

Child Abuse and Maltreatment/Neglect: Identification and Reporting New York State Mandatory Training

Legal Definitions Related to Child Maltreatment

Child abuse and neglect are defined by both Federal and State laws.

Federal Definitions

The Child Abuse Prevention and Treatment Act (CAPTA) is the Federal legislation that provides minimum standards for the definition of child abuse and neglect that States must incorporate in their statutory definitions (CWIG, 2011).

Under CAPTA, child abuse and neglect means, at a minimum:

- Any recent act or failure to act on the part of a parent or caretaker, which results in death, serious physical or emotional harm, sexual abuse, or exploitation, or
- An act or failure to act which presents an imminent risk of serious harm.

The term sexual abuse includes:

The employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or the rape, and in cases of caretaker or interfamilial relationships, statutory rape, molestation, prostitution or other form of sexual exploitation of children, or incest with children.

New York State Legal Definitions

While the Federal CAPTA law provides for the minimum standards needed for State laws, it is important for professionals to know the specific legal definitions in the States in which one practices.

Social Services Law of New York State define the following:

A **child** is an unemancipated person who is under eighteen years of age.

In New York State a child is also defined as a child residing in a group residential care facility under the jurisdiction of the New York State Office of Children and Family Services (OCFS), Division for Youth (DFY), Office of Mental Health (OMH), Office of Mental Retardation and Developmental Disabilities (OMRDD), or the State Education Department (SED).

A child with a handicapping condition who is 18 years or older (up to age 21) who is defined as an abused child in residential care and who is in residential care in one of the following facilities:

- New York State School for the Blind (Batavia, NY);
- New York State School for the Deaf (Rome, NY);
- A private residential school which has been designed for special education;
- A special act school district; or
- A state supported school for the deaf or blind which has a residential component.

Abuse

Abuse constitutes the most serious harm committed against children. In New York State, the Family Court Act, Section 1012.(e). defines an abused child as one whose parent or other person legally responsible for her/his care:

- Inflicts or allows to be inflicted upon the child, physical injury by other than accidental means;
- Creates or allows to be created a substantial risk of physical injury to such a child by other than accidental means which would be likely to cause death, serious or protracted disfigurement or protracted impairment of physical or emotional health or protracted loss of impairment of the function of any bodily organ;
- Commits or allows to be committed a sex offense against a child;
- Allows, permits, or encourages a child to engage in any act described in article 263 of the penal Law such as obscene sexual performance, sexual conduct, prostitution);
- Commits any of the acts described in section 255.5 of the penal law such as incest

Maltreatment/Neglect

In New York State, the term **maltreatment** is used in Social Services Law and in Family Court Act, the term used is **neglect**.

Maltreatment/Neglect includes a child's physical, mental or emotional impairment, or imminent danger of impairment by the parent's or legal guardian's failure to exercise a minimum degree of care:

- In supplying the child with food, clothing, shelter or education, or medical, dental optometrical or surgical care, though financially able to do so or offered financial or other reasonable means to do so; or
- In providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or a substantial risk thereof, including the use of excessive corporal punishment; or
- By misusing drugs or alcohol to the extent that he or she loses self-control of his/her actions, or
- By any other acts of similarly serious nature requiring the aid of the court; or
- By abandoning the child.

Additionally, a maltreated/neglected child is one who:

- Is less than 18 years of age and is defined as a neglected child by the Family Court Act.
- Has had serious physical injury inflection upon her/him by other than accidental means.
- Is 18 years of age or older, is neglected and resides in one of the special residential care institutions listed above under the definition of the child.

According to the Family court Act Section 1012, a "person legally responsible" includes the child's custodian, guardian, any other person responsible for the child's care, at the relevant time. A custodian may include any person continually or at regular intervals, found in the same household as the child when the conduct of such person causes or contributes to the abuse or neglect of the child.

Recognizing Child Abuse

The first step in helping abused or neglected children is learning to recognize the signs of child abuse and neglect. The presence of a single sign does not prove child abuse is occurring; however, when these signs appear with significant injury, or they occur repeatedly or in combination, the professional must take a closer look at the situation and consider the possibility of child abuse. Special attention should be paid to injuries that are unexplained or are inconsistent with the parent or caretaker's explanation and/or the child's developmental age.

The following are some signs often associated with particular types of child abuse/maltreatment: physical abuse, neglect, sexual abuse, and emotional abuse. It is important to note, however, these types of abuse are more typically found in combination than alone. A physically abused child, for example, is often emotionally abused as well, and a sexually abused child also may be neglected.

The list that follows contains some common indicators of abuse or maltreatment. This list is not all-inclusive, and some abused or maltreated children may not show any of these signs and symptoms.

Physical Abuse

Physical Indicators

Physical abuse is often the most obvious form of abuse. It is any non-accidental injury to a child by a parent or caretaker. The mandated professional should pay close attention to any frequent injuries that are "accidental" or "unexplained", or that are developmentally unlikely or any explanation that seems unlikely.

