

Child Protection Accountability Commission (CPAC) Quarterly Meeting Minutes

WEDNESDAY, October 14, 2015
9:00 AM – 12:00 PM – New Castle County Courthouse
500 King Street, 12TH Floor, Wilmington, Delaware

Those in attendance:

Members of the Commission:

C. Malcolm Cochran, IV, Esq., Chair
The Honorable Jennifer Ranji
Dr. Victoria Kelly
The Honorable Michael K. Newell
The Honorable Joelle Hitch
The Honorable Melanie George
Smith
Tina Shockley
Eleanor Torres, Esq.
Corporal Adrienne Owen
Dr. Garrett Colmorgen
Jennifer Donahue, Esq.
Nicole Byers
Kathryn Lunger, Esq.
Dr. Allan De Jong
Mary Lou Edgar
Captain Robert McLucas
Ellen Levin
Randall Williams
Janice Mink

Statutory Role:

Child Protection Community 16 Del. C. § 912 (a)(16)
Secretary, Children's Department 16 Del. C. § 912(a)(1)
Dir., Div. of Family Services 16 Del. C. § 912(a)(2)
Family Court 16 Del. C. § 912(a)(4)
Family Court 16 Del. C. § 912(a)(4)
House of Representatives 16 Del. C. § 912(a)(5)

Designee for Secretary of the Department of Education 16 Del. C. § 912(a)(8)
Domestic Violence Coordinating Council 16 Del. C. § 912(a)(10)
Designee for Superintendent of the Delaware State Police 16 Del. C. § 912 (a)(11)
Chair of the Child Death Review Commission 16 Del. C. § 912(a)(12)
Investigation Coordinator 16 Del. C. § 912(a)(13)
Young Adult 16 Del. C. § 912(a)(14)
Public Defender's Office 16 Del. C. § 912(a)(15)
At-large Member - Medical Community 16 Del. C. § 912(a)(16)
At-large Member - Interagency Committee of Adoption 16 Del. C. § 912 (a)(16)
At-large Member - Law Enforcement 16 Del. C. § 912 (a)(16)
At-large Member - Child Protection Community 16 Del. C. § 912 (a)(16)
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Staff:

Tania Culley, Esq., Executive Director
Rosalie Morales

Members of the Public:

Nancy Carney
Kelly Ensslin, Esq.
Craig R. Fitzgerald, Esq.
Raelene Freitag
Eliza Hirst, Esq.
Carrie Hyla

Caroline Jones
Jackie Mette, Esq.
Julie Miller, Esq.
Sue Murray
Rachael Neff
Anne Pedrick

Shirley Roberts
Molly Shaw, Esq.
Ashlee Starratt
Brittany Willard

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I. Chairman's Welcome

Mike Cochran, Esq. opened the meeting and welcomed the attendees. Mr. Cochran congratulated Secretary Ranji as she was recently nominated by Governor Markell for appointment to the Family Court bench. He also thanked Secretary Ranji for her participation on the Commission. In addition, he acknowledged Senator Margaret Rose Henry as the newest Commissioner on CPAC.

Mr. Cochran discussed that the agenda was restructured to highlight the following areas: cases tracked by the Investigation Coordinator; child abuse and neglect death and near death reviews; and the CPAC Dashboards. The revised agenda reflects the way in which CPAC is evolving and drives the policy discussion around the data. While the Commissioner and Committee Reports will not be presented in the same format, Commissioners and Chairs may alert staff if a report needs to be included in an upcoming agenda.

II. Approval of Minutes – 7/8/15 Commission Meeting

The minutes of the July 8, 2015 Meeting were approved.

III. Executive Director's Report

Tania Culley, Esq. reported that CPAC now has three contract positions, the Training Coordinator, Jessica Begley; Data Analyst, Brittany Willard; and the Child Abuse and Neglect (CAN) Medical Abstractor, Megan Mraz. In addition, OCA has a new clerical person and Managing Attorney, and as a result of the transfer of the CAN Panel, the Child Death Specialist now works for OCA. There is still a vacancy with the Sussex County social worker position, and OCA is continually challenged with filling this position since it is not full time.

