilities and that results in bodily injury or a substantial risk of immediate harm to the child.

²⁷ TEX. FAM. CODE ANN. § 71.004 (Vernon 2008).

Protective Capacity / Protective Efforts are strengths specifically related to keeping a child safe. They refer to personal *cognitive, behavioral, and emotional characteristics* that are specifically and directly associated with a person being protective of his or her child. These characteristics can be observed, understood and demonstrated as a part of the way a parent/caregiver thinks, feels, and acts that makes her or him protective.

- **Cognitive Protective Capacity** refers to knowledge, understanding and perception contributing to protectiveness. These can be demonstrated when the parent:
 - Articulates a plan to protect the child
 - Is aligned with the child
 - Has adequate knowledge to care for the child
 - Is reality oriented; perceives reality accurately
 - Understands protective role
 - Is self-aware as a caregiver
- **Behavioral Protective Capacity** refers to actions, activities, and performance that result in protection. It is demonstrated when the parent:
 - Is physically able
 - Has a history of protecting others
 - Demonstrates impulse control
 - Sets aside her/his needs in favor of a child
 - Uses resources necessary to meet the child's basic needs
- **Emotional Protective Capacity** refers to feelings, attitudes, and identification with the child and motivation resulting in protective vigilance. Two issues influencing emotional protective capacity: the attachment between the parent and child AND the parent's own emotional strength.

Safety Threats are dynamics, conditions, or situations in a home that, alone or in combination, could indicate or contribute to an existing or developing danger for a child.

APPENDIX B: MEMORANDUM OF UNDERSTANDING

MEMORANDUM OF UNDERSTANDING BETWEEN THE TEXAS DEPARTMENT OF FAMILY AND PROTECTIVE SERVICES, REGION # AND FAMILY VIOLENCE CENTERS

I. PURPOSE

This agreement is between the Texas Department of Family and Protective Services, Region # which includes both the Child Protective Services (CPS) and Adult Protective Services (APS) divisions, collectively referred to herein as DFPS, and the Family Violence Center, hereafter Center. The purpose of this agreement is to establish policies and procedures to facilitate cooperation between DFPS and the Center in the areas described below.

II. TERMS

The terms used in this document are defined in the attached glossary.

III. NONDISCRIMINATION

The Center and DFPS will not discriminate in the provision of services based on race, ethnicity, national origin, sex, sexual orientation, gender identity, disability, age, political beliefs, or religion.

IV. ASSESSMENT

A. The Center agrees to:

1. Screen cases for child abuse or neglect during intake;
2. Screen cases for abuse, neglect or financial exploitation of an adult who is disabled or is age sixty-five or older (collectively, a "covered adult") during intake;
3. Observe physical or behavioral signs for evidence of abuse or neglect of children or covered adults and for evidence of, or information regarding, financial exploitation of covered adults; and
4. Document assessment information obtained pursuant to the rules and regulations of the Health and Human Services Commission (HHSC).

B. DFPS agrees to:

1. Screen APS and CPS cases for the presence of family violence;
2. Observe physical or behavioral signs of family violence; and
3. Document family violence according to Section 40.0521(a) of the Human Resources Code, department rule, and policy.

V. REPORTING AND REFERRALS

Section 261.101 of the Texas Family Code requires persons to report suspected abuse or neglect of children. Section 48.051 of the Human Resources Code requires persons to report suspected abuse, neglect, or exploitation of covered adults.

