

Case Name: Niccum,Kama

Case #: 49049550

Findings of Administrative Review/Appeal Resultados de la Revisión Administrativa/Apelación

Case Name/Nombre del Caso

Niccum,Kama

Stage Reviewed/Etapa Revisada

Admin Review INV

Stage Name Reviewed/Nombre en Esta Etapa Revisada

Niccum,Cama

Case Id/Identificación del Caso

49049550

Primary Worker/Trabajador Principal

Robin Renee Arnold

Person Reviewed/Persona Revisada

Cama Niccum

Conducted By/Hecha Por

Robin Renee Arnold

Type of Review/Appeal /Tipo de Revisión/Apelación

Investigation

Authority/Autoridad

State Office Staff

Review Requested By/Revisión Solicitada Por

Designated Perp

Date Review Requested/Fecha de Solicitud de la Revisión

5/9/2022

Result of Review/Appeal /Resultado de la Revisión/Apelación

FPS Position Changed

Notification Date/Fecha del Aviso

7/11/2022

Status of Review/Appeal /Estado de la Revisión/Apelación

Approved

Requester/Solicitante

Cama Niccum

Date Review Conducted/Fecha de la Revisión

6/17/2022

If Release Process/Si es un proceso para revelar informacion



Emergency Release/Revelacion de Emergencia

Release Date/Fecha de Revelacion

Hearing Date/Fecha de Audiencia

N

Prior Version of Allegations/Findings Version Previa de Acusaciones/Resultados

| Alleged/Designated Victim/Victima Supuesta/Nombrada | Allegation/Acusacion | Disposition/Decision | Severity/Gravedad |
|---|----------------------|----------------------|-------------------|
|  | Physical Abuse | Unable to Determine | |
| Alleged/Designated Victim/Victima Supuesta/Nombrada | Allegation/Acusacion | Disposition/Decision | Severity/Gravedad |
|  | Emot/Verbl Abuse | Reason to Believe | Serious |

Current Version of Allegations/Findings Version Presente de Acusaciones/Resultados

| Alleged/Designated Victim/Victima Supuesta/Nombrada | Allegation/Acusacion | Disposition/Decision | Severity/Gravedad |
|---|----------------------|----------------------|-------------------|
|  | Physical Abuse | Unable to Determine | |

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Findings of Administrative Review/Appeal
Resultados de la Revisión Administrativa/Apelación

| Alleged/Designated Victim/Victima Supuesta/Nombrada | Allegation/Acusacion Emot/Verbl Abuse | Disposition/Decision Ruled Out | Severity/Gravedad |
|---|--|-----------------------------------|-------------------|
|  | | | |

Requester's Role/Papel del Solicitante
Unknown/Unable to Determine

Findings of Administrative Review/Appeal Resultados de la Revisión Administrativa/Apelación

Results of Administrative Review/Resultados de la Revisión Administrativa/Apelación

Reason for Review/Appeal:/Razón de la Revisión/Apelación:

On 5/9/2022, I, Robin Arnold, was assigned this request for an Administrative Review of Investigation Findings (ARIF) received from Cama Niccum regarding Case #49049550; Stage #76050271. Ms. Niccum was found Reason to Believe for the physical abuse of her daughter, Kaisley Niccum (10 y/o) at the closure of this investigation on 4/15/2022. Ms. Niccum disagreed with the findings and submitted the ARIF request in a timely manner.

Ms. Niccum was deemed eligible for this ARIF as:

- she has the role of designated perpetrator (DP);
- she has requested the review in writing within 45 days after receiving the DFPS Notice to Designated Perpetrator letter regarding the findings of the investigation.
- DFPS has **not** previously provided her with an ARIF or a release hearing on the same allegation (the requester is not eligible for two ARIFs on the same allegation); and
- a court has **not** made a previous finding against her consistent with the specific allegation for which she is requesting the ARIF. A court making a finding against the designated perpetrator consistent with the specific allegation for which she is requesting the ARIF includes the following:
 - a court order specifically finds that the requester committed abuse or neglect in the situation for which she requested the ARIF;
 - a court order terminates the parental rights of the requester as a result of the incident for which she requested the ARIF;
 - the requester has been convicted of a crime as a result of the incident for which she requested the ARIF; or
 - the Legal Division determines that there is another court finding legally sufficient for denying the ARIF.