Ms. Culley also mentioned the average caseload per Deputy Child Advocate (DCA) is about 33 children. She said the DCAs are representing several children involved in death and near death incidents, which are time consuming cases. The office has two cases with terminations for parental rights on appeal. Due to the vacancy in Sussex, one social worker is carrying 88 cases and covering cases in Sussex County.

Ms. Culley stated that the assignment of cases has been very difficult since the number of children entering care is up. OCA continues to work with CASA on representing children statewide. Resources in Kent County are very limited for both agencies, and they are seeing a few children who are not represented. CASA has been picking up all cases in Sussex County, and OCA's pro bono attorneys are picking up all cases in New Castle County due to limited CASA volunteers.

OCA has had several meetings with partner agencies, such as the Department of Services for Children, Youth and Their Families (DSCYF), the Division of Management Support Services (DMSS), and the Family Court and Court Improvement Program (CIP). In addition, Ms. Culley discussed OCA's involvement in the recently signed legislation related to the Child Abuse and Neglect Panel and the Rights of Youth in DSCYF custody.

Ms. Culley has provided a number of trainings to volunteer attorneys on representing children in all types of Family Court proceedings. Kelly Ensslin, Esq. has done a number of trainings on permanency options for

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youth in foster care, and the training is available online. Eliza Hirst, Esq. has participated in a few national trainings with judicial officers. Ms. Hirst also authored an article for the American Bar Association Center on Children and the Law. Ms. Culley spoke at a local CIP conference that was facilitated by Family Court. To provide additional support to the volunteer attorneys, OCA staff is putting together several primers on understanding social security and disability benefits, trying a termination of parental rights case, and handling Supreme Court cases.

OCA staff has begun participating in more national meetings. Ms. Culley is a part of a coalition of the National Ombudsman and participates in monthly conference calls. Ms. Hirst represented OCA at a Northeast Collaborative on Legal Representation of Children.

The draft CPAC Annual Report will be presented at February's meeting for approval.

IV. Investigation Coordinator Report

Jen Donahue, Esq. presented her Quarterly Data Report, which includes the third and fourth quarters of fiscal year 2015 to draw a comparison. Chart 1.1. depicts the total referrals and total cases opened by the Investigation Coordinator (IC). In the fourth quarter (Q4), 1,124 referrals were received and 189 cases were opened. Ms. Donahue explained there is a significant disparity between the number of referrals received and the cases which are opened each quarter, because many of the cases fall outside their purview. As a result, it requires that each referral be screened for serious physical injury, sexual abuse and death. The office is working to streamline the reporting by the Division of Family Services (DFS) and the Delaware Criminal Justice Information System (DELJIS) to minimize the number of cases received outside of their purview.

In Charts 1.2 and 1.3, the total cases opened and total cases closed are presented. Ms. Donahue noted that they open more cases than they close. In the fourth quarter, 99 cases were closed. The IC will not close its case until the civil and criminal investigations conclude and the case review process is completed by the Children's Advocacy Center. Ms. Donahue said case closure is also delayed due to limited resources within their office.

Chart 1.4 shows the IC caseload. The caseload has been consistently increasing, and it is driven up by the intra-familial cases. In Q4, there were 947 open cases; 758 were intra-familial and 189 were extra-familial. The bulk of the intra-familial cases are sexual abuse. At the next meeting, Ms. Donahue will provide the Commission with a recommendation for triaging these sexual abuse.

Sections 2.1 and 2.2 deal with serious physical injury cases. The bulk of the cases are in New Castle County (64%). The alleged victims are primarily male (64%), and 50% of the alleged victims are under age one. In serious physical injury cases, the perpetrators are often the parents (77%) of childbearing age. Ms. Donahue explained that forensic interviews did not occur because many of the victims were nonverbal. The death cases are presented in Sections 3.1 and 3.2. In Q4, there were 4 deaths.

