



Toward Improved Protections for Children: Buckets of Review

February 14, 2012

INTRODUCTION

To assist the important work of the Task Force on Child Protection, The Protect Our Children Committee (POCC) – Pennsylvania’s statewide coalition dedicated to preventing child abuse and achieving targeted child welfare reforms –offers the following summary of key issues impacting the Commonwealth’s efforts to protect children from all forms of child abuse and maltreatment. POCC highlights the complex and interconnected nature of these issues:

Prevention
Defining child abuse and perpetrator
Reporting and the initial response to the report
Investigation and prosecution
Differential response – general protective services
Treatment – capacity of the system to respond
Accountability for perpetrators and systems

We look forward to working with the Task Force to identify priorities and advance reforms that will, consistent with the legislative charge of the Task Force restore “public confidence in the ability of the Commonwealth to protect the victims of child abuse.”

PREVENTION

Most experts agree that investment in prevention is worthwhile, both in dollars saved and abuse avoided. A recent study from the Centers for Disease Control (CDC) noted that the “total lifetime estimated financial costs associated with just one year of confirmed cases of child maltreatment” is approximately \$124 billion. Preventing child abuse and maltreatment is fundamental to reducing the human and fiscal costs associated with adverse childhood experiences. Child abuse prevention efforts are typically categorized as: primary, which focuses on the general public, such as media and public awareness campaigns; secondary, which addresses families considered at-risk of abuse, and neglect who are not specifically known to child welfare due to a report; and tertiary, which includes intervention-based and treatment services where abuse is known to have occurred. It is extremely difficult to identify or analyze Pennsylvania’s investment in prevention because service categories are not clearly identified, budgeted funds are not designated, and service planning and delivery for prevention services are rarely documented on either case-specific or agency-budget levels. As a result, meaningful oversight, consolidation, and efforts to improve services are frustrated.

Recommendations:

- Determine – across systems and state departments – the total investment in primary research-informed and evidence-based child abuse prevention services, the 10-year trend for such funding, targeted populations served, and the current unmet need.
- Evaluate how to more fully incentivize investments in research-informed and evidence-based programs, including front-end child welfare services (prevention, reporting, investigation, and in-home services).
- Identify and remove barriers that impede appropriate responses to immediate or emerging, and often complex, needs of the child (ren). This is of particular importance when such obstacles develop outside of a previously submitted multi-year funding plan like the Needs Based Budgets (NBB).

DEFINING CHILD ABUSE and PERPETRATOR

Pennsylvania has long been recognized as a statistical outlier on the rates of investigation and substantiation of child abuse when compared with other states; this actuality is perceived as having detrimental effects on child safety, pathways to services, budgeting, and program evaluation. In 2010, even as child abuse reports and investigations declined to 24,615; General Protective Services (GPS) referrals exceeded 39,000. Other than this referral number, there is little reliable data about this central and growing element of protecting children. Physicians and others have noted troubling gaps in the Child Protective Services Law (CPSL) definitions and in Children & Youth investigative practices regarding the evaluation of injuries, assessment of pain, approach to cases involving multiple (potential) perpetrators, and incidents of abuse in schools. The appellate review process is often onerous and restrictive, and is opaque to evaluation.

Recommendations:

Determine the reason for and implications of PA's current rate of investigating child abuse being 8.0 per 1,000 children, as compared to the national rate of 40.0 per 1,000 children; and the state's rate of victimization (substantiated child abuse cases) recorded at 1.3 per 1,000 children, with the national rate at 9.2 per 1,000 children. Review specific elements of the state definitions to determine if changes may be warranted; include:

- ❖ **Non-accidental**
 - ✓ Consequences of the 2002 PA Supreme Court decision (*P.R. v. DPW*, 801 A.2d 478) and resulting statutory definition of non-accidental.
- ❖ **Perpetrator Undetermined**
 - ✓ Degree to which child abuse has been determined by a joint investigation and/or medical diagnosis to have occurred, but is not substantiated as child abuse (including because the perpetrator was undetermined).
 - ✓ Degree to which such unsubstantiated child abuse cases are referred and monitored for service delivery, as well as recorded in some official way for statistical purposes when a perpetrator has not been determined.
 - ✓ Impact (benefits and challenges) of including these children on a statewide registry that would be known during the course of a subsequent report, though not available to the public.
- ❖ **“Severe” Threshold for Injury/Substantiation**
 - ✓ How is severe pain measured and defined, and does it take into consideration the individualized response of the child to the pain?
 - ✓ Should specific injuries, medical diagnoses, or vulnerability of the child – including age – require greater consideration/articulation within the definition of “child abuse?”
- ❖ **School Abuse**
 - ✓ Address that current law does not recognize “serious physical injury” by a school employee as a form of child abuse and does not require reporting to authorities.
 - ✓ Identify any limitations on a school's ability to more fully evaluate the background of a person, including any prior abuse or misconduct investigations, prior to hiring the person to work within a public or private school setting.
- ❖ **Who Can Be a Perpetrator**
 - ✓ Determine whether the statutory definitions of “perpetrator” (current CPSL definition: a parent, a paramour of a parent, an individual over the age of 14 living in the same home as the child, or a person responsible for the welfare of a child) should be expanded or clarified (i.e., to include community volunteers, family members not in a care giving role, and/or other unrelated persons who may have substantiated reports).