Documents or material used to prepare for or provided at the Review, and names of those who provided information:/Documentos o materiales usados para la preparación de la Revisión o presentados durante la Revisión, y nombres de quienes los presentaron:

DFPS Case Records

DFPS Policy

DFPS Handbook

Texas Family Code

Texas Administrative Code

Affidavit filed in support of Order for Participation of Services

Copy of an evaluation by Steven Schneider (Child Psychologist) showing the diagnosis of ADHD - provided to this Reviewer by Ms. Niccum on 6/16/2022

One frontal photograph of [REDACTED] observed in case file. A bruise was noted on her chin but [REDACTED] made no outcry of abuse related to this bruise. She explained the bruising occurred from giving her sister a piggy back ride and falling outside a restaurant. She stated the bruise had nothing to do with her mother.

Audiotaped interview of [REDACTED] from 3/8/2022 was located in case record. This Reviewer listened to the recorded interview as part of the Administrative Review process. Below is some of the pertinent information gathered from the recorded interview.

[REDACTED] stated her mother takes out her anger by yelling, and she [REDACTED] takes out her anger by throwing fits. She said that she throws a lot of fits and that is the reason why she was in trouble. [REDACTED] said that she was trying to fix her anger. [REDACTED] described a time in the past where her mother tugged her hair slightly. She later said the hair tug happened a couple days prior to this interview. She said it was not hard and did not hurt her. [REDACTED] expressed fear of talking to CPS. She was worried about going to foster care and getting adopted. She

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then said no one has told her this, and she is only predicting this herself. [REDACTED] explained that she went to stay at her grandmother's during the last case, but decided she wanted to go home. [REDACTED] said that she fixed her problems and settled down. [REDACTED] expressed things were better at home, until she started acting up again. She explained that her mother had given her iPad tablet back to her, but now because she started acting up again her mother is limiting her tablet use to one hour. [REDACTED] said it was her fault, because she got herself into that situation. She said she keeps getting in more trouble and it is cycling over and over like before. For punishment, she is told to go to her room or sit on the wall or corner. [REDACTED] stated that she does not get spankings but does have to write sentences. She said she gets in trouble for being talkative and not shutting her mouth. [REDACTED] stated that no one has ever hurt her. She said her mother has accidentally scratched her in the past but it was not intentional. She said she is not scared of anyone. Then said she was maybe 1 or 2 percent scared of her mother, because she yells in her face. [REDACTED] said she and her mother had gotten into a squabble the day of this interview over school stuff, nothing serious. Her mother told her to walk home, because she needed time to calm down. When asked if she was worried about anything, [REDACTED] stated that she was worried that her mother might lose her anger one day and just do something that was not right. She could not describe what she meant about doing something that was not right. She said that she doubts that would happen but worries about it. She said her mother controls her anger by yelling and walking away. [REDACTED] stated that her mother will spank her 6-year-old sister with her hand, and her 3-year-old sister gets sent to the couch for timeout. She discussed there are times that she doesn't get to go outside and play because of her anger.

Prior CPS History Reviewed:

Case # 48514303

Intake Received: 1/21/2021

Investigation Closed: 5/14/2021

Disposition: Cama Niccum was found Unable to Determine for the emotional abuse of [REDACTED] Niccum. The supporting rationale stated: *"Emotional abuse of [REDACTED] by Cama cannot be completely ruled out. [REDACTED] was found to be treated differently than the other children in the home and to be scapegoated by Cama. [REDACTED] punishment along with what and when she was allowed to eat was handled different than her school aged younger sibling."*

The alleged physical abuse of [REDACTED] by Cama Niccum was Ruled Out. The supporting rationale for this disposition stated: *[REDACTED] denied receiving physical discipline by Cama and she was not observed to have any marks or bruises."*

People present for Review (Include name and interest):/Personas Presentes para la Revisión: (Incluya el nombre e interés):

Robin Arnold (Internal Affairs Resolution Specialist)

Cama Niccum (mother/designated perpetrator) via phone

Summary of pertinent information:/Resumen de la Información Pertinente:

BRIEF SUMMARY OF INTAKE AND DISPOSITION:

On 3/4/2022, the Department received an intake alleging the physical abuse of [REDACTED] (10 y/o) by her mother, Cama Niccum. According to the intake, [REDACTED] said that her mom grabs and drags her by her hair when she is not listening and is abusive towards her. She said that her mom told her that what happens at home is not to be talked about at school and that if CPS was called they would place her in a bad home.