- A. The Center agrees to assure that abuse, neglect, and exploitation are reported to DFPS in the following situations and in the following manner:
1. For child abuse or neglect,
 - a. If the parent or child indicates that abuse or neglect has occurred, Center staff will:
 - i) Encourage the parent to report the abuse or neglect to DFPS and ensure that this occurs; or
 - ii) Report the abuse or neglect to DFPS if the parent does not.
 - b. Center staff having cause to believe that a child is being, has been, or may be abused or neglected will report the following information, if known, to DFPS as required by Section 261.101 of the Family Code whether or not the parent admits abuse or neglect has occurred:
 - i) The name and address of the child;
 - ii) The name and address of the person responsible for the care, custody, or welfare of the child; and
 - iii) Any other pertinent information concerning the alleged or suspected abuse or neglect.
 2. For abuse, neglect, or exploitation of a covered adult,
 - a. If a covered adult indicates that he or she is in the state of abuse, neglect, or exploitation, Center staff will:
 - i) Encourage the adult to report the abuse, neglect, or exploitation to DFPS and ensure that this occurs; or
 - ii) Report the abuse, neglect, or exploitation to DFPS if the adult does not.
 - b. Center staff having cause to believe that a covered adult is in the state of abuse, neglect, or exploitation shall report the following information, if known, to DFPS as required by Section 48.051 of the Human Resources Code whether or not the covered adult admits that abuse, neglect, or exploitation has occurred:
 - i) The name, age, and address of the covered adult;
 - ii) The name and address of any person responsible for the covered adult's care;
 - iii) The nature and extent of the elderly or disabled person's condition;
 - iv) The basis of the reporter's knowledge; and
 - v) Any other relevant information.
- B. DFPS agrees to ensure that individuals whose safety may be jeopardized due to family violence receive accurate information regarding family violence. If CPS or APS clients indicate that they are experiencing family violence, the caseworker will:
1. Distribute written information, printed in English and Spanish, to the client regarding family violence services available in the community, including shelter and nonresidential services, as required by Section 40.0521(b), Human Resources Code;
 2. Create a safety plan that addresses the needs of the victim(s). The plan will include the basics of a standard family violence safety plan;

3. Contact the Center liaison if the client desires to access the Center's services or if the DFPS caseworker has referred the client to the Center;
4. For any ongoing open DFPS case, address issues relating to family violence in any plan of service for the child, adult victim of family violence, and the perpetrator of family violence;
5. Inform a covered adult that he/she has the right to refuse services offered by APS; and
6. Assist the individual in identifying the least restrictive placement if the covered adult will be removed from an abusive environment and chooses not to go to a family violence Center.

VI. INVESTIGATIONS

When DFPS receives an allegation of abuse or neglect of a child or abuse, neglect, or exploitation of a covered adult who may be residing at the Center, the following procedures are agreed to promote effective investigations within the limits of each agency's legal authority and responsibility.

A. The Center agrees:

1. To verify that the person requesting access to a parent, child, or covered adult is a CPS or APS caseworker. In some cases, the child may be in the legal conservatorship of DFPS even though currently residing at the shelter with a parent or family member; in those cases, the Center may verify the agency's conservatorship before allowing access to the child without the parent or family member's consent.
2. After verification, to ensure that the liaison or designee at the Center responds to the call or request in a timely fashion;
3. That the liaison or designee will notify the parent or covered adult and assist in arranging an interview with the parent and children or covered adult, if residing in the Center; and
4. If the Center made the report, to release to DFPS the information and records that directly relate to the report of suspected abuse, neglect or exploitation; make reasonable attempts to notify victims affected by the disclosure; and take steps necessary to protect the victim's privacy and safety.

B. DFPS agrees to:

1. Contact the liaison or designee at the Center to request an interview with the client and/or children or covered adult;
2. Expect Center staff to verify that the person requesting an interview is a CPS or APS caseworker;
3. Attempt to arrange through the Center liaison or designee an interview with the client and/or children or covered adult at an agreed location; and
4. Interview any Center staff person who has first-hand knowledge of relevant information.

VII. CONFIDENTIALITY

Both DFPS and the Center have strict confidentiality laws and rules governing the release of information. Both DFPS and the Center, consistent with each of their laws and rules, agree to share information necessary to coordinate services and ensure safety. In addition:

- A. *The Center agrees to provide the information directly related to the report of the suspected abuse, neglect, or exploitation incident:*
 - 1. If the Center staff reported the abuse, neglect, or exploitation; or
 - 2. If the parent or covered adult has signed a release.

