PORTUGUESE MANAGEMENT ON CHILD ABUSE AND NEGLECT

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**Child Abuse (CA)**

→ “Public” crime under the responsibility of the Public Prosecutor’s Office

**Portuguese Criminal Code:**

a) “Domestic violence” (art. 152, n.º 1)

b) “Maltreatment” (art. 156-A, n.º 1)

c) “Crimes against the sexual liberty” (article 164 - Rape)

d) “Crimes against the sexual self-determination” (arts. 171 to 176 – Sexual abuse)
Criminal Law → Police and state employees → **MANDATORY REPORTERS**

Protective Law → Entire community

Deontological Physicians’ Code → Physicians

**DUTY TO REPORT**
REPORT

Refer to → **Entity with jurisdiction over children and youth or CPS**
⇒ Protection purposes

Denounce to → **Criminal Police, National Institute of Legal Medicine (INML)**
⇒ **Public Prosecutor’s Office**
⇒ Criminal investigation purposes
Professionals, most commonly implicated:

- Teachers
- Childhood educators
- Physicians
  - Health care services
  - INML
- Psychologists
- Social workers
- Law enforcement staff …
Institutions, most frequently involved:

- Child Protection Services (300 CPS offices)
- Schools and day care centers
- Health care institutions
- National Institute of Legal Medicine (INML – 3 Branches and 33 Offices)
- Criminal Police
- Public Prosecutor’s Office
- Juvenile and Criminal Courts
- Institute of Social Security
- Victim’s support associations
FORENSIC INTERVENTION

• Procedural Criminal Law
Medical forensic evaluation is mandatory and can be performed without a judicial order at INML offices

• National on-call services 24/7
⇒ Physicians - forensic specialists
FORENSIC INTERVENTION

- Description and photo-documentation of all features
- Collection of evidence and guarantee of the chain of custody
- Discussion of the case including the causality nexus - written report to public prosecutor in 24/48h
- Medical fact-finding approach
Oral or written report
- Professional
- Other person
- Anonymous
- Victim

Health Care Institutions
Schools, Nurseries
Victim's Support Associations
Others

No referral or denouncement

Referral to CPS

Denouncement to CPS
Family and Juvenile Court

Denouncement to Police/INML

Denouncement to Prosecutor

“Investigation” at Individual discretion

Missed cases

Protective intervention

Criminal intervention
Child abuse cases

Denounced to PP

Referred to CPS
2010

3 Protocols on CAN management

- North Branch of INML and Hospitals of northern Portugal

- North Branch of INML, Prosecutor Office, Criminal Police, 3 Child Protective Services, and Criminal and Juvenile Courts of Porto
2011

National Protocol on SA management

- Ministry of Health (including NHS)
- Ministry of Justice (including Courts, Public Prosecutors, INML, Criminal Polices)
- National Commission for the Protection of Child and Young people at Risk (including CPS)
2008 - 2011

INML and Medical School of Porto University

- Professional training
- Guidelines on CAN


SUMMARY

FORENSIC PROCEDURES FOR INTERVIEW
Physical Exam and Evidence Collection in Children and Young people
Victims of Physical and/or Sexual Abuse

The public nature of child abuse crime (domestic violence, maltreatment and sexual crimes) implies the opening of a criminal enquiry as soon as facts likely to be considered as such are known. Professionals who suspect of these cases are considered mandatory reporters as is the case of health care professionals.

The work with abused children and youth involves several courses of action between institutions, namely as to the starting procedures to follow in case triage, reporting of suspicion, diagnosis and preservation of evidence for penal purposes, as well as to the protection of the victim(s), all of which still lack a clear definition in Portugal.
Interagency collaboration and communication guaranteeing a comprehensive multidisciplinary approach, including urgent physical examination and evidence collection, and psychological and social evaluation

- Hospitals (Case finding)
- CPS
- INML (Diagnostics & Mental Health)
- Criminal Police
- Prosecutor’s Offices
- Courts …
Primary procedures

- Case report
- Case diagnosis
- Protection measures
- Criminal investigation measures
Health Care Institutions
Schools, Nurseries
Victim’s Support Associations
Others

Refer to CPS

Denouncement to Police/INML

CPS/Juvenile Court
Protective intervention

Prosecutor
Criminal intervention

CPS/Juvenile Court

Criminal Court
Child abuse cases

Denounced to PP

Referred to CPS
Difficulties…

- Case screening

  - National procedures are not yet implemented
  - **Pilot experience** (to begin next November in Portugal): **Report Form** which will be validated to be used in a **national call-center**
Difficulties...

- Forensic Interview
  - Forensic interview has legal value only if performed by the judge
  - Generally interviews are performed by: physicians, CPS, police, forensic psychologist, prosecutor, judge and others
  - Child must go to court
  - Pilot experience (to begin next October in Porto and Coimbra): only 1 interview by the forensic psychologist, after agreement of the prosecutor and in the presence of the judge (and others) – using a unidirectional mirror with the possibility of the judge intervention (video-tape recording)
  - With the current law, it will depend on the judge’s willingness to cooperate
The new system for intervention will...

- Focus on the child’s wellbeing, considering their family’s needs as well as those of the surrounding community
- Concentrate on teamwork, articulated through structured partnerships, based on guidelines and on solid coordination, periodically tested
- Be centered on accuracy and on the technical and scientific quality of the intervention, supported by the definition of procedural guidelines
- Focus on assuring permanently available and highly trained forefront services, for screening and referral of cases, in accordance to the consistency degree of abuse indicators
- Promote a constant evaluation of these services
- Articulate in order to achieve the promotion and protection system for children at risk
- Assure the gathering of evidence in accordance to the Procedural Criminal Law
- Respect the rights, liberties and grants of intervening persons