The allegations of physical abuse were found Unable to Determine. Allegations of emotional abuse by Cama Niccum were added and found Reason to Believe. The supporting rationale for the Reason to Believe finding stated: *"Based on the Preponderance of Evidence there is reason to believe that Cama Niccum emotionally abused [REDACTED]. The circumstances meet the definitions of abuse/neglect as outlined in the Texas Family Code due to Cama not allowing [REDACTED] to speak with CPS and punishing her if she does. [REDACTED]"*

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admitted to CPS she was punished for talking to CPS and made to sit on the wall for an unknown amount of time. This is not the first time [REDACTED] has been punished for talking about what happens at home and the abuse she endures at home."

SUMMARY OF PERTINENT INVESTIGATION CONTACTS COPY AND PASTED FROM ORIGINAL INVESTIGATOR'S DOCUMENTATION:

(NOTE: Not all investigation contacts/summaries will be listed in this ARIF report. For complete contacts and investigation report, case records should be requested. Some information within these narratives will be redacted.)

Collateral contact:

Collateral stated that [REDACTED] told her that mom pulls and drags her by the hair and is very mean to her. She stated that her mom told her, what happens in this house stays in this house. She stated that the child told her CPS has taken her from her mom and then put her back, mom was nice at first but now being mean to her. She stated that mom told her, if she told someone CPS would be called and they would put her in a mean home.

3/8/2022 - [REDACTED]

[REDACTED] informed me she wanted to talk with me, but she was scared. I asked [REDACTED] what made her scared and [REDACTED] said her mom yells at her in a way she doesn't like. [REDACTED] said her mom is strict and she understands this because her mom wants her to do the right thing. [REDACTED] then advised her mom pulled her hair. [REDACTED] advised her mom and her both have anger issues, but they are working on this at home. [REDACTED] said her mom takes her anger out on her by yelling at her. [REDACTED] said her mom gets so mad she wants to 'rip her head off' but then advised her mom doesn't actually do this but she does get this mad. [REDACTED] said when her mom pulled her hair it didn't hurt, it was just a little tug. [REDACTED] said if she talks to me, she will get in trouble and have to go somewhere else besides her grandparents' home. [REDACTED] said when she first went back home things were good, she was able to get her tablet back and was able to come out of her room but now things are cycling to the way things were before. [REDACTED] said she doesn't get spankings anymore, but she does have to write sentences and sit on the wall. I asked [REDACTED] what sitting on the wall looks like and she sat on her bottom with her back against the wall. When I asked [REDACTED] if anyone has ever hurt her, she stated her mom and then said it was an accident. [REDACTED] said her mom accidentally scratched her one time but she knows it was an accident. When I asked [REDACTED] if she was worried about something, she stated she was completely worried her mom was going lose her anger one day and just do anything. When I asked what her mom may do [REDACTED] said she doesn't know but it worries her. I asked [REDACTED] if she worries about her dad this way and [REDACTED] said her dad (stepdad, Robbie Lerrille, whom she refers to as her dad) helps her. [REDACTED] said her dad talks her mom into giving her iPad back and letting her go outside with her sisters. [REDACTED] said she has a good relationship with her dad. I asked [REDACTED] how often her siblings get to go outside and play, and she does not and [REDACTED] said when it's nice outside and this happens often.

3/8/2022 - I then attempted contact with [REDACTED] at Lefors Elementary school but was informed by school personnel I was not allowed to speak with [REDACTED] per the request of her parents, Ms. Niccum and Mr. Lerille.

3/8/2022 - I then went by the home of Ms. Niccum and Mr. Lerille and knocked on the door. A woman came to the door. I asked the individual if she was Ms. Niccum and she advised she was. At this time, I introduced myself, the department and the reason for my visit. Ms. Niccum advised she would not speak with me. I provided Ms. Niccum with a business card and asked if she would call me to schedule a time to meeting. Ms. Niccum took my card and shut the door.

I received a phone call from Mr. Lerille later in the day. He introduced himself and I too introduced myself. I explained to Mr. Lerille the reason for my visit to his residence. I advised Mr. Lerille I would need to see the other children in the home and meet with Ms. Niccum and himself. Mr. Lerille advised he would agree to allow me to see the other children but would not allow me access to the home and would not agree to an interview. Mr.