Sections 4.1 and 4.2 relate to sexual abuse cases. Almost 50% of the cases are in New Castle County, and the alleged victims are primarily female (74%). For the age range of the alleged victims, there was a spike at age 5 and 13. The alleged perpetrators were often relatives and not biological parents (58%). Ms. Donahue

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discussed how most prosecutions are declined (53%) followed by law enforcement unfounded (23%), which means the vast majority are not pursued.

Representative Smith suggested identifying the caregivers that have participated in parenting classes or home visiting programs and comparing it to the criminal outcomes in these cases to demonstrate the need for directing resources towards prevention initiatives. Dr. Kelly responded that they do have data about maternal and infant early home visiting programs that the Division of Public Health oversees. DFS does a data exchange to compare participants involved in these home visiting programs with participants reported to DFS. Of the first one thousand participants in the home visiting programs, only 5 participants were reported to DFS and one was substantiated for abuse or neglect.

In addition, given the ages profiles of the alleged perpetrators, offering parent education in high schools was suggested. Dr. De Jong mentioned how Pennsylvania is piloting the COPE24 Program in schools. It is a parenting skills program that originated from Missouri that uses video clips on toileting, frustration with crying and other issues. Dr. Kelly added that DFS is working with Children and Families First to compare data for participants involved in the Strengthening Families Program, an evidence based parenting program, with participants reported to DFS.

Mr. Cochran cited the following tracking issues: involvement of the Children's Advocacy Center in serious injury cases when children are verbal; data collection and reporting on substance exposed infants; cross-checking the IC data with the CAN Panel data; and early intervention programs for 20 to 30 year-olds (i.e., Department of Education, COPE24, LifeSkills Education program by Kind to Kids).

V. Child Abuse and Neglect Death/Near Death Reviews

a. Appointment of Review Panel, Director, Co-Chairs

On September 10, 2015, the Governor signed legislation transferring the CAN Panel to CPAC. The Commission agreed that the Panel membership will remain the same, and Janice Mink and Becky Laster will remain as the Co-Chairs. Rosalie Morales will function as the CAN Director to help the Panel work through the procedural issues, which involve collecting data and making sure the conversations are appropriately structured and moving forward efficiently.

b. CAN Steering Committee

Mr. Cochran discussed how CPAC will continue to have public meetings even with the transition of the CAN Panel. As such, discussions related to the reports, findings and recommendations will be open to the public. However, certain legal requirements do not permit CPAC to disclose identifying information, only the basic facts that relate to the findings. To balance the need to deliberate in public and have access to confidential information, it is recommended that the CAN Steering Committee be created to oversee the work of the CAN Panel, and the CAN Panel will submit its reports and findings to the Committee for review. In response to the findings, the Committee will be responsible for proposing courses of action, which will include asking system partners for a response to prioritized findings and addressing the less significant findings at the Annual Retreat.

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Mr. Cochran stated that the Commission is being presented with the work of the CAN Panel since September 10, which includes the consolidated CAPTA Report, a letter to the Governor with the proposed courses of action, and a matrix which includes all the findings.

Janice Mink made a motion to give the Chair the authority to appoint the CAN Panel members, Co-Chairs, and CAN Director, and to approve the work of the CAN Panel since September 10, 2015. Judge Hitch seconded the motion. The remaining Commissioners all voted in favor of the motion.

A motion was made to appoint the Executive Committee of CPAC, Dr. De Jong and Corporal Adrienne Owen to the CAN Steering Committee. Ms. Mink seconded the motion. The remaining Commissioners voted in favor of the motion.