- B. *DFPS agrees to:*
 - 1. De-identify any information in the DFPS record that reveals or tends to reveal the location of the Center or the client and/or children or covered adult when they are or have been residing at a Center;
 - 2. Only release information as provided by statute and DFPS administrative rules, which include the following:
 - a. Information is not released until an investigation is closed; and
 - b. Information is not released until the record is de-identified as required by statute and DFPS administrative rules, or as ordered by a court (See Texas Family Code, §261.201, Confidentiality and Disclosure of Information; Texas Administrative Code, Title 40, Part 19, Chapter 700, Subchapter B, Confidentiality and Release of Records; Human Resources Code, §48.101, Confidentiality and Disclosure of Information; Agency Exchange of Information; and Texas Administrative Code, Title 40, Part 19, Chapter 705, Subchapter M, Confidentiality and Release of Records).
 - 3. In the event that DFPS must notify the alleged perpetrator of family violence of the report and/or investigation:
 - a. DFPS will make every attempt to provide the victim of family violence with sufficient time to safety plan prior to notifying the alleged perpetrator of family violence; and
 - b. As appropriate, DFPS rules referenced in Section (VII) (B)(2)(b) give DFPS the authority to withhold information when the release of the information would endanger the life or safety of any individual.

VIII. LIAISONS

- A. *The Center agrees to appoint an individual to serve as the Center liaison with DFPS to:*
 - 1. Facilitate an appropriate response time with DFPS to reports of abuse, neglect, or exploitation in special cases;
 - 2. Facilitate coordination between the Center and the CPS or APS caseworker in the development of a family violence safety plan and the DFPS plan of service for adult victims of family violence receiving services at a Center and, when possible, perpetrators of family violence;
 - 3. Assist in resolving conflicts as described in Section IX;
 - 4. Serve as the point of contact to address any general concerns between the Center and DFPS; and

5. When possible, provide referrals to the DFPS liaison or designee for perpetrators of family violence to a Criminal Justice Assistance Division (CJAD) accredited Batterer Intervention and Prevention Program (BIPP).
- B. *DFPS agrees to appoint a CPS liaison and an APS liaison with the Center to:*
1. Facilitate an appropriate response time to reports of abuse, neglect, or exploitation in special cases;
 2. Facilitate coordination between the Center and the CPS or APS caseworker in the development of a family violence safety plan and the DFPS plan of service for adult victims of family violence receiving services at a Center and, when possible, perpetrators of family violence;
 3. Assist in resolving conflicts as described in Section IX;
 4. Serve as the point of contact to address any general concerns between the Center and DFPS; and
 5. When possible, provide referrals for perpetrators of family violence to a Criminal Justice Assistance Division (CJAD) accredited Batterer Intervention and Prevention Program (BIPP).
- C. The Center and DFPS agree to notify each other promptly and in writing if the name or contact information for the Center, CPS, or APS liaison changes.

IX. RESOLUTION OF CONFLICTS BETWEEN DFPS AND THE CENTER

- A. *The Center agrees:*
1. If a conflict between the Center staff and DFPS occurs, the Center staff person will first attempt to resolve the conflict with the APS or CPS caseworker.
 2. If the matter remains unresolved, the Center staff person will contact the designated Center liaison and inform his or her supervisor. The designated Center liaison will then contact the designated DFPS liaison to work toward resolution.
 3. A conflict that is client-specific requires an appropriate written release from the client in order to proceed with resolution efforts.
- B. *DFPS agrees:*
1. If a conflict between DFPS and the Center staff occurs, the APS or CPS caseworker will first attempt to resolve the conflict with the Center staff.
 2. If the matter remains unresolved, the APS or CPS caseworker will contact the designated DFPS liaison and inform his or her supervisor. The designated DFPS liaison will then contact the designated Center liaison to work toward resolution.

