



NC Department of Health and Human Services

**Mandatory Reporting of Child Abuse and Neglect 2020-2022 Webinar**

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September 1, 2020

1

### Objectives

**By the end of the webinar, participants will be able to:**

- Explain consent and confidentiality as it relates to minors that seek services in your agency
- Explain the mandatory child abuse reporting process in North Carolina
- Identify at least one local resource for providers

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2

### Mandatory Child Abuse Reporting

**This webinar will address:**

- State mandated child abuse reporting laws
- Information on whether child molestation, sexual abuse, rape, incest, intimate partner violence, and human trafficking are reportable as child abuse in our state

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3

## Mandatory Reports to Law Enforcement

### **This webinar will also address:**

- North Carolina laws that require reports to law enforcement when children:
  - Are victims of violent offenses, sexual offenses, or misdemeanor child abuse
  - Suffer serious physical injury or recurrent illness from nonaccidental trauma
  - Have disappeared and may be in danger

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4

## Setting the Stage with Clients: Consent and Confidentiality

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10

## Title X Consent Rule

- Regulations require that Title X-funded services be made available to all adolescents, regardless of age.

- Minors of any age may consent to services for themselves when those services are funded in full or in part by Title X.
- Title X service provision cannot be conditional on parental consent or notification, even if state law otherwise requires parental consent or notice.

**Source:** Gudeman and Madge, The Federal Title X Family Planning Program: Privacy and Access Rules for Adolescents. National Center for Youth Law, 2011.

1

## NC Specific Consent Rule

**§ 90-21.5. Minor's consent sufficient for certain medical health services.**

(a) Any minor may give effective consent to a physician licensed to practice medicine in North Carolina for medical health services for the prevention, diagnosis and treatment of (i) venereal disease and other diseases reportable under G.S. 130A-135, (ii) pregnancy, (iii) abuse of controlled substances or alcohol, and (iv) emotional disturbance. This section does not authorize the inducing of an abortion, performance of a sterilization operation, or admission to a 24-hour facility licensed under Article 2 of Chapter 122C of the General Statutes except as provided in G.S. 122C-222. This section does not prohibit the admission of a minor to a treatment facility upon his own written application in an emergency situation as authorized by G.S. 122C-222.

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7

7

## Title X Confidentiality Rule

- **Client information must be kept confidential. Release of client information is prohibited, unless:**
  - Client provides written authorization
  - Release of information is necessary to provide services
    - i.e., the provider determines a medical condition is emergent or life threatening.
  - Release of information is required by law
    - Mandatory reporting "requires" the release of information when reporting is indicated
  - If youth want to involve others in their care (parent, guardian, partner, etc.), they must provide permission.

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3

8

## Communication Consent, Confidentiality, and Its Limitations

- Start all adolescent visits with an explanation of:
  - Title X minor consent and the services it includes
  - Confidentiality and its limitations

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9

9

# North Carolina Child Abuse Reporting Laws and Process

## Department of Social Services (DSS)

10

# Who Must Report

11

## Who Must Report

12

## Who Must Report (continued)

**In North Carolina, mandated reporting to DSS is an individual duty.**

An agency may establish an internal agency process to facilitate reporting, but individuals remain responsible for assuring reports are made.

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1

13

## What Must Be Reported

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1

14

## What Must Be Reported

**North Carolina requires a report to DSS when a person or institution has cause to suspect that a child under the age of 18 is**

- An abused juvenile,
- A neglected juvenile, or
- A dependent juvenile,

**as those terms are defined in state law.**

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1

15

## What Must Be Reported (continued)

An **abused juvenile** is a person under age 18:

- **Who is a victim of human trafficking, or**
- **Whose parent, guardian, custodian, or caretaker does any of the following:**
  - Inflicts non-accidental serious physical injury upon the child, or allows it to be inflicted
  - Creates a substantial risk of non-accidental serious physical injury to the child, or allows the risk to be created
  - Uses cruel or grossly inappropriate behavior modification methods on the child, or allows such methods to be used
  - Creates or allows to be created serious emotional damage as evidenced by severe anxiety, depression, withdrawal, or aggression against self or others
  - Commits, permits, or encourages rape or other sexual crimes against the child
  - Encourages, directs, or approves of delinquent acts involving moral turpitude
  - Engages in or permits another to use the child in human trafficking, involuntary servitude, or sexual servitude

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16

16

## Examples: Abuse

- The parent of a 4-year-old hit the child with a hairbrush, causing deep bruises that persisted for more than a week.
- A parent's disciplinary techniques included requiring a child to sleep outside, binding the child to a tree, and forcing the child to pray at gunpoint.
- An infant had multiple rib fractures that parents could not explain.
- The parent of an adolescent girl fondled her breasts and genitals.
- An older sibling repeatedly sexually abused a younger sibling. Parents were aware this was occurring and took no action.
- A parent drove while intoxicated with the child in the car.

