Reporting of Maltreatment

Minnesota Statute
§626.556
Mandated Reporter Training
Henry Kempe’s Identification of the “Battered Child Syndrome” (1962) led to the federal Child Abuse Protection and Treatment Act

Child Abuse and Prevention Treatment Act (CAPTA 1974)

Minnesota Reporting of Maltreatment To Minors Act (§626.556)
Now is the time for all good men
Special Laws Affecting American Indians

- Federal Indian Child Welfare Act (ICWA) 1978
  - Affirms tribal authority:
    - Tribes can intervene in state courts and take jurisdiction
    - Makes tribal intervention a preference
    - Sets in place many other procedural protections and standards

- ICWA origins are rooted in mistrust of government
  - The boarding home experience


- Minnesota Indian Family Preservation Act
Minnesota Child Protection System

- 87 Counties and 11 Tribes

- County Administered (and some Tribes)

- State Supervised
  - Recommended State-wide Guidelines (www.mn.dhs.state.mn.us)
2006 Response to Reports of Maltreatment

**Reporter**
(54,000 reports to CPS)

**Screener**
(19,000 assigned)

- **Investigative Response**
  (55%)

- **Family Assessment**
  (54%)

- **Screened Out**
  (35,000 or 2/3)
Minnesota’s Response Structure

Two Response Paths

- Investigations
- Family Assessments
- Why the need for two response types?
Demographics
Types of Maltreatment & Percentage of All Reports (2006)

- Neglect – 64.7%
- Physical Abuse – 32.2%
- Sexual Abuse – 10.2%
- Mental injury - <.05%
Reporters of Alleged Child Maltreatment, 2006

- School personnel, 22.3%
- Social worker/Counselor, 14.4%
- Law enforcement/Courts, 26.9%
- Parent or relative in home, 3.5%
- Parent or relative out of home, 7.3%
- Parent or relative in home, 3.5%
- Anonymous, 2.7%
- Other, 7.4%
- Friend/Aquaintance/Neighbor, 4.9%
- Non-relative caregiver, 1.6%
- Health practitioner, 8.9%
Module 2: Poverty, Neglect, and Racial Disparities

- There is a strong correlation between incidence of maltreatment and poverty:
  - Poor children are 44 times more likely to experience neglect. (The Third National Incident Study of Child Abuse and Neglect, 1996 (NIS-III))

- However, it is important to note that most poor families do not maltreat their children. (NIS III)

- Who are the poor in US?

<table>
<thead>
<tr>
<th></th>
<th>Percent of population</th>
<th>% in Poverty (2006)</th>
<th>Total number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Non-Hispanic Whites</td>
<td>74.7</td>
<td>8.6</td>
<td>19.3mil</td>
</tr>
<tr>
<td>African American</td>
<td>12.1</td>
<td>24.7</td>
<td>8.9</td>
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<tr>
<td>American Indian</td>
<td>.8</td>
<td>23.2</td>
<td>.6</td>
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<tr>
<td>Asian</td>
<td>4.3</td>
<td>9.8</td>
<td>1.3</td>
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<tr>
<td>Hispanics</td>
<td>14.5</td>
<td>21.9</td>
<td>9.5</td>
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</tbody>
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Numerous studies identify many of the stressors associated with poverty

- Unemployment
- Housing instability/frequent moves
- Household crowding, challenging neighborhoods
- Limited access to health care
- Environmental hazards (lead paint, wiring, insecure windows, etc.)
- Less extended family financial resources to draw on
- Problems with access to daycare
- Increased transportation issues
- Less education, less opportunity, less hope
Minnesota Policy
Poverty

- Needs of Public Policy & Practices
  - Must be sensitive to the conditions of poverty
  - The Child Welfare League of America’s definition of neglect excludes poverty:
    - Neglect is the failure of a parent or guardian to provide age appropriate care “for reasons not due solely to poverty”

- Minnesota Law
  - Defines Neglect as the failure to provide food, clothing, shelter, medical care and education “when reasonably able to do so”
  - Statutes also refer to family assessment as a preferred response when safe