REPORTING and the INITIAL RESPONSE TO THE REPORT

Mandated reporting and other citizen responses to cases of suspected child abuse are the primary mechanisms to assure a child is safe and, where necessary, to initiate a child-centered investigation. Effective and ongoing training of mandated reporters is essential. Yet Pennsylvania, which has required mandatory reporting of child abuse since 1975 and which permits prosecution for the failure to report, has no training requirement for mandated reporters, or any standardized approach to the fundamentals that should be included in such training. Many professionals and lay persons find the laws technical and confusing, and a large number of mandated reporters – people who come into contact with children in their work – have never even been to a training program on the requirements of these laws. Recent events have created an important national conversation about whether all citizens should be mandated reporters, and how such a schema would work. Statutory immunity for good faith reporting is ultimately effective, but the costs of defending lawsuits can be burdensome. Incidents within schools are treated differently from other forms of suspected abuse, and reporting protocols often vary from school to school. Additionally, the state's child abuse hotline – ChildLine – has experienced staffing shortages and technology challenges that have resulted in a high rate of missed calls.

Recommendations:

- Clarify and reinforce who is a mandated reporter, and work to lessen or eliminate ambiguity.
- Spread the word – make it better known how to report child abuse, and make the tools more readily available, e.g., www.reportchildabuseinpa.com and www.pamandatedreporter.com.
- Ensure requirements for reporting child abuse are as straightforward as possible and emphasize that the role is to report, not investigate.
- Invite and encourage reporting by any person who suspects a child is being abused.
- Match mandatory reporting requirements with an expectation of training for all reporters, and ensure that this training is connected to education/licensing requirements for individuals and institutions.
- Establish a floor for training requirements: the core components of training to be offered to every mandated reporter.
- Determine any shortcomings that might exist as a result of internal reporting procedures, that is, the ability of an employee to fulfill his/her reporting duties via a *chain of command* process versus filing a report with authorities outside of the school/institution.
- Identify ways to standardize reporting of suspected abuse in schools, and study the efficacy of the law's alternative protocol for suspected abuse of students in public and private schools, 23 Pa.C.S.A. §6351 et seq.
- Examine Section 6311 and the language specific to “under the care, supervision, guidance, or training” and its impact on when and what is being reported so that mandated reporters understand the need to report.
- Determine what contributes to missed calls at ChildLine, e.g., staffing and technology, and identify continuous quality improvement practices needed to encourage fuller reporting and fewer missed calls.
- Evaluate the benefits of establishing a benchmark for missed calls at ChildLine and development of a trigger for a plan of action upon a pre-determined rate of missed calls.
- Examine the practice of law enforcement only reports and address any confusion or shortcomings related to it.
- Evaluate the immunity provisions and protections provided to the person who makes a good faith report, including when the report is made outside of the designated protocol within a school and/or institution.
- Evaluate the penalties for failure to report by mandated reporters – achieve consistency in these penalties regardless of the type of abuse being reported, e.g., Section 6311 and Section 6352.

INVESTIGATION and PROSECUTION

Child Protective Services (CPS) workers serve as the frontline of the system's investigation and need the skills to address complex family dynamics and legal mandates. State law mandates collaborative investigation by law enforcement and child welfare authorities, as well as multidisciplinary service planning. Specialized forensic interviewing of child victims is state-of-the-art, yet it is not available in many jurisdictions. The frequency and conduct of child-centered, collaborative, cross-disciplinary investigations should be evaluated for efficiency, quality, and conformance with laws and regulations.