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Lerille stated he and his family would not cooperate with the department due to a prior case the family was involved in. I asked Mr. Lerille if he would notify me when he arrived home so I could meet with him at the residence and he agreed to this.

3/8/2022 - Later this evening I received a telephone call from Mr. Lerille stating he was home. I advised Mr. Lerille I was on my way to the residence. When I arrived at the residence Mr. Lerille was standing outside. I again introduced myself. Mr. Lerille again asked what I was needing, and I asked if I could visibly see the other children in the home. Mr. Lerille one by one called the other two children from inside the home and allowed me to see them. Mr. Lerille lifted their shirts up, so I was able to observe their upper bodies and was able to see the children were free of marks and bruising to this area of their bodies. I again asked Mr. Lerille for his family's cooperation with the investigation and advised of the possible outcomes if the family refused to cooperate. I provided Mr. Lerille with a Parent's guide and a AP form and explained the form to him. Mr. Lerille took the form and advised he would have Cama look over it. I advised I would need the form back. Mr. Lerille stated his family chooses not to cooperate with the department due to a prior CPS case involving [REDACTED]. Mr. Lerille stated he feels his children are safe and there are no reasons why the department should be involved with his family. I asked Mr. Lerille to reconsider this. I asked Mr. Lerille to speak with Ms. Niccum and have her contact me. Mr. Lerille stated he would speak with his wife but could not ensure she would cooperate and meet with me. I thanked Mr. Lerille for allowing me to see the children and left the residence.

3/11/2022 - On March 11, 2022 the department received an information report regarding [REDACTED]. The information report states [REDACTED] passed a note at school stating she is getting hurt at home. Her hair is being pulled and her face is being slapped.

I went by Austin Elementary and attempted contact with [REDACTED] but her class was on a field trip.

I spoke with a school personnel who informed me she also has had prior concerns for [REDACTED]. The school personnel advised in February of 2020 she witnessed Kaisley with multiple bruises on her left arm. The school personnel stated [REDACTED] told her the bruising was caused when her mom, Ms. Niccum, was attempting to spank her and held her arms behind her back. Ms. Niccum missed spanking [REDACTED] bottom and hit her arm causing 8 red lines parallel to each other.

Due to a school program I was unable to meet with [REDACTED] at school on this day. I staffed the case and information report with Supervisor Byard. I was advised due to spring break and the family unwilling to cooperate to attempt contact with the family after spring break.

3/23/2022 - I went by the school and seen [REDACTED]. She informed me after she spoke with me the first time she got into a lot of trouble. I asked [REDACTED] what that looked like and she said she had to sit on the wall, but she was able to get up to use the bathroom and eat. I asked her how long she had to sit on the wall for and she said sometimes days. [REDACTED] advised me she would no longer tell me anything because she didn't want to get in any more trouble at home. I advised [REDACTED] I would continue to come to the school and see her whether she spoke with me or not. [REDACTED] told me she learned her lesson and would not speak with CPS again.

3/25/2022 - I attempted contact with Ms. Niccum at her residence. I knocked on the door and Ms. Niccum answered the door. I asked Ms. Niccum if she would agree to an interview with me. I advised Ms. Niccum the department was wanting the family to attend counseling if I was unable to complete an interview with her and could verify, she and [REDACTED] were completing counseling this would help establish the family was reaching out for services. Ms. Niccum stated she was attending counseling but refused to release this information to me. I advised Ms. Niccum if she continued to be uncooperative the department would have no choice but to file for an order to participate. Ms. Niccum advised me she would contact Mr. Lerille and have him contact me.

3/25/2022 - Mr. Lerille contacted me later in the day. I advised Mr. Lerille the case had been staffed with

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supervisors and right now the department wants to verify [REDACTED] and Ms. Niccum are attending counseling or will attend counseling. I advised I attempted contact with Ms. Niccum, and she is unwilling to provide me with this information. I advised Mr. Lerille if this could not be verified the department would complete an order to participate. Mr. Lerille advised due to his past experience with the department he and his family refuse to cooperate and complete any services asked of them. Mr. Lerille stated he feels his children are safe in his home and if there were something happening to one of the children, he would know it. Mr. Lerille advised me to complete the order and thanked me for letting him know.

