

Bolstering Allegations Without Revealing Reporters

All reporters of child abuse and neglect are entitled to confidentiality. When CPS asks a court for an Order in Aid of Investigation, however, the agency must use all available evidence to demonstrate that there is good cause for the court to order that the investigation proceed.

One way to establish the necessity of an investigation is by showing that the initial report of abuse or neglect is reliable. The following factors will generally boost reliability of the information in an initial report:

- Is the reporter reporting as a professional?
- Are there details (dates, times, descriptions) in the allegation, as opposed to vague conclusions?
- If the reporter is anonymous, how much corroboration of the information is available?

The following examples illustrate these principles.

MODEL REPORTER DESCRIPTIONS

The reporter, a medical professional whose identity was provided but is confidential, indicated that the child has a ruptured spleen, an injury inconsistent with the report that she fell from a highchair. A medical professional is likely the only source who can definitively diagnose a ruptured spleen, or determine whether such injury could happen in a fall from a highchair. Consequently, this reporter is an extremely reliable source, even with little information and no further corroboration.

The reporter, a non-professional whose identity was provided but is confidential, said he/she observed welts and bruises in the shape of a belt covering the 4 year old girl's legs when the child was on the monkey bars at Lamar City Park on Monday, June 22nd. The reporter lives in the same neighborhood as the child's family.

This reporter does not have the added credibility of a professional, but has provided specific information as to the nature of the injury, how, when and where he/she observed the injury. The fact that the reporter lives in the same neighborhood also explains how he or she could identify the child and/or family involved. In this case, the specificity and facts increase the reporter's credibility.

The reporter, a non-professional anonymous reporter, said she has heard a child's screams coming from apartment # 23 at the Amber Apartment complex off and on every day for the last five days and on one occasion, a child's voice said, "I'm going to tell my Mommy if you don't stop," followed by more crying.

This anonymous report must be corroborated. Not only is the reporter anonymous but the person could only hear, and not see anything that was reported. The incident could involve nothing more than two children fighting. Possible corroboration could be :

When I interviewed Gus Wakefield, the landlord at the Amber Apartments, he confirmed that he rented the apartment to a woman with a one child, a nine year old girl, about three weeks earlier. Mr. Wakefield is an on site manager but has not seen the child or the mother since the day the tenants moved in. He has seen a man who drives a white sedan entering and leaving the apartment a number of times. This information, with the caseworker's report that a man answering the door refused to identify himself, would not let the caseworker enter to check on the child and would not reveal where the child's mother or the child is, should be sufficient to obtain a court order in aid of investigation.

TRAPS TO AVOID

The two main problems that arise when caseworkers write an affidavit to show the need for a Court Order in Aid of Investigation are:

- Insufficient facts showing the reliability of the information; and
- Accidentally disclosing the name of the reporter.

Obviously the caseworker has no control over the source and contents of the allegation. Statewide intake makes every effort to extract as much essential information as possible, but the investigations worker will at times have to work with very sparse and vague allegations. When a caseworker encounters an investigation that requires asking a court to intervene, the first step is to assess the evidence and determine what, if any, additional work needs to be done to either corroborate or further explain the facts that make it necessary to get a court order. This may take time, but going to court without sufficient evidence will only delay matters more. If circumstances are genuinely urgent and danger is imminent, the ex parte removal option may be appropriate.

The second difficult issue is how to provide the court with necessary information without releasing confidential information, the identity of the reporter. Many times a person reviewing an allegation, even with the name redacted or stricken, can deduce who the reporter was, based on the surrounding facts. That is largely unavoidable, because only the person's identity is confidential and the surrounding facts cannot be legally withheld. For caseworkers drafting court reports and affidavits, however, the challenge is to be constantly aware that identifying a named person as the reporter is strictly prohibited.

Revealing Reporters

The following examples show references that impermissibly reveal the reporter:

James Laramie, the family therapist who reported the outcry, denied seeing any behavioral changes in Lorna consistent with sexual abuse.

When I interviewed Sally Minton, Miranda's first grade teacher, she said she called CPS when Jamie Lynn told her that her Daddy left her duct taped in chair all night because she left her bicycle on the sidewalk.

The reporter, a family member who lives next door and has seen these children almost daily for at least three years, believes the father may have a substance abuse problem.

Reporter vs. Interview Subject

A caseworker may have both an intake allegation from the reporter and, later, the contents of an interview with the same person. This is a tricky, but common dilemma that requires careful attention to the difference between the initial report of an allegation and any interview conducted as part of the investigation.

If Sam Overby reported that his niece Abigail showed up with a black eye at his apartment and said her father hit her, the intake report should read something like: *A non-professional reporter said that 9 year old Abigail Gibson had a black eye, which she said happened when her father hit her.*

When the caseworker then interviews Abigail's uncle, that narrative might read: *Sam Overby, Abigail's uncle, said he has never seen Abigail's father hit her or shove her, but he did see her with a black eye recently. He believes that her father may have a substance abuse problem, as he has seen Charlie Gibson slurring his words, walking unsteadily and drinking beer at 7 a.m..*