Ms. Culley stated that the CAN Steering Committee will meet quarterly, a few days in advance of the CPAC meetings to review the work of the CAN Panel.

c. Bylaw Amendments

Amendments to the CPAC Bylaws will be presented to the Commission at the February meeting to reflect the addition of the CAN Steering Committee and CAN Panel.

d. CAN Procedure Update

Ms. Culley provided an update on the CAN procedures. A CAN database has been created; however, it is currently being backfilled, so it is still a work in progress. As a result, quality assurance against the IC database is not possible at this point. Upon completion of the database, reports will be provided to the Co-Chairs on the upcoming reviews. In addition, a teleconference will be scheduled with the Co-Chairs in advance of the CAN Panel meetings to prepare for the meetings. Process maps are being created to help staff understand how a file runs through the office and to assign responsibility for specific activities. For Panel members, detailed agendas with specific duties are distributed to make sure individual members are prepared for the reviews. These agendas are being sent out two to three weeks ahead of time, but the goal is a month advance. Ms. Morales is assisting the Co-Chairs in making sure the reviews are streamlined. The findings from these reviews are being tracked, so system issues can be identified quickly and reported to CPAC.

e. CAN Caseloads

In October, the CAN panel will do initial reviews in the morning, and a smaller panel will meet in the afternoon to complete CAPTAs for several older cases. New cases will also be reviewed in November and December, and a second all-day meeting will be held in December to clean up the remainder of the old cases.

Currently, there are 66 open CAN cases. Fifty-one cases were transferred from the Child Death Review Commission (CDRC), and 37 did not have their first review. Of those 37 initial cases, one was included in the findings matrix approved today since the review occurred in September. There are 6 cases scheduled for a first review on October 22. Two of the cases are from 2014, and, as a result, they are out

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of statutory compliance. A third case from 2014, which is not on the schedule for October, is also out of statutory compliance. The other four cases scheduled for October are past the six-month timeframe; therefore, a good cause exception will be requested to review the cases within nine months. For the remaining 29 initial cases, in which a first review has not occurred, the records are still being prepared for the review. Ms. Culley requested a second good cause exception for 19 of the 29 cases since a review will not occur before the six-month timeframe. The 19 cases are all from 2015. The 29 final cases were also discussed. Ms. Culley mentioned that many of them did not have a comprehensive review the first time. Eight of the 29 cases were included in the CAPTA Reports approved today. Eight additional cases are pending prosecution, so they will not be reviewed until the prosecution concludes. Of the 13 remaining final cases, 5 are scheduled for review in October, and 8 are scheduled for review in December (2 cases from 2012 and 6 from 2014). With this plan in place, the backlogged cases will be completed by February.

Ms. Mink made a motion to allow for a good cause exception for 4 cases to be reviewed within nine months and 19 cases to be reviewed within six months since the cases were recently transferred to CPAC and time is needed to implement procedures and to conduct appropriate reviews. The motion was seconded. The remaining Commissioners voted in favor of the motion.

f. CAN Case Approvals

Ms. Mink reported the CAN Panel meets monthly, and the last meeting occurred on September 21. At that meeting, 8 cases were reviewed.

Ms. Mink also presented the CAPTA Report, letter to the Governor with the proposed courses of action, and Findings Matrix. Eight cases are listed in the CAPTA Report. Three of the cases were from 2011 through 2013 and were originally reviewed by CDRC. During these reviews, the Panel was making recommendations which described the actions agencies needed to take, but more recently the Panel switched to making findings of actions that were not taken by the agency. Therefore, the recommendations from these reviews were included in the Joint Action Plan developed in January 2015. As such, they are not listed in the current Findings Matrix. One outstanding issue exists from these older cases, which is the issue of homeschooling.

The Findings Matrix includes 6 cases in which the date of incident was between May 2014 and February 2015. Five of the cases are listed in the CAPTA Report, and the sixth case was reviewed for the first time in September. The findings and information will not be released in a CAPTA Report until prosecution has occurred. There were a total of 30 findings, most of which have been identified previously. The breakdown was as follows: 7 findings related to DFS; 13 findings pertained to law enforcement and the multidisciplinary team (MDT); and 10 findings were for the medical community. The findings were specific to documentation issues, unresolved risk, criminal investigations, crime scenes, medical exams and medical transportation.

A motion was made to approve the consolidated CAPTA Report. The motion was seconded, and the remaining Commissioners voted in favor of the motion.

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A second motion was made to approve the letter to the Governor as revised. The motion was seconded, and the remaining Commissioners voted in favor of the motion.