3/27/2022 - I spoke with Shelia and Ronnie Niccum, Ms. Niccum's grandparents. I advised Shelia and Ronnie of the departments concerns. I asked Shelia when the last time she was able to see the family and she was unsure of this. She said maybe the beginning of March and this was because she went to the home and demanded to see the children. Shelia stated Ms. Niccum does not allow the children to come to her home at all. She said Ms. Niccum usually tries to tell her the kids are busy, but she will walk in and demand to see them anyway. I asked Shelia and Robbie if they have concerns for [REDACTED] and they said they always have. Shelia said when Ms. Niccum was pregnant with [REDACTED] she planned to give her up for adoption. She said when [REDACTED] was born Ms. Niccum decided to keep her but after two weeks wanted to give her up for adoption again. Shelia said the only reason why Ms. Niccum kept [REDACTED] was to keep family from adopting her. Shelia said Ms. Niccum recently told her grandmother, Darlene Holmes, she would still give [REDACTED] up for adoption if she knew family wouldn't take her. I asked Shelia how she knew this, and she said her mother told her Ms. Niccum said this to her. I asked if Mrs. Holmes would talk with me and Shelia said she was unsure. Shelia said Ms. Niccum has always treated [REDACTED] differently and this is why she and Ronnie go to the home and demand to see the kids. Shelia said they don't go as often as they should but when they do Ms. Niccum usually has to get [REDACTED] from her room. Shelia said [REDACTED] is made to stay in her room the majority of the time while the other children are allowed throughout the home. Shelia said there are times the entire family will go out and [REDACTED] is made to stay at home, alone. I asked Shelia why she allowed [REDACTED] to go back home. Shelia said [REDACTED] wanted to go home. Shelia said [REDACTED] woke up one morning and asked if she could go home so Ronnie took her home. Shelia said Ms. Niccum admitted to her grandmother she didn't love [REDACTED]. I asked Shelia if anyone else in the family had these concerns and she said yes, Ms. Niccum's sister, Caragan. Shelia provided me with her number. I asked Shelia if she would be willing to testify in court to her concerns and she agreed to this.

3/27/2022 - I called Caragan and introduced myself and the department. I asked Caragan if she had concerns for [REDACTED]. Caragan advised she does have concerns for [REDACTED] and she always has. She said her sister never wanted [REDACTED] even when she was pregnant with her. She said the plan was to give [REDACTED] up for adoption but when Mrs. Niccum delivered [REDACTED] she decided to keep her. She said when [REDACTED] was young Mrs. Niccum would sing songs to her and call her a titty baby, spank her with wooden spoons when she would urinate her pants, leaving marks and bruises then, when she was an infant. Caragan said when [REDACTED] was in the 1st grade she went to eat lunch with her and observed scratch marks all over [REDACTED] neck. Caragan said the scratch marks were bad. When she asked [REDACTED] about the marks [REDACTED] told her Mrs. Niccum caused the injuries. Caragan said she pointed the injuries out to [REDACTED] teacher. Caragan said she also took pictures and have kept the pictures of the injuries due to always having concerns. I asked if she could send me the pictures Caragan agreed to this. Caragan said Mrs. Niccum refuses to allow her access to [REDACTED] anymore. She said the last time she was able to see [REDACTED] was in November. Caragan said if Mrs. Niccum find out she takes [REDACTED] out on any special trips then [REDACTED] gets in trouble for this. Caragan said if she wants to see [REDACTED] she has to message Mr. Lerille who will work out a plan with her, so she is able to see the children. Caragan said Mr. Lerille is aware of how [REDACTED] is treated and makes excuses for Mrs. Niccum and her behaviors towards [REDACTED]. Caragan said she eve has text messages from Mr. Lerille proving this. I asked Caragan if she could send me these messages and she agreed to this. I asked Caragan why she thinks [REDACTED] is treated differently. Caragan stated [REDACTED] has a different father than the other children in the home. She said Mrs. Niccum always informed the family Shane Mesnard was [REDACTED] father but after the last CPS case Mrs. Niccum stated Shane may not be [REDACTED] father. Caragan said Mrs. Niccum and Mr. Mesnard were together for several years before [REDACTED] was born and their relationship was volatile. Caragan said she can remember Mrs. Niccum coming home with a

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black eye. I asked if the black eye was due to domestic violence and she said she feels it was. Caragan said at this time she was only in junior high, but she knows their relationship was not good. I asked Caragan if she thinks her grandmother, Darlene Holmes would be willing to speak with me and she stated 'she would hope she would' but she is unsure due to Mrs. Holmes having a close relationship with Mrs. Niccum. I asked Caragan if she would be willing to testify in court to her concerns and she agreed to this.