X. INTERAGENCY TRAINING

The Center and DFPS both agree that:

- A. Training concerning each agencies' programs is necessary for smooth cooperation between the Center and DFPS; and
- B. Each agency will participate in interagency training at least annually.

XI. GENERAL PROVISIONS APPLICABLE TO BOTH PARTIES

The Center and DFPS both agree that:

- A. This MOU is effective upon signature of the undersigned persons in their official capacities as stated below, and remains in effect until:
 - 1. modified by agreement of DFPS State Office and HHSC after consultation with the Texas Family Violence Interagency Collaborative (TFVIC) and other stakeholders having knowledge of and experience in the problems of family violence as provided by Texas Human Resources Code 51.008;
 - 2. terminated by either party after consultation with DFPS State Office, the Center, and HHSC; or
 - 3. The Center discontinues operations as a Center under contract with HHSC.
- B. Biennial Review - Local/Regional. The local or regional signatory parties (or their successors) will review this MOU every even-numbered year, at a minimum, to enhance compliance. The evaluation may include, but not be limited to, developing recommendations regarding necessary amendments.
- C. Biennial Review - State. State-level representatives of DFPS and HHSC will review the MOU every odd-numbered year, and, in consultation with TFVIC and other stakeholders having knowledge of and experience in the problems of family violence as provided by Texas Human Resources Code 51.008, propose necessary amendments.
- D. Modification or amendments. Modifications or amendments to the MOU may only be made by state-level representatives of DFPS and HHSC, after consultation with TFVIC and other stakeholders having knowledge of and experience in the problems of family violence as provided by Texas Human Resources Code 51.008. No other party may make modifications or amendments.

APPENDIX C: PROCESS FOR RESPONDING TO ALLEGATIONS OF SUSPECTED CHILD ABUSE OR NEGLECT

Statewide Intake

All child abuse and neglect reports in Texas come through DFPS' Statewide Intake (SWI) by phone, by fax/mail, or through the online reporting website 24 hours a day. The SWI intake specialist who receives the initial report gathers as much information from the reporter as necessary to determine whether it appears that a child has been abused or neglected and is still at risk of being abused or neglected; or is at risk of being abused or neglected in the foreseeable future.

SWI is responsible for:

- reviewing and documenting the reporter's concerns;
- determining initial allegations based on information provided by the reporter and following the definitions of abuse and neglect in the Texas Family Code and CPS policy;
- assigning roles to individuals referenced within the report; and
- assessing an initial priority in accordance with the Texas Administrative Code and CPS policy.

The role assigned by Statewide Intake depends upon the information provided by the reporter. Potential role assignments for the caregivers of alleged child victims include:

- alleged perpetrator,
- unknown role, or
- no role.

SWI refers reports for possible investigation to the appropriate CPS regions and forwards all reports to local law enforcement.

Investigations

CPS evaluates the reports forwarded to it by SWI and those meeting specified criteria are assigned to an investigation unit for investigation. The investigator must conduct an investigation of all reports forwarded to the investigation unit, consistent with CPS policies. A joint investigation is conducted with law enforcement on most cases involving serious allegations of physical abuse or sexual abuse.

The CPS investigator must gather information necessary to determine the nature, extent, and cause of the abuse or neglect and the identity of the person or persons responsible for the abuse or neglect and must determine what types of intervention, if any, are necessary for the protection of the child or children in the home. Possible forms of intervention may include some or all of the following:

- requesting that the parents sign a safety plan requiring that certain actions be taken to protect the child,
- requesting an order in aid of investigation;
- requesting a protective order;
- requesting that a court order the perpetrator removed from the home;
- requesting that parents voluntarily place their children with relatives pending the outcome of the investigation*; and
- removing a child from the home and filing a suit affecting the parent child relationship.