1

17

## What Must Be Reported (continued)

A **neglected juvenile** is a child under age 18:

- Who is a victim of human trafficking, or
- Whose parent, guardian, custodian or caretaker does not provide proper care, supervision, or discipline to the child, or
- Who is not provided necessary medical or remedial care, or
- Who lives in an environment injurious to the child's welfare, or
- Has been abandoned, or
- Whose custody has been unlawfully transferred in violation of G.S. 14-321.2, or
- Who has been placed for care or adoption in violation of law.

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18

18

## Examples: Neglect

- A parent's corporal punishment left injuries that did not rise to the level of "serious physical injury" required for an abuse determination, but the child was determined to be neglected.
- Children of a parent with an opiate dependency were locked out of their home for long periods, frequently missed school, and did not receive necessary medical care.
- A caretaker used and sold drugs from the child's home and physically abused the child's parent in the child's presence.
- A newborn tested positive for cocaine and the mother refused to cooperate with DSS or agree to a safety plan.
- A parent maintained a filthy home environment, left the child home alone for several days, and was often under the influence of drugs when home with the child.

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19

19

## What Must Be Reported (continued)

A **dependent juvenile** is a child under age 18:

- Who has no parent, guardian, or custodian responsible for the child's care or supervision,

or

- Whose parent, guardian, or custodian is unable to provide for care or supervision and lacks an appropriate alternative child-care arrangement.

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20

20

## What Must Be Reported (continued)

**Mandatory reporting to DSS and the person who is responsible for the abuse, neglect, or dependency:**

- North Carolina law requires a report to DSS if you have **cause to suspect** that a child is an abused, neglected, or dependent juvenile as those terms are defined by law
- The definitions often relate back to the acts or omissions of the child's **parent, guardian, custodian, or caretaker**

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21

21

## Who Is A Caretaker?

A caretaker is a person other than a parent, guardian, or custodian who is responsible for a juvenile's health and welfare in a residential setting.

### "Caretaker" includes:

- Stepparent
- Foster parent
- Adult member of child's household
- Adult entrusted with child's care
- Potential adoptive parent during a visit or trial placement
- People who supervise children in residential facilities or schools
- Employees and volunteers of divisions, institutions, & schools operated by NC DHSS

### "Caretaker" does not include:

- School teachers
- Coaches
- Club leaders
- Child day care
- Others with similar temporary caretaking responsibility for children

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22

## Summary: What Must Be Reported

- **Cause to suspect human trafficking must always be reported**
- **Abuse must be reported if cause to suspect it was perpetrated or allowed by the child's parent, guardian, custodian, or caretaker.**
- **Neglect must be reported if cause to suspect:**
  - Parent, guardian, custodian, or caretaker does not provide proper care, supervision, or discipline; or does not provide necessary medical or remedial care for the child; or
  - Child lives in environment injurious to child's welfare; or
  - Child has been abandoned or custody has been unlawfully transferred.
- **Dependency must be reported if:**
  - Child's parent, guardian, custodian, or caretaker, is unable to care or provide for the child; or
  - Child has no parent, guardian, custodian, or caretaker.

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23

## When to Report

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24

## When to Report

A report is required when a person or institution has "cause to suspect" that a child is an abused juvenile, a neglected juvenile, or a dependent juvenile.

**Reporters are immune from liability for reports made in good faith.**

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25

25

## What is “cause to suspect”?

- Information that would cause a reasonable person acting in good faith to believe that a child is abused, neglected, or dependent as defined in NC law.
- Some things for health care providers to consider:
  - What have you been told about the child's circumstances?
  - What have you observed?
  - What other information is available to you?
  - What does all the available information mean to a person with your professional knowledge and experience?