3/27/2022 - I spoke with Mrs. Holmes. I introduced myself, the department and the reason for the telephone call. I advised Mrs. Holmes of the departments concerns with Mrs. Niccum and [REDACTED] and asked if she had concerns. Mrs. Holmes stated she too had concerns for [REDACTED] but feels every child should receive discipline for not doing what that are told to do. Mrs. Holmes stated she does not have concerns for [REDACTED] physical well-being but more for [REDACTED] emotional well-being. I asked Mrs. Holmes how often she sees [REDACTED] and she said she is able to see the children often. She stated Mrs. Niccum brings the children over during the day to visit with her and play. I advised Mrs. Holmes [REDACTED] was in school during the day. Mrs. Holmes then advised she does not see [REDACTED] often, only the other children in the home. I asked Mrs. Holmes if Mrs. Niccum had made any alarming statements to her recently and she said no. I asked Mrs. Holmes if she thought [REDACTED] was treated differently than the other children in the home and she said yes, but so was Mrs. Niccum when she was a child. I responded with ' so when does the cycle end Mrs. Holmes" she did not respond to this. I advised Mrs. Holmes there could potentially be a court hearing regarding the case and asked if she would agree to testify. Mrs. Holmes stated she would not testify against Mrs. Niccum. Mrs. Holmes stated when her child was young and had braces and would talk back to her, Mrs. Holmes would grab her by her braces and make her mouth bleed. Mrs. Holmes stated she doesn't feel this was child abuse and doesn't feel Mrs. Niccum is abusing [REDACTED]. I thanked Mrs. Holmes for speaking with me.

3/28/2022 - I submitted an affidavit for an order to participate for the Niccum case to legal Todd Alvey.

4/8/2022 - The OTP hearing was completed and Judge Graham ordered Cama and [REDACTED] to work services with the department due to the current intake and past concerns with the family.

ADMINISTRATIVE REVIEW - MEETING WITH REQUESTER, CAMA NICCUM:

On June 16, 2022, I, Robin Arnold, spoke with Cama Niccum (mother/designated perpetrator) via phone for this scheduled Administrative Review. Ms. Niccum stated that she disagreed with the Unable to Determine finding for physical abuse and the Reason to Believe finding for emotional abuse. Ms. Niccum was aware that she could not appeal the UTD finding but wanted it known that she did not physically abuse her daughter. Ms. Niccum said she was challenging the emotional abuse finding because she never neglected her daughter and did not want to be in a database for abuse/neglect. Ms. Niccum said that she was served with an affidavit for the Motion to Participate and did not agree with some of the things written by the investigator to make this Reason to Believe finding. Ms. Niccum argued that her daughter, [REDACTED], was never examined by a medical professional and did not suffer any observed or material impairment as outlined in the Texas Family Code. Ms. Niccum explained that [REDACTED] has ADHD and behavioral issues. She has to be more strict and stern with [REDACTED] because she does not listen. Ms. Niccum said she's had other CPS cases and knows her rights. She believes CPS investigators became upset when she invoked her right of refusing to provide a statement or allowing access to her children and home. Ms. Niccum said she knows that she has a right not to speak.

Ms. Niccum said she has never told [REDACTED] not to speak with CPS or she would get in trouble. She indicated that she has told [REDACTED] not to lie or exaggerate the truth. She said [REDACTED] has a tendency to fabricate stories to benefit her, and she has instructed her not to do that. Ms. Niccum explained that [REDACTED] will do or say things thinking she will get her way or benefit from it. She explained that [REDACTED] will get disciplined by having her iPad taken away but will make up stories in hopes that she will be taken to her grandmother's home. She described [REDACTED] as very manipulative.