Upon completing the investigation, the investigator issues a **finding**, which is a determination of whether child abuse or neglect occurred and the identification, if known, of the person responsible for the abuse or neglect. A disposition is the finding made in the investigation about each individual allegation of abuse and/or neglect which was identified at intake or during the investigation. The finding may be:

- **Reason to Believe (RTB)**- Based upon a preponderance of the evidence, the investigator concludes that the incident meets the definition of child abuse and/or neglect as defined by the Texas Family Code;
- **Ruled Out (RO)**- The investigator determines, based upon all available information, that it is reasonable to conclude that the abuse or neglect has not occurred;
- **Unable to Complete (UTC)**- The investigator cannot draw a conclusion about whether alleged abuse or neglect occurred because the family cannot be located to begin or end the investigation, or is not cooperating with the investigation.
- **Unable to Determine (UTD)**- the investigator concludes that none of the dispositions specified above is appropriate, and there is not a preponderance of the evidence that abuse or neglect occurred, but it is not reasonable to conclude that abuse or neglect has not occurred.

Investigators also assess the safety and risk of future child abuse or neglect occurrence. If no ongoing safety threats or risk is determined, cases are either: **Closed**; or **Closed with a referral** to community services. If safety threats or ongoing risks are determined, cases are either: **Opened for Family Based Safety Services*** - family continues to work with CPS to complete needed services with parents retaining legal custody of the child; or **Opened for Substitute Care** - children are formally removed from the home and DFPS initiates legal action to obtain custody. The family receives services in an attempt to safely return the child home in the future.

***Note:** If the child's immediate safety is in jeopardy, a **Parent Child Safety Placement** may be included in a safety plan. A Parent Child Safety Placement is an out-of-home placement made by the parent that is not court ordered.

APPENDIX D: TASK FORCE MEMBERSHIP

Name	Organization	Role
Jeff Johnson	Office of Community Services HHSC	Presiding Officer
Colleen McCall	Child Protective Services DFPS	DFPS Representative
Donna Bloom	Denton County Friends of the Family	Family Violence Shelter
Sonia Corrales	Houston Area’s Women Center	Family Violence Shelter
Leigh Ann Fry	Noah Project (Abilene)	Family Violence Shelter
Shellie Ryan	SafePlace Austin	Family Violence Shelter
Judge Darlene Byrne	126 th District Court of Travis County	Judge
Jim Sylvester	Travis County Sheriff’s Office	Law Enforcement
Maricarmen Garza	Texas Rio Grande Legal Aid	Legal Assistance Organization
Angelo P. Giardino, MD, Ph. D.	Texas Children’s Health Plan	Licensed Physician
George Holden, Ph.D.	Southern Methodist University	Mental Health Professional
Andrea Sparks	Texas CASA	Statewide Advocacy Organization that serves Abused/Neglected Children in Foster Care
Diana Martinez	TexProtects The Texas Association for the Protection of Children	Statewide Child Abuse Advocacy Organization
Meghan Weller	Children’s Advocacy Centers of Texas	Statewide Child’s Advocacy Center Organization
Aaron Setliff	Statewide Family Violence Advocacy Organization	Texas Council on Family Violence
Torie Camp	Texas Association Against Sexual Assault	Statewide Sexual Assault Advocacy Organization
Jeana Lungwitz	UT Law School Domestic Violence Clinic	The University of Texas School of Law

Task Force to Address the Relationship Between Domestic Violence and Child Abuse and Neglect Report

Name	Organization	Role
Lori Duke	UT Law School Children's Right Clinic	The University of Texas School of Law
Laura Wolf	CASA of Travis County	Task force member
Ruthanne Mefford	Child Advocates of Fort Bend	Task force member
Stacy Lake	CPS Family Focus DFPS	Task force member
Susan Miller	CPS-Investigations DFPS	Task force member
Chan McDermott	Family Violence Program HHSC	Task force member
Chris Kaiser	TAASA	Task force member
Glenn Stockard	Eastland County Crisis Center	Task force member
Krista Del Gallo	Texas Council on Family Violence	Task force member
Andrea Sloan	Texas Advocacy Project	Task force member
Delia Saucedo	Survivor with closed CPS case	Task force member

APPENDIX E: RESOURCES AND REFERENCES

Online Resources

The following are online resources available for practitioners regarding the intersections of child maltreatment, domestic violence and children's exposure to domestic violence.