Recommendations:

- Examine the current educational and training requirements, as well as caseload limits for front line child welfare workers charged with investigating reports of child abuse, and identify strategies to enhance professionalism of the workforce.
- Determine the effectiveness of current statutory and regulatory notice provisions to an employer, school, or institution when an employee or volunteer becomes the subject of a child abuse investigation and a safety plan is required.
- Examine the legal requirements for the convening of a multidisciplinary or joint investigative team, and the degree to which they are standardized and built on evidence-based practices within all counties.
- Examine how children's advocacy centers are supported and sustained, and what role the Needs Based Budget (NBB) process plays in their funding.
- Determine how often alternatives to face-to-face child testimony have been used, including the success and challenges encountered, since 2004.
- Ensure Pennsylvania joins all other states in the country to permit expert testimony in sexual assault cases, including child sexual abuse cases.

DIFFERENTIAL RESPONSE – General Protective Services

Most child welfare experts and advocates for children agree that a “differential response” is appropriate to distinguish cases involving child abuse from those situations that do not qualify as child abuse under the law but still need either some form of protective intervention due to safety threats, or supportive services for other family situations. CPSL and the Juvenile Act set forth a regimen of response and services under the rubric of “GPS” for cases that need some form of intervention or support but do not qualify as child abuse under the law. Little data is collected on GPS work in Pennsylvania and the practices related to GPS vary widely from county to county. Questions have arisen as to whether Pennsylvania’s approach to “differential response” is sufficiently valid, safe, and measured for effectiveness – questions that are quite critical given the threshold for a report to be investigated or substantiated as child abuse.

Recommendations:

- Examine the nature of and data about General Protective Services (GPS) referrals.
- Determine the degree to which GPS outcomes can be documented and reviewed. Data points may include the following:
 - ✓ Total GPS Referrals 2006-2010.
 - ✓ Total number of children within the GPS referrals 2006-2010 (unduplicated, if possible).
 - ✓ Families with multiple GPS referrals between 2006 and 2010.
 - ✓ Response time for GPS referrals within counties.
 - ✓ GPS cases that eventually are opened as a CPS case, and time to effectuate transfer.
 - ✓ Designated GPS cases that lead to a petition for dependency, removal from the home, and placement.
 - ✓ Number of children/families receiving in-home services, and how they are monitored.
 - ✓ Snapshot of what the county includes within GPS (case examples).
 - ✓ Caseloads for GPS by county.
- Establish common standards and expectations about response times, risk and safety assessment, caseloads, and technology that permits shared data and reporting on GPS.
- Determine whether to clearly define which cases should be classified as GPS cases, the protocol for delivering services, the array of services that must be available in each county to serve GPS cases, and the outcomes that must be measured and reported.

TREATMENT – CAPACITY OF THE SYSTEM TO RESPOND

The capacity of the system of care that provides services to child victims and their families has been threatened by caseload and budgetary pressures. In many parts of the Commonwealth, children do not have access to much-needed treatment services and other supports. Children in foster care and other forms of out-of-home placement are also sometimes denied benefits under the Victims Compensation Assistance Program (VCAP).

Recommendations:

- Determine if there are specialized areas of treatment and/or services not readily available, or where there is an established waiting list – both as they relate to specific needs of the child as well as services necessary to prevent out-of-home placement of the child.
- Identify and address any barriers for a victimized child to access victim's compensation benefits.

ACCOUNTABILITY for PERPETRATORS and SYSTEMS

The publicly-funded child welfare system and the decisions made within it profoundly impact the safety, liberty, and custody of the state's children and families. The system also has serious consequences for state and local government budgets. Yet there is no independent state entity providing oversight of the system and resolving complaints about it. While safety of children is the primary goal of the child protection system, we must also recognize how important it is to get the investigation right, because findings about being a perpetrator of child abuser have significant implications for future employment and continued contact with children, even one's own child (ren). Finally, in recognition that disclosure often does not occur until the child victim is well into adulthood, survivors require and deserve the opportunity to pursue justice.

Recommendations:

- Examine how many and what types of indicated cases of child abuse are overturned upon appeal, and how this process influences current decision-making at the county level.
- Address issues related to the registry of perpetrators of child abuse, including those related to the timing and nature of appeals and expungement.
- Determine whether Pennsylvania has struck the right balance on statutes of limitations to best ensure justice for every victim (criminal statute to age 50, civil to age 30) – should they be equalized, should they be entirely eliminated? What about those who today remain without any legal/civil recourse, e.g., should there be a window allowing civil lawsuits for victims who are currently barred by law from bringing a case?
- Identify ways to enhance accountability and transparency, including providing for an independent Ombudsperson for case-specific complaint resolution and systems reforms.
- Ensure fuller compliance with existing laws that regularly inform how our prevention and intervention efforts are working, e.g., joint investigations and multidisciplinary teams, Act 33 fatality/near fatality reviews, and Citizen Review Panels.