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Ms. Niccum discussed that [REDACTED] does not like authority figures or being told what to do. She explained that [REDACTED] will throw outbursts and has punched a hole in the wall. Ms. Niccum did confirm that she makes [REDACTED] sit against for timeout as a method of discipline. [REDACTED] is told to sit and be quiet. She could not relay how long [REDACTED] is required to sit against the wall. She said that it often depended if [REDACTED] still continued to throw a fit. She believes the wall sits might last for 30 minutes to an hour depending on [REDACTED] attitude. She said [REDACTED] is never denied food. She's able to get up and eat and go to the bathroom when needed. Ms. Niccum said her daughter was definitely not malnourished and gets to eat when she's hungry. Ms. Niccum stated that she does not use any physical discipline on her daughter anymore. She usually takes away her iPad for discipline. Ms. Niccum feels she is using age appropriate discipline.

Ms. Niccum explained that [REDACTED] just does not know when to stop throwing fits. She is not currently on any medications for ADHD. She was on medications in the past, but they did not seem to work. Ms. Niccum discussed that she would like to take [REDACTED] to see a child psychologist and not just a regular MD. She indicated [REDACTED] was diagnosed with ADHD in August 2021. She took Adderall from August to December 2021. She explained that her regular pediatrician left and she has not returned to renew the medications. Ms. Niccum said she did not see any improvement with [REDACTED] behaviors on the medications. She explained that she has not been able to get her daughter into counseling because all of the counselors have been booked since COVID.

Ms. Niccum stated that [REDACTED] makes A's and B's at school. She has never seen any signs that [REDACTED] wanted to harm herself or others. She said [REDACTED] teachers have told her that [REDACTED] will lie about her school work, but have never addressed any major concerns. Ms. Niccum did not feel that her treatment or discipline of [REDACTED] was inappropriate and did not cause any harm to [REDACTED]. She reiterated that [REDACTED] has never shown any observable or material impairment which is needed to support an allegation so emotional abuse. Ms. Niccum said she may be stern or strict with her daughter, but she is not abusive. She felt there was insufficient evidence to support a finding of emotional abuse.

Explanation of decision/results:/Explicación de la Decisión/Resultados:

A preponderance of the evidence is required for determinations regarding an abuse/neglect allegation and an individual's role. CPS staff must consider the overall information obtained in the investigation when determining an individual's responsibility for the founded abuse/neglect. A preponderance of the evidence is defined as a "standard of proof in which the facts sought to be proved are more likely than not." In this investigation, **there does not appear** to be a preponderance of the evidence that supports the reason to believe findings.

In assessing substantial risk, CPS considers the following factors: the child's age; the child's physical condition, psychological functioning, and level of maturity; any previous history of abuse or neglect; the frequency and duration of similar incidents; the physical condition, psychological functioning, and level of maturity of the person putting the child at risk, and any signs of danger or hazards in the child's environment.

EMOTIONAL ABUSE as defined in the TEXAS FAMILY CODE CHAPTER 261.001:

(1) "Abuse" includes the following acts or omissions by a person:

- (A) mental or emotional injury to a child that results in an observable and material impairment in the child's growth, development, or psychological functioning;
- (B) causing or permitting the child to be in a situation in which the child sustains a mental or emotional injury that results in an observable and material impairment in the child's growth, development, or psychological functioning;

TEXAS ADMINISTRATIVE CODE RULE §707.453

(b) In this section, the following terms have the following meanings:

(1) "Mental or emotional injury" means:

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(A) That a child of any age experiences significant or serious negative effects on intellectual or psychological development or functioning. Although the child does not have to experience physical injury or be diagnosed by a medical or mental health professional in order for CPS to determine that the child suffers from a mental or emotional injury, when assessing the child, CPS must consult with professional collaterals outside of CPS that have witnessed and validated that the child is exhibiting behaviors indicative of observable and material impairment as specified in subsection (b)(2) of this section. When the mental or emotional injury involves exposure to domestic violence, CPS will consult with professional collaterals that have documented expertise or training in the dynamics of domestic violence, whenever possible.

(2) "Observable and material impairment" means discernible and substantial damage or deterioration to a child's emotional, social, and cognitive development. It may include but is not limited to depression; anxiety; panic attacks; suicide attempts; compulsive and obsessive behaviors; acting out or exhibiting chronic or acute aggressive behavior directed toward self or others; withdrawal from normal routine and relationships; memory lapse; decreased concentration; difficulty or inability to make decisions; or a substantial and observable change in behavior, emotional response, or cognition.