Physical abuse may present as (NYS-OCFS, 2011; CDC, 2015):

- Frequent and unexplained bruises
 - o On face, lips or mouth;
 - o On torso, back, buttocks, thighs;
 - o May be in various stages of healing;
 - o On several different surface areas of the body;
 - o May appear in distinctive patterns reflecting the shape of the article used such as grab marks or human bite marks, electric cord, belt buckle, etc.;
 - o Fading bruises or other marks noticeable after an absence, weekend or vacation from school or day care.

Child's Behavior - Possible Indicators of Physical Abuse

The following behavioral signs do not necessarily mean that a child is abused or maltreated, but should be considered in light of other indicators. These behavioral indicators are often general, potentially pointing to a problem that may or may not relate to abuse/maltreatment.

- Wary of adult contacts; may shrink at the approach of adults;
- Apprehensive when other children cry;
- May be overly afraid of the parent's reaction to misbehavior;
- Shows sudden changes in behavior or school performance;
- Has not received help for physical or medical problems brought to the parents' attention;
- Has learning problems (or difficulty concentrating) that cannot be attributed to specific physical or psychological causes;
- Is always watchful, vigilant, as though preparing for something bad to happen;
- Lacks adult supervision;
- Is overly compliant, passive, withdrawn or emotionless behavior;
- Destructive, aggressive or disruptive behavior;
- Behavior extremes, such as appearing overly compliant and passive or very demanding and aggressive or withdrawn;
- Comes to school or other activities early, stays late, and does not want to go home;
- Uncomfortable with physical contact;
- Low self esteem;
- Lags in physical, emotional, or intellectual development;
- Seems frightened of the parents and protests or cries when it is time to go home;

- Is either inappropriately adult (parenting other children, for example) or inappropriately infantile (frequently rocking or head-banging, for example);
- Has attempted suicide;
- Reports a lack of attachment to the parent;
- Reports injury by parent;
- Wears long sleeved or similar clothing to hide injuries;
- Seeks affection from any adult.

Parent's Behavior - Possible Indicators of Physical Abuse

- Shows little concern for the child;
- Denies the existence of or blames the child for the child's problems in school or at home;
- Takes an unusual amount of time to obtain medical care for the child;
- Attempts to conceal the child's injury;
- Takes the child to a different healthcare provider or hospital for each injury;
- Offers an inadequate or inappropriate explanation for the child's injury;
- Offers conflicting, unconvincing, or no explanation for the child's injury;
- Disciplines the child too harshly considering the child's age or what s/he has done wrong
- Asks teachers or other caretakers to use harsh physical discipline if the child misbehaves;
- Sees the child as entirely bad, worthless, or burdensome;
- Demands a level of physical or academic performance the child cannot achieve;
- Looks primarily to the child for care, attention, and satisfaction of emotional needs;
- Describes the child as "evil," or in some other very negative way;
- Has a history of abuse as a child;
- Is unduly protective of the child or severely limits the child's contact with other children especially of the opposite sex;
- Is secretive and isolated;
- Is jealous or controlling with family members;
- Constantly blames, belittles, or berates the child;
- Is unconcerned about the child and refuses to consider offers of help for the child's problems;
- Overtly rejects the child;
- Appears to be indifferent to the child;
- Seems apathetic or depressed;
- Behaves irrationally or in a bizarre manner;
- Has poor impulse control;
- Is abusing alcohol or other drugs.

Pediatric Abusive Head Trauma

Shaken Baby Syndrome/Abusive Head Trauma (SBS/AHT) is a term used to describe the constellation of signs and symptoms resulting from violent shaking or shaking and impacting of the head of an infant or small child (NCSBS, nd). The American Academy of Pediatrics (AAP) describes SBS as a subset of AHT with injuries having the potential to result in death or permanent neurologic disability. They further clarify that "The use of broad medical terminology that is inclusive of all mechanisms of injury, including shaking, is required... The American Academy of Pediatrics supports prevention efforts that reduce the frequency of AHT and recognizes the utility of maintaining the use of the term "shaken baby syndrome" for prevention efforts." (NCSBS, nd).

Shaken infant syndrome has been the most widely used and recognized term, although shaking alone may not account for all injuries. In 2009, the American Academy of Pediatrics, in a policy statement (Christian, et al., 2009), stated,

" Shaken baby syndrome is a term often used by physicians and the public to describe abusive head trauma inflicted on infants and young children. Although the term is well known and has been used for a

number of decades, advances in the understanding of the mechanisms and clinical spectrum of injury associated with abusive head trauma compel us to modify our terminology to keep pace with our understanding of pathologic mechanisms. Although shaking an infant has the potential to cause neurologic injury, blunt impact or a combination of shaking and blunt impact cause injury as well. Spinal cord injury and secondary hypoxic ischemic injury can contribute to poor outcomes of victims. The use of broad medical terminology that is inclusive of all mechanisms of injury, including shaking, is required. The American Academy of Pediatrics recommends that pediatricians develop skills in the recognition of signs and symptoms of abusive head injury, including those caused by both shaking and blunt impact, consult with pediatric subspecialists when necessary, and embrace a less mechanistic term, **abusive head trauma** (AHT), when describing an inflicted injury to the head and its contents.”