- Minnesota Policy
  - “When it is determined that reports of neglect are based solely on conditions due to poverty, counties work with the parent(s) to meet the protective needs of the child but a finding of maltreatment should not be made.” (MN. State Wide Guidelines)
Disproportional Racial Representation

- African Americans and American Indian children are disproportionately represented in the national and MN. CPS system:
  - In MN., African American and American Indian children more than 6 times more likely to be reported for maltreatment than Caucasians (2006)
  - Nationally, African American Children comprised only 15% of the population (2000 Census) but represented 45% of the children in substitute care. Conversely, Caucasian children comprise 60% of the child population and 36% of children in out of home care
  - In Minnesota the disparities are even greater. African American and American Indian Children make up only 6.6% of the child population but represent 32.3% of the children in foster care (2006)
  - MN. Ranks #4 nationally in a state by state comparison of disproportional numbers of African American Children placed in foster care
However -
Research Shows No Race Differences in Rates of Maltreatment

• Three National Incident Studies, found no real race differences in incidence of maltreatment when factors of income where accounted for. (NIS Studies 1981, 1986, 1996)
Insight into Disparities

- Beyond the correlation with poverty, what other variables does research identify for further study?

- The NIS III findings suggest that some racial groups receive differential attention somewhere in the process of community referral, screening, and investigation.

- Factors deserving further research include:
  - Over exposure of poor to sentinels of reporting
  - Under reporting of Caucasian maltreatment
  - Potential for bias in reporting
Potential for bias continued

(see curriculum on “notes” portion of this slide)
“Bias or cultural misunderstandings and distrust between child welfare decision makers and the families they serve are also viewed (beyond the correlation with poverty) as contributing to children’s removal from their homes into foster care.”

(GAO report to Committee on Ways and Means, House of Representatives, African American Children in Foster Care, July, 2007.)
Research Implications

- The potential for bias underscores the importance of being aware of our own racial, cultural, and class values that influence our decision making.

- These values are the lenses through which we view the world and form our judgments.

- Informing ourselves about other cultural practices may help us see protective capacities in families that were previously not apparent.

- Bottom line: Neither race nor income should be a factor when deciding to make a report of maltreatment - child safety issues alone should guide our decision making.
MODULE 4
Mandated Reporting

Who
What
Where
When
Why
Who are mandated reporters?
MN S. 626.556, subd. 3, (1)-(2)

- Healing Arts
- Social Services
- Hospital Admin
- Mental Health Services
- Child Care
- Education
- Law Enforcement, probation, or correctional services or supervision
- Clergy
What and When to Report

- What – Mandated reporters must report knowledge of physical abuse, sexual abuse or neglect to a child (knows of an incident) or has reason to believe (suspects) that a child has been abused or neglected within the preceding three years.

- When – A report must be made immediately (orally within 24 hrs.) and followed up with a written report within 72 hrs.
Where To Report

- Reporting the abuse or neglect of a child by a parent, guardian, or individual functioning within the family unit can be made to the local child welfare agency or to law enforcement. These two agencies cross report.

  - Only local law enforcement can remove a child on an emergency basis when there is imminent risk of serious harm. These reports should be directed to law enforcement immediately 24/7.

- Reporting child maltreatment which occurs outside of the family unit.

  - Maltreatment that occurs in licensed facilities (schools, hospitals, foster care settings, day care settings, etc.) are reported to the licensing agency.

- Confused – Call local CPS and they will direct you.
Why Report?

- Why Report?
  - To prevent harm to a child
  - To assist families in receiving needed services
  - To disrupt or terminate a cycle of maltreatment
  - Besides, It is the law!

- What information is necessary to report?
  - Name of offender if known
  - Nature and extent of the maltreatment
  - Name and address of the reporter (for mandated reporters)
Failure to Report: Penalties & Protections

- Failure by a mandated reporter to report:
  - Generally this is a misdemeanor offense

- Reporter protections:
  - Name of reporter is confidential (unless disclosed as part of court process)
  - Reporter is immune from civil or criminal liability (when done in good faith)
  - Employee and other retaliation prohibited
MODULE 5
Physical Abuse

- Physical Abuse Includes 4 categories:
  - Physical Injury
  - Mental injury
  - Dangerous Actions
  - Threatened Harm
Physical Abuse

- Physical abuse defined:
  - Any non-accidental physical injury, mental harm, or threatened injury, inflicted by a person responsible for the child’s care
  - Or any physical or mental injury that can not be reasonably explained by the child’s history of injuries
  - Or, unauthorized aversive or deprivation procedures

- What is considered a physical injury?
  - Physical injury includes, but is not limited to:
    - Marks, bruises, abrasions, swelling, as well as burns, broken bones, internal injuries
Physical Abuse as a Mental Injury

- An inflicted injury to the psychological capacity or emotional stability of a child
  - EX: Systematic attacks on self esteem, rejecting, isolating, terrorizing, corrupting...

- As evidenced by an observable and substantial impairment in the child’s ability to function as normal
  - EX: sleep deprivation, inability to focus in school, extreme anxiety, depression, suicidal thoughts or actions, developmental delays, ticks, hair loss...

- Usually diagnosed by a professional
  - Less than 1% of all accepted referrals are due to mental injury
Physical Abuse as a Dangerous Action

- Actions done in anger or without regard for safety include, but are not limited to:
  - Throwing, kicking a child
  - Striking a child with a closed fist
  - Shaking a child under age 3
  - Striking a child under age 1 on face or head
  - Threatening a child with a weapon
  - Unreasonable interference with a child’s breathing (choking, covering mouth, etc.)
  - Poisoning or chemical restraints
  - Unreasonable physical confinement or restraint including:
    - Caging, tying, chaining, etc.
Physical Abuse as Threatened Harm

- A statement, overt act, condition, or status that represents a substantial risk of physical or sexual abuse or mental injury

  - Includes, but not limited to:
    - Exposure to dangerous persons
    - Threats of violence
    - Threats of sexual abuse
What is not Physical Abuse?

- Reasonable and moderate physical discipline, which does not result in an injury
- Reasonable restraint in schools
- Accidental injuries
  - However, unintentional injuries resulting from physical discipline are considered physical abuse
MODULE 6
Sexual Abuse

- First thru Fifth Degree Criminal Sexual Conduct (CSC):
  - CSC consists of penetration or sexual contact and various aggravating circumstances (age of victim, degrees of force, use of weapons, threats to life or to bodily harm, etc.)

- Sexual Abuse also includes:
  - Violation of the prostitution laws involving a minor
  - Involving a child in a sexual performance (photographing, filming, live performances)
  - Threatened sexual abuse
    - Interpreted to include unsupervised contact with untreated sex offenders
Sexual Abuse

Statewide Guidelines

- Other actions that may meet the definition of Sexual Abuse
  - Soliciting, asking, commanding, attempting to persuade by telephone, letter, or computerized/electronic means
  - Unexplained injuries to genitals suspicious for SA
  - Purposefully exposing to sexual activity for sexual gratification
  - Children with sexually transmitted diseases
MODULE 7

Neglect

- The failure by the person responsible for the child’s care to provide basic care when reasonable able to do so:
  - food
  - clothing
  - shelter
  - medical care or other necessary care
  - education
  - Supervision

- Neglect also includes:
  - The failure to protect a child from conditions or actions that seriously endanger the child
  - Prenatal exposure to certain substances
Neglect: Food & Clothing

- Failure to provide necessities
  - Food – This means the lack of necessary food which results in conditions such as, but not limited to:
    - Malnutrition, developmental lags, a pattern of weakness, inability to concentrate in school or to sleep, low weight and height not due to organic causes and significantly out of the norm
    - A growth delay, which may be referred to as failure to thrive, as diagnosed by a physician

- Clothing:
  - Failure to provide clothing that is necessary for the weather or other environmental conditions, and the failure to provide this clothing would seriously endanger the child
Neglect: Education

- Education:
  - Unexcused absences on 7 school days for a child in elementary school
  - Or unexcused absences of one or more school periods on 7 school days if the child is in middle school, junior high, or high school
  - Referrals for educational neglect come from schools
Neglect: Shelter

- Failure to provide necessary shelter means dangerous living conditions, which fail to provide protection from weather conditions, or from environmental hazards in the dwelling, or on the property, that have the potential for injury, illness, and/or disease which fall under the control of the parents.

- Failure to provide heat and sanitation that poses a safety risk

- Gas leaks, exposed electrical wiring, open wells without covers, discarded refrigerators with doors, blocked exists due to extreme clutter, guns not stored safely, dangerous drugs, controlled substances, or household poisons that are accessible to children

- Methamphetamine related environmental hazards
  - This includes manufacturing, storing of precursors or waste products
Neglect: Medical Care

- Refusal, failure to seek, failure to obtain, or the failure to follow through with necessary medical care if there is serious risk to a child, as documented by reports from health care professionals.

- Failure to provide medical care includes Inorganic Failure-to-Thrive that has been diagnosed by a physician and is due to parent neglect.

- Medical neglect does not include a parent’s choice to solely rely on spiritual means or prayer.
Neglect: Supervision

- This means the failure to provide for necessary supervision or child care arrangements.

- Examples of not providing adequately for a child’s supervision and safety includes, but is not limited to:
  - Failing to provide supervision of children in bathtubs, near swimming pools, lakes, ponds, holding tanks, machinery, busy streets, and alleys
  - Selecting an unreliable person to provide child care
Neglect: Supervision

- Ages and allowable length of time for a child to be left alone:
  - Children age 7 and under should not be left alone for any period of time
  - 8-10 up to 3 hours
  - 11-13 up to 12 hours
  - 14-15 up to 24 hrs
  - 16-17 over 24 hrs with a plan in place concerning how to respond to an emergency

- Baby sitting:
  - Children under age 11 should not provide child care
  - Children ages 11-17 who are placed in a childcare role are subject to the same time restrictions of being left alone as listed above

- Modifying factors (age, vulnerability, maturity, disability, etc.)
Prenatal Exposure to Controlled Substances & Alcohol

- Prenatal exposure to controlled substances becomes neglect after the birth of the child.

- It is diagnosed by:
  - Toxicology screens done on the mother at the time of birth
  - Withdrawal symptoms at delivery
  - Developmental delays detected in the first year of life which are due to pre-natal exposure.

- For this statute, controlled substances means: cocaine, heroin, phencyclidine (PCP), methamphetamines, amphetamines, marijuana, and alcohol.

- Mandated reporters must also report a pregnant woman’s use of these controlled substances prior to birth, and must report alcohol use that is habitual or excessive.
When is Neglect, Neglect?

- Neglect is the most subjective and most difficult category to define.

- MN. Statutes and the Screening Guidelines offer help to mandated reporters and to CPS screeners to help with decision making.
  - Descriptive language such as “seriously endanger,” “serious risk,” “significant health or safety hazard” offers modifiers. This sets the bar high for government to become involved in family life.
  
  - The guidelines also offer examples to help guide reporters and decision makers.

  - The use of other modifying factors (age, vulnerability, mental and physical ability) also help identify when the neglect threshold is met.
Remember

- Not all reports receive a response (about 2/3’s of reports are screened out)

- Be aware of your personal cultural and class values when making a decision to report

- Neither race nor income should be a factor when deciding to make a report of maltreatment. Child safety issues alone should guide our decision making

- When in doubt, and there is a significant safety concern, call the local child welfare agency who will offer guidance
What Happens After Reporting?

Screener

Investigative (Immediate/ 45 days)
- Traditional Case Management 12-15 mos.
- Close

Family Assessment (Five days/ 45 days)
- Family Assessment Case Management 3-6mos.
- Close

Screen Out

• Notices to reporters at the point of screening and later regarding disposition
For Further Information

- Contact your local county child protection agency

- See DHS Web site
  www.dhs.state.mn.us