DECISION SUMMARY:

At the closure of this investigation in April 2022, Cama Niccum was found Reason to Believe for the emotional abuse of her daughter, [REDACTED] (10 y/o). The supporting rationale for this Reason to Believe disposition stated: *"Based on the Preponderance of Evidence there is reason to believe that Cama Niccum emotionally abused [REDACTED]. The circumstances meet the definitions of abuse/neglect as outlined in the Texas Family Code due to Cama not allowing [REDACTED] to speak with CPS and punishing her if she does. [REDACTED] admitted to CPS she was punished for talking to CPS and made to sit on the wall for an unknown amount of time. This is not the first time [REDACTED] has been punished for talking about what happens at home and the abuse she endures at home."*

After review of the case record and speaking with Ms. Niccum, this Reviewer does not find that a preponderance of evidence exists within this case record to support the Reason to Believe findings of emotional abuse. When [REDACTED] was initially interviewed, she indicated that both she and her mother had anger issues. [REDACTED] stated that she tended to talk a lot and throw tantrums which resulted in her getting in trouble at home. [REDACTED] discussed several methods of discipline used by her mother when she gets in trouble for throwing fits. She stated that she is made to go to her room; told to sit against the wall or corner; write sentences; given limited iPad usage; or is not allowed to play outside. [REDACTED] could not establish how long she is made to sit against the wall and if this punishment caused her any severe pain. [REDACTED] denied that her mother used any physical discipline on her anymore. [REDACTED] stated that no one hurt her, and she was not scared of anyone. She then later stated that she might be only scared of her mother maybe one or two percent when her mother yells. [REDACTED] indicated that she was worried about entering foster care and getting adopted. She denied that anyone told her that and was making her own predictions. [REDACTED] discussed that she went to stay with her grandparents during the last CPS investigation but asked to return home.

Ms. Niccum confirmed that [REDACTED] is made to do wall sits as a form of discipline. She denied that [REDACTED] is made to stay against the wall for days at a time. She denied that [REDACTED] is ever withheld food, water, or the inability to use the restroom as part of her discipline. Ms. Niccum denied that she ever threatened or harmed her daughter if she spoke with CPS. Ms. Niccum indicated that [REDACTED] likes to talk and exaggerate things to get attention. Ms. Niccum expressed that it was her right not to talk to CPS and participate in the investigation or services. She felt that she was being punished by the Department for exercising her rights.

To support a finding of emotional abuse, the Department must establish that Ms. Niccum caused a mental or emotional injury to her daughter that resulted in an observable and material impairment in her growth,

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development, or psychological functioning and/or that she caused or permitted [REDACTED] to be in a situation in which she would sustain a mental or emotional injury that resulted in an observable and material impairment in their growth, development, or psychological functioning. There is insufficient evidence that [REDACTED] experienced significant or serious negative effects on her intellectual or psychological development or functioning. There is no information within [REDACTED] statement and/or statements from professional collaterals that [REDACTED] suffered an observable and material impairment. "Observable and material impairment" is defined as discernible and substantial damage or deterioration to a child's emotional, social, and cognitive development. Due to the lack of information in the case record, this Reviewer has determined that a preponderance of the evidence does not exist for a Reason to Believe finding for the Emotional Abuse of [REDACTED] by her mother, Cama Niccum, and the finding is changed to Ruled Out.

NOTE: It should be noted that by no means does changing the disposition to Rule Out negate the fact that risk was identified by the investigator and services were recommended for this family. This Administrative Review decision does not alter or terminate any services recommended by the Department. This Administrative Review and the Family Based Safety Services case are separate matters. This Reviewer does not make any case related decisions regarding placements or on-going services. This Administrative Review strictly focused on determining whether there was a preponderance of the evidence to support the Reason to Believe investigation dispositions against Cama Niccum.

RD review results (if reviewer other than RD):/Resultados de la Revisión del Director Regional (RD) (si el revisor no es el RD):

7/11/2022 - Approved by OIA Director, Amii Leiner



Signature - Reviewer
Firma-Revisor

7/11/2022

Date of Decision
Fecha de la Decisión

Reviewer's Name/Nombre del Revisor

Robin Renee Arnold

Address/Dirección

[REDACTED]

Title/Título

INVESTIGATOR VI