According to the CDC (2012a), pediatric abusive head trauma is defined as an injury to the skull or intracranial contents of an infant or young child (< 5 years of age) due to inflicted blunt impact and/or violent shaking.

According to the National Center on Shaken Baby Syndrome (NCSBS, nd), approximately 1,300 U.S. children experience severe or fatal head trauma from child abuse every year. Abusive head injuries are the most common cause of death in child abuse (Case & NCSBS, nd). Estimates of the incidence of abusive head trauma vary, but most range from 20 to 30 cases per 100,000 children under 1 year of age (CDC, 2015a).

Approximately 20% of cases of abusive head trauma are fatal in the first few days after injury and the majority of the survivors are left with handicaps ranging from mild - learning disorders, behavioral changes - to moderate and severe, such as profound mental and developmental retardation, paralysis, blindness, inability to eat or existence in a permanent vegetative state (NCSBS, nd). Dias, et al. (2005) reported that 13 to 30% of pediatric abusive head trauma cases result in mortality and significant neurologic impairments occur in at least one half of the survivors. The NCSBS (nd) reported that more than 80% of victims of shaken baby syndrome have lifetime impairments and 25% die from their injuries.

Medical costs associated with initial and long-term care for children who are victims of AHT can range from \$300,000 to more than \$1,000,000 (NCSBS, nd). Additional costs associated with loss of societal productivity and occupational revenue and with prosecution and incarceration of a perpetrator are unknown (Dias, et al., 2005). The total societal economic impact is estimated to be 16.8 billion dollars (NCSBS, nd).

Parents and their partners are responsible for nearly three fourths of cases, with fathers or stepfathers (37% of cases) and boyfriends (21% of cases) accounting for the majority of cases and mothers accounting for an additional 13%. The average age of the victims is 5 to 9 months, and almost all are less than 36 months of age (Dias, et al., 2005; CDC, nd).

The incidence rate decreases with increasing age; those 1 year of age or younger have a substantially higher incidence. The peak incidence and rapid decrease with age are thought to be related to episodes of prolonged, inconsolable, and unpredictable crying that are developmentally normal for infants (CDC, 2015a). Episodes of crying that can trigger shaking behavior among parents and caregivers are known to increase in the first month after birth, peak in the second month, and decrease thereafter. While the majority of victims are under 2 years of age and the peak incidence is typically found from 2-3 months, injuries consistent with abusive head trauma have been found in children as old as 5 years of age (CDC, 2015a).

Serious traumatic brain injury in young children is largely the result of abuse and results in significant morbidity and mortality. Among United States children, abuse is the third leading cause of all head injuries, after falls and motor vehicle crashes. For children in the first year of life, the majority of serious head injuries result from abuse. Estimates of the incidence of abusive head trauma vary, but most range from 20 to 30 cases per 100,000 children under 1 year of age.

Risk Factors Contributing to Child Abuse and Maltreatment

There are many risk factors for how child abuse occurs. These include risk factors within the child, within the parent and in society in general. According to national report *Child Maltreatment 2013*, poverty and low socio-economic status have been identified in research as a risk factor for child maltreatment (USDHHS-ACFY, 2015). Domestic violence or intimate partner violence within the family also is a risk factor of child maltreatment. When anger is used as a means of power and control, all members of the family are at risk.

Child Risk Factors

- Premature birth,
- Birth anomalies,
- Low birth weight,
- Exposure to toxins in utero
- Temperament: difficult or slow to warm up
- Physical/cognitive/emotional disability, chronic or serious illness
- Childhood trauma
- Anti-social peer group
- Age
- Child aggression, behavior problems, attention deficits

Parental/Family Risk Factors

- Poverty
- Parental substance abuse
- Parental impulsivity
- Parental low self-esteem
- A lack of social support for the family.
- Parental immaturity
- Parents' unrealistic expectations
- Unmet emotional needs
- The stress of caring for children
- Economic crisis
- Domestic/intimate partner violence
- Lack of parenting knowledge/skills
- Lack of communication skills
- Inaccurate knowledge and expectations about child development
- Difficulty in managing relationships
- Depression, anxiety or other mental health problems
- Personality Factors
- External locus of control
- Low tolerance for frustration
- Feelings of insecurity
- Lack of trust
- Insecure attachment with own parents
- Childhood history of abuse
- Family structure - single parent with lack of support, high number of children in household
- Social isolation, lack of support
- Separation/divorce, especially high conflict divorce
- High general stress level
- Poor parent-child interaction, negative attitudes and attributions about child's behavior

Community Risk Factors

- Low socioeconomic status
- Stressful life events
- Social isolation/lack of social support
- Dangerous/violent neighborhood
- Community violence
- Poverty
- Lack of access to medical care, health insurance, adequate child care, and social services

Societal Risk Factors

- Homelessness
- Exposure to racism/discrimination