The Greenbook Initiative: <http://thegreenbook.info/index.htm>

- JANINE ALLO & AMBER PTAK, NAT'L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, IF I KNEW THEN WHAT I KNOW NOW: PROJECT LEADERSHIP IN MULTI-SYSTEM CHANGE EFFORTS TO ADDRESS THE CO-OCCURRENCE OF DOMESTIC VIOLENCE AND CHILD MALTREATMENT - LESSONS LEARNED FROM THE GREENBOOK PROJECT DIRECTORS (2009), *available at* <http://www.ncjfcj.org/resource-library/publications/effective-intervention-domestic-violence-child-maltreatment-cases>
- LEIGH GOODMARK & ANN ROSEWATER, NAT'L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, BRINGING THE GREENBOOK TO LIFE: A RESOURCE GUIDE FOR COMMUNITIES (2008) *available at* <http://www.thegreenbook.info/documents/BJA.pdf>
- Articles, documents, and tools to assist communities with the overlap of domestic violence and child maltreatment are available at: <http://www.thegreenbook.info/read.htm#cw>

Futures Without Violence [formerly the Family Violence Prevention Fund]:

<http://www.futureswithoutviolence.org/>

- Enhancing Services for Children Exposed to Violence: This website provides many resources for practitioners working on these issues:
http://www.futureswithoutviolence.org/section/our_work/child_wellbeing/enhancing_services_for_children
 - U.S. DEPT. OF JUSTICE & U.S. DEPT. OF HEALTH AND HUMAN SERVS., EVIDENCE-BASED PRACTICES FOR CHILDREN EXPOSED TO VIOLENCE: A SELECTION FROM FEDERAL DATABASES (2010), *available at* http://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Complete%20Matrix%20Booklet%2011FEB02.pdf
 - FAMILY VIOLENCE PREVENTION FUND, CONNECT: SUPPORTING CHILDREN EXPOSED TO DOMESTIC VIOLENCE: IN-SERVICE TRAINING FOR RESOURCE FAMILIES, A TRAINER'S GUIDE & TOOLS (2009), *available at* http://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Connect%20Curriculum.pdf
 - REALIZING THE PROMISE OF HOME VISITATION: ADDRESSING DOMESTIC VIOLENCE AND CHILD MALTREATMENT - A GUIDE FOR POLICY MAKERS (2010), *available at* http://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/Realizing%20the%20Promise%20of%20Home%20Visitation%202-10.pdf

- LINDA CHAMBERLAIN & REBECCA LEVENSON, FUTURES WITHOUT VIOLENCE, HEALTHY MOMS, HAPPY BABIES: A TRAIN THE TRAINERS CURRICULUM ON DOMESTIC VIOLENCE, REPRODUCTIVE COERCION AND CHILDREN EXPOSED (2011), *available at* <http://www.futureswithoutviolence.org/userfiles/file/HealthCare/HV%20Trainer's%20Guide%20FINAL%20High%20Res.pdf>
- Tools for Working with Abusive Fathers: This website provides information regarding parenting guidance and accountability for abusive fathers, available at <http://www.futureswithoutviolence.org/content/features/detail/803/>
 - JUAN CARLOS AREÁN, FAMILY VIOLENCE PREVENTION FUND, FATHERING AFTER VIOLENCE: WORKING WITH ABUSIVE FATHERS IN SUPERVISED VISITATION (2007), *available at* http://www.futureswithoutviolence.org/userfiles/file/Children_and_Families/FAV-final.pdf

Safe Start Center: <http://www.safestartcenter.org/innovation/domestic-violence.php>

- SAFE START CENTER, HEALING THE INVISIBLE WOUNDS: CHILDREN'S EXPOSURE TO VIOLENCE- A GUIDE FOR FAMILIES (2009), *available in English and Spanish at* <http://cart.safestartcenter.org/>

Honor Our Voices: Children's Perspectives on Domestic Violence (2011):

<http://www.honourourvoices.org/>

- “[An] online learning module providing you with the opportunity to see domestic violence through the eyes and voices of children. The purpose of this learning module is to create a multi-pronged response to increase the awareness and sensitivity of shelter advocates and other social service providers to the needs of children and suggest promising ways of enhancing services for children exposed to domestic violence.”