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26

26

## When to Report (continued)

**North Carolina law does *not* provide a specific timeframe for making reports, but reporters should avoid unreasonable delays.**

**Knowingly or wantonly failing to report is a class 1 misdemeanor.**

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Page 1 of 1

27

**How to Report**

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28

28

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**How to Report**

**In our state, reports may be made orally, by telephone, or in writing.**

**Reports are made to the Department of Social Services (DSS) in the county where the juvenile resides or is found.**

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29

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**How to Report (continued)**

**The following must be included in a report:**

- Name, address, and age of the child
- Name and address of the child's parent, guardian, or caretaker
- Names and ages of other children under age 18 in the same home
- Present whereabouts of the child if not at the home address
- Nature and extent of any injury or condition resulting from the abuse, neglect, or dependency
- Any other information the reporter believes may be useful in establishing the need for protective services or court intervention

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30

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## How to Report (continued)

**At a minimum, the following should be documented for agency files:**

- Report has been completed and filed
- Date of visit and name of the informant
- Date(s) of alleged abuse
- Any injuries
- Date and time the report was submitted
- Name of the individual who took the report (if applicable)

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31

31

# NC Laws and Process for Mandatory Reports to Law Enforcement

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32

32

## Types of Reports to Law Enforcement

## New: Juvenile victims of certain crimes

- Victim under age 18
- Violent offense, sexual offense, or misdemeanor child abuse as those terms are defined by law

## Serious non-accidental harm to a child

- Children under age 18
- Recurrent illness or serious physical injury caused by non-accidental trauma

## Cavlee's Law

- Children under age 16
- Disappeared and in danger

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33

33

## Juvenile Victims of Certain Crimes

34

## Legal Duty to Report

35

## Who Must Report

36

# What Must Be Reported

37

## What Must Be Reported (continued)

38

# What Must Be Reported (continued)

39

## Reports of Statutory Rape or Statutory Sexual Offense to Law Enforcement

40

## When to Report

41

## How to Report

42

## How to Report (continued)

### A report made under General Statute 14-318.6 must include:

- Name, address, and age of the victim
- Name & address of the victim's parent, guardian, custodian, or caretaker
- Name, address, & age of the person who committed the offense
- Location where offense was committed
- Names and ages of other juveniles present or in danger
- The present whereabouts of the victim, if not the home address
- Nature and extent of any injury or condition resulting from the offense
- Any other information the person making the report believes might be helpful in establishing the need for law enforcement involvement
- Name, address, and telephone number of the person making the report

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43

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## Serious Non-accidental Harm to a Child

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44

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## Legal Duty to Report

### General Statute 90-21.20(c1)

- A physician or health care facility director must report cases involving recurrent illness or serious physical injury to a child under age 18, if the illness or injury appears in the treating physician's professional judgment to be due to nonaccidental trauma

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45

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## Who Must Report

- The required reporters under this law are:
  - Physicians
  - Directors/administrators of health care facilities (such as a local health director)
- A non-physician health care provider who treats a child with an injury or illness that is reportable under this law should notify the supervising physician, or the facility director/administrator.

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46

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46

## What to Report

### General Statute 90-21.20(c1)

- A report is required when a child under age 18 suffers either of the following due to non-accidental trauma:
  - A recurrent illness; or
  - A serious physical injury.
- These terms are not defined in the statute. Providers must use professional judgment.

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47

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47

## When to Report

### General Statute 90-21.20(c1)

- This law requires a report to be made “as soon as it becomes practicable before, during, or after completion of treatment.”

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48

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48

## How to Report

### General Statute 90-21.20(c1)

- This law does not specify how to make the report, but orally or by telephone would allow a reporter to satisfy the requirement to make the report as soon as practicable before, during, or after the treatment.
- Reports are made to a local law enforcement agency with jurisdiction over the place where the treatment occurs:
  - Chief of police if within a city or town with a police department.
  - County sheriff otherwise.

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49

49

## How to Report (continued)

### General Statute 90-21.20(c1)

- A report under this law must include:
  - Child's name, age, sex, and race;
  - Child's residence or present location; and
  - The character and extent of the child's serious physical injury or recurrent illness.
- Reporters are immune from liability for reports made in good faith.

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60

50

## Caylee's Law: Children Who Disappear

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51

51

## Legal Duty to Report

### Caylee's Law (G.S. 14-318.5)

- Any person who reasonably suspects that a child **under age 16** has disappeared and may be in danger must report those suspicions to law enforcement.
- “**Disappearance**” means that the parent or other person responsible for supervising the child does not know the child’s location and has not had contact with the child for a 24-hour period.

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52

## Who Must Report & When to Report

### Caylee's Law (G.S. 14-318.5)

- A parent or other person responsible for supervising a child under age 16 must report the child’s disappearance within 24 hours.
  - Failure by one of these persons to report is a felony.
- Any other person who reasonably suspects that a child under age 16 has disappeared and may be in danger must report within a reasonable time.
  - Limited exception: teachers not required to report absences from school.
  - Failure by one of these persons to report is a misdemeanor.

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53

## What to Report

### Caylee's Law (General Statute 14-318.5)

- A report is required when a child **under age 16** has disappeared and may be in danger.
- A child has “disappeared” when the child’s parent or other person responsible for supervising the child does not know the child’s location and has not had contact with the child within a 24-hour period.