A third motion was made to approve the Findings Matrix and have it referred back to the CAN Steering Committee for consideration of proposed actions. The motion was seconded, and the remaining Commissioners voted in favor of the motion.

VI. Updates on Joint Action Plan

a. Use of History

Secretary Ranji reported on the 3 recommendations under the use of history. The first recommendation regarding training with the CAN Panel on the use of the Structured Decision Making (SDM) Tool was completed.

For recommendation two, DFS has started to tier cases based on history and factors present at the hotline and cases transferred to the regions. The factors include a combination of the age of the perpetrator, age of the child, domestic violence and others. These cases will be flagged and may require a critical framework or higher level of supervision. Secretary Ranji also provided an update on the partnership with Chapin Hall, who agreed to look at the data and analyze those factors against outcomes. The analysis is complete and a meeting is scheduled for next week. Raelene Freytag from the Children's Research Center will also be speaking to the Commission today about specific risk factors.

The last recommendation relates to the challenge of caseworkers to read and understand the lengthy history in an older data management system. To address this, DFS has been adopting the safety organized practice model and training staff to move away from an incident based response. They are also upgrading FACTS I to make it easier for workers to access the chronological history of the case.

b. Medically Fragile/Substance Exposed Infants

Ms. Donahue reported on the recommendation for medically fragile children and substance-exposed infants. The Joint Committee has had two meetings to date, and the next meeting is next week. Ms. Donahue reached out to Dr. Nancy Young, the Director of the Center on Substance Abuse and Child Welfare. In addition to resources, Ms. Donahue is hoping to receive informal technical assistance on substance-exposed infants. Dr. De Jong added the Joint Committee must consider the universal drug screening of all mothers at the time of delivery. Ms. Donahue also provided data on the number of substance-exposed infants reported to DFS. There were 414 reports made to DFS between January 1 and September 30, 2015. The Committee will explore this data further.

c. Safety Plans and Unresolved Risk

Dr. Vicky Kelly reported on the 4 recommendations for safety plans and unresolved risk. The legislation was passed to compel an uncooperative parent or guardian to complete a drug or alcohol evaluation, mental health evaluation or a developmental screening for their child. The DFS Supervisors will receive training on this statute from the Department of Justice (DOJ) tomorrow. DFS is also discussing the

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information and findings from the CAN Panel with the Investigation and Treatment Workgroups. A week ago, Dr. De Jong trained almost 90 staff. He took difficult CAN cases and discussed where there were opportunities to learn.

d. Legal

Mr. Cochran reported on the 3 legal recommendations. Attorney General Matt Denn convened a meeting last week, and Secretary Ranji, Dr. Kelly, Patricia Daily Lewis, Kathleen Jennings, Josette Manning, Shirley Roberts, Mr. Cochran, and Tania Culley were present. Mr. Cochran explained the essential issue is how to improve communication between DOJ and DFS. Four or five action steps came out of meeting, and these will be added to the chart. It ranged from development of policy for when a case worker should contact a Deputy Attorney General to resolving protocols within the DOJ for what they can keep confidential or must disclose to other divisions within DOJ. Training was also discussed to help each agency understand what services can be provided. Ms. Culley added that she has spoken with Rachael Neff, CIP Grant Manager at Family Court, to regarding a training program for members of the judiciary. It will be something to put on the Court's agenda in future after a subject matter expert is identified.

e. MDT Response

Ms. Morales reported on the 4 recommendations for the MDT response. The first relates to the Memorandum of Understanding between DFS, DOJ, CAC, and law enforcement agencies. The CAN Best Practices Workgroup will be reviewing the draft Physical Injury Protocol in the next few months. The themes that will be addressed in the protocol include: cross reporting to the MDT, joint responses, forensic interviews, crime scene investigations, medical exams and transportation of victims. The plan is to duplicate this protocol for the other maltreatment types and add specific areas that pertain to each. The Training Committee is meeting next week to address the advanced training recommendations. It plans to identify