Child Welfare Information Gateway: <http://www.childwelfare.gov>

- A resource provided by the U.S. Department of Health and Human Services, Administration for Children and Families. “Child Welfare Information Gateway connects child welfare and related professionals to comprehensive information and resources to help protect children and strengthen families.”
- H. LIEN BRAGG, CALIBER ASSOCIATES & OFFICE ON CHILD ABUSE AND NEGLECT, CHILDREN'S BUREAU, CHILD PROTECTION IN FAMILIES EXPERIENCING DOMESTIC VIOLENCE (2003), *available at* <http://www.childwelfare.gov/pubs/usermanuals/domesticviolence/index.cfm>

National Center for Children Exposed to Domestic Violence: <http://www.nceev.org>

- Provides a series of resource papers regarding children exposed to domestic violence.
- EARLY CHILDHOOD, DOMESTIC VIOLENCE, AND POVERTY: HELPING YOUNG CHILDREN AND THEIR FAMILIES PAPER SERIES (Susan Schechter & Jane Knitzer, eds., University of Iowa School of Social Work 2004). *available at* <http://www.nceev.org/violence/domestic.html#literature>
 - Series introduction: Susan Schechter & Jane Knitzer.
 - Series Paper #1: Betsy McAlister Groves & Kenneth Fox, *Helping Young Children Affected by Domestic Violence: The Role of Pediatric Health Settings*. Series Paper #2: Elena Cohen & Jane Knitzer, *Young Children Living with Domestic Violence: The Role of Early Childhood Programs*.
 - Series Paper #3: Nilofer Ahsan, *Domestic Violence and Family Support Programs: Creating Opportunities to Help Young Children and Their Families*.
 - Series Paper #4: Miriam Berkman & Dean Esserman, *Police in the Lives of Young Children Exposed to Domestic Violence*.
 - Series Paper #5: Abigail Gewirtz & Resma Menakem, *Working with Young Children and Their Families: Recommendations for Domestic Violence Agencies and Batterer Intervention Programs*.
 - Series Paper #6: Abigail Gewirtz & Jeffrey L. Edleson, *Young Children's Exposure to Adult Domestic Violence: Toward a Developmental Risk and Resilience Framework for Research and Intervention*.

VAWNet: <http://www.vawnet.org>

- Online resources regarding violence against women:
- Jeffrey Edleson, *Emerging Responses to Children Exposed to Domestic Violence* (2006), *available at* <http://www.vawnet.org/domestic-violence/intervention.php?filterby=Children> Exposed to Domestic Violence

Minnesota Center Against Violence and Abuse: <http://www.mincava.umn.edu/>

- Online research and best practice resources regarding children's exposure to family violence and child maltreatment when there is family violence.

Annie E Casey Foundation: <http://www.aecf.org>

- A private, charitable organization that fosters public policies, human-service reforms, and community supports that more effectively meet the needs of today's vulnerable children and families. They have worked collaboratively with Futures Without Violence:

Research

The following is a list of recent literature (since 2004) on co-occurring child maltreatment and intimate partner violence prepared by George W. Holden, Ph.D. for the Task Force.