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54

## How to Report

### Caylee's Law (General Statute 14-318.5)

- Caylee's law does not specifically address how to report or what information to include.
  - *Recommendation:* Make report by telephone to your local law enforcement agency; provide as much information as is known to you to establish the child's identity, usual residence or location, and why you believe the child has disappeared and may be in danger.
- Reporters are immune from liability for reports made in good faith.

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55

## Reporting to DSS, Law Enforcement, or Both

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56

	DSS	Law Enforcement		
What to report	Children under age 18 who are abused, neglected, or dependent	Juvenile victims of violent offenses, sexual offenses, or misdemeanor child abuse	Non-accidental trauma causes recurrent illness or serious physical injury in a child under age 18	Child under age 16 has disappeared and may be in danger
Who must report	All persons	Persons age 18+ (limited exceptions for some professionals)	Physicians and directors or administrators of health care facilities	All persons
When to report	Cause to suspect a child is abused, neglected, or dependent	Know or reasonably should have known that a juvenile was a victim of a reportable offense	As soon as practicable before, during, or after the child's treatment	Parent/other person responsible for child's supervision: within 24 hours All others: within a reasonable time
Statutes	G.S. 7B-101; 7B-301	G.S. 14-318.6	G.S. 90-21.20(c1)	G.S. 14-318.5 (Caylee's Law)

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57

## Reports to DSS & Law Enforcement

Whether a report must be made to DSS, law enforcement, neither, or both is a fact-specific determination.

If a report to both agencies is required, the reporter must report separately to each agency.

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58

58

## Specific Reporting Scenarios

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59

59

## Intimate Partner Violence

## **Mandatory reporting and intimate partner violence between adolescents:**

DSS

- Not an automatic report
- Consider whether parent, guardian, custodian, or caretaker had a role:
  - By permitting, encouraging, or allowing abuse of the adolescent
  - By neglecting the adolescent

## Law Enforcement

- Mandatory report under G.S. 14-318.6 **if:**
  - The victim suffers serious bodily injury or serious physical injury as defined in the statute; or
  - The violence is a sexually violent offense as defined in the statute.
- Mandatory report under G.S. 90-21.20 **if** victim suffers recurrent illness or serious physical injury

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60

60

What Must Be Reported	Mandatory reporting and rape:
<p><b>DSS</b></p> <ul style="list-style-type: none"><li>Not an automatic report</li><li>Consider whether parent, guardian, custodian, or caretaker had a role:<ul style="list-style-type: none"><li>By committing the rape</li><li>By permitting or encouraging another to rape the child</li><li>By neglecting the child</li></ul></li></ul>	<p><b>Law Enforcement</b></p> <ul style="list-style-type: none"><li><b>Mandatory report under G.S. 14-318.6</b><ul style="list-style-type: none"><li>Rape is a sexually violent offense as defined in the statute</li></ul></li><li>May also be a mandatory report under G.S. 90-21.20B if victim suffers recurrent illness or serious physical injury as a result of the rape</li></ul>

61

What Must Be Reported	Mandatory reporting and statutory rape or statutory sexual offense:
<p><b>DSS</b></p> <ul style="list-style-type: none"><li>Not an automatic report</li><li>Consider whether parent, guardian, custodian, or caretaker had a role:<ul style="list-style-type: none"><li>By permitting or encouraging the statutory rape or statutory sexual offense</li><li>By neglecting the child</li></ul></li></ul>	<p><b>Law Enforcement</b></p> <ul style="list-style-type: none"><li>Mandatory report under G.S. 14-318.6 <i>if</i><ul style="list-style-type: none"><li>Victim is under age 13 and perpetrator is 4 or more years older</li><li>Victim is age 13-15 and perpetrator is 6 or more years older</li></ul></li><li>May also be a mandatory report under G.S. 90-21.20B if victim suffers recurrent illness or serious physical injury as a result of the statutory rape or statutory sexual offense</li></ul>

62

<h2>What Must Be Reported</h2>					
<p><b>Mandatory reporting &amp; prostitution, commercial sexual exploitation of children, and sex trafficking:</b></p> <table border="1"><thead><tr><th>DSS</th><th>Law Enforcement</th></tr></thead><tbody><tr><td><ul style="list-style-type: none"><li>Mandatory report</li><li>The definition of “abused juvenile” includes any juvenile less than age 18 who is a victim of human trafficking</li></ul></td><td><ul style="list-style-type: none"><li>Mandatory report under G.S. 14-318.6</li><li>The definition of “sexually violent offense” includes human trafficking, involuntary servitude, sexual servitude, patronizing a prostitute who is a minor, or promoting the prostitution of a minor</li></ul></td></tr></tbody></table>	DSS	Law Enforcement	<ul style="list-style-type: none"><li>Mandatory report</li><li>The definition of “abused juvenile” includes any juvenile less than age 18 who is a victim of human trafficking</li></ul>	<ul style="list-style-type: none"><li>Mandatory report under G.S. 14-318.6</li><li>The definition of “sexually violent offense” includes human trafficking, involuntary servitude, sexual servitude, patronizing a prostitute who is a minor, or promoting the prostitution of a minor</li></ul>	
DSS	Law Enforcement				
<ul style="list-style-type: none"><li>Mandatory report</li><li>The definition of “abused juvenile” includes any juvenile less than age 18 who is a victim of human trafficking</li></ul>	<ul style="list-style-type: none"><li>Mandatory report under G.S. 14-318.6</li><li>The definition of “sexually violent offense” includes human trafficking, involuntary servitude, sexual servitude, patronizing a prostitute who is a minor, or promoting the prostitution of a minor</li></ul>				

63

<h2>What Must Be Reported</h2> <h3>Mandatory reporting and suspicion or diagnosis of a pregnancy or STD</h3>	
DSS	Law Enforcement
<ul style="list-style-type: none"><li>A report is not indicated <u>solely</u> based on a suspicion of or diagnosis of a pregnancy or STD.</li><li>A report would be required if reporter is aware of <u>additional facts</u> that indicate the child is abused or neglected as defined in law.</li></ul>	<ul style="list-style-type: none"><li>General rule: not reportable.</li><li>Limited exception?<ul style="list-style-type: none"><li>o G.S. 90-21.20(c1) requires reports of recurrent illness due to non-accidental trauma. Whether an STD that is a recurrent illness is reportable under this law is an open question.</li></ul></li></ul>

64

# Case Studies

65

## Case Study 1: Sidney

66

## Case Study 2: Maya

Maya is 14 years old. She is presented for care by her mother, who suspects that Maya is pregnant and wants a pregnancy test.

Mother says that Maya is hard to control; she sneaks out at night and drinks.

When the nurse speaks privately to Maya, Maya is also worried that she may be pregnant. She says that she has had sex twice with her mother's live-in boyfriend, who gave her alcohol first.

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67

67

### Case Study 3: Olivia

Olivia, age 15, seeks family planning services.

She lives with both parents and her younger brother, and is enrolled in high school.

She tells the nurse she has a 17-year-old boyfriend with whom she has been sexually active for about 3 months.

She does not want her parents to find out that she is seeking birth control as they do not know she is sexually active.

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68

68

## Case Study 4: Madison

Madison, age 15, seeks family planning services.

She lives with both parents and her younger brother, and is enrolled in high school.

She tells the nurse she has a 22-year-old boyfriend with whom she has been sexually active for about 3 months.

She does not want her parents to find out that she is seeking birth control as they do not know she is sexually active.

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69

69

### Case Study 5: Sam

Sam is a 15-year-old transgender male. On his history form, he does not provide a response to a question about number of sexual partners. During the interview, he says he has had "several" sexual partners in the last three months but gives vague responses to questions about how many.

He tells the nurse he lives with a friend's family and has not seen or spoken to his parents in "a while."

During the physical exam, the nurse practitioner discovers bruises that Sam seems unable or unwilling to explain, as well as evidence of IV drug use.

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70


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70

### Case Study 6: Britney

Britney is a 17-year-old family planning client.

During the interview, Britney initially discloses to the nurse that her partner is mean to her and makes belittling comments about her appearance. After further discussion, Britney discloses that her partner has pulled her hair and threatened her with a gun.

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71


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71

### Other Reporting Considerations

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72


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72

## Learn About the Reporting System

- Develop relationships with county DSS & Law Enforcement reporting authorities to gain an understanding of how cases are prioritized
- Prepare clients for what is *likely* to happen when a report is filed
- Frame the information as “*what usually happens in our county with DSS or Law Enforcement*”

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73

73

## Additional Resources

- Adolescent Health Working Group (AHWG) <https://ahwg.org/free-resources/>
- National Network to End Domestic Violence <http://nnedv.org/>
- Rape, Abuse and Incest National Network <http://www.rainn.org/>
- Love is Respect <http://www.loveisrespect.org/>
- Futures without Violence <http://www.futureswithoutviolence.org/>
- The National Human Trafficking Hotline  
<https://humantraffickinghotline.org>

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74

74

## Questions?

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# THANK YOU!

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75

75