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- Cecilia Casanueva et al., Repeated Reports for Child Maltreatment among Intimate Partner Violence Victims: Findings from the National Survey of Child and Adolescent Well-Being, 33 CHILD ABUSE & NEGLECT 84 (2009).
- Sherry Hamby et al., The Overlap of Witnessing Partner Violence with Child Maltreatment and Other Victimization in a Nationally Representative Survey of Youth, 34 CHILD ABUSE & NEGLECT 734 (2010).
- Andrea L. Hazen et al., Intimate Partner Violence among Female Caregivers of Children Reported for Maltreatment, 28 CHILD ABUSE & NEGLECT 301 (2004).
- Ernest N. Jouriles et al., Child Abuse in the Context of Domestic Violence: Prevalence, Explanations, and Practice Implications, 23 VIOLENCE & VICTIMS 221 (2008).
- Li-Ching Lee et al., Child Maltreatment in Families Experiencing Domestic Violence, 19 VIOLENCE & VICTIMS 573 (2004).
- Renee McDonald et al., Estimating the Number of American Children Living in Partner-Violent Families, 20 J. FAM. PSYCHOL. 137 (2006).
- Lynette M. Renner & Kristen Shook Slack, Intimate Partner Violence and Child Maltreatment: Understanding Intra- and Intergenerational Connections, 30 CHILD ABUSE & NEGLECT 599 (2006).
- Adama J. Zolotor et al., Intimate Partner Violence and Child Maltreatment: Overlapping Risk, 7 BRIEF TREATMENT & CRISIS INTERVENTION 305 (2007).

Conceptual Article:

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Assessment Issues:

- Jeffrey L. Edleson et al., Assessing Child Exposure to Adult Domestic Violence, 29 CHILD. & YOUTH SERVS. REV. 961 (2007).
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- Kathleen J. Sternberg et al., Type of Violence, Age, and Gender Differences in the Effects of Family Violence on Children's Behavior Problems: A Mega-Analysis, 26 DEVELOPMENTAL REV. 89 (2006).
- Sarah E. Evans et al., Exposure to Domestic Violence: A Meta-Analysis of Child and Adolescent Outcomes, 13 AGGRESSION & VIOLENT BEHAV. 131 (2008).
- Todd I. Herrenkohl et al., Intersection of Child Abuse and Children's Exposure to Domestic Violence, 9 TRAUMA, VIOLENCE & ABUSE 84 (2008).

Studies on Children's Adjustment:

- Todd I. Herrnkohl & Roy C. Herrenkohl, Examining the Overlap and Prediction of Multiple Forms of Child Maltreatment, Stressors, and Socioeconomic Status: A Longitudinal Analysis of Youth Outcomes, 22 J. FAM. VIOLENCE 553 (2008).
- Nadine J. Kaslow & Martie P. Thompson, Associations of Child Maltreatment and Intimate Partner Violence with Psychological Adjustment among Low SES, African-American Children, 32 CHILD ABUSE & NEGLECT 888 (2007).
- Timothy O. Ireland & Carolyn A. Smith, Living in Partner-Violent Families: Developmental Links to Antisocial Behavior and Relationship Violence, 38 J. YOUTH & ADOLESCENCE 323 (2009).
- Renee McDonald et al., Children's Adjustment Problems in Families Characterized by Men's Severe Violence toward Women: Does Other Family Violence Matter?, 33 CHILD ABUSE & NEGLECT 94 (2009).
- Cindy Sousa et al., Longitudinal Study on the Effects of Child Abuse and Children's Exposure to Domestic Violence, Parent-Child Attachments, and Antisocial Behavior in Adolescence, 26 J. INTERPERSONAL VIOLENCE 111 (2011).

Other Research Articles:

- Louise Dixon et al., The Co-Occurrence of Child and Intimate Partner Maltreatment in the Family: Characteristics of the Violent Perpetrators, 22 J. FAM. VIOLENCE 675 (2007).
- Kelly J. Kelleher et al., Self-Reported Disciplinary Practices among Women in the Child Welfare System: Association with Domestic Violence Victimization, 32 CHILD ABUSE & NEGLECT 811 (2008).
- Catherine A. Taylor et al., Intimate Partner Violence, Maternal Stress, Nativity, and Risk for Maternal Maltreatment of Young Children, 99 AM. J. PUB. HEALTH 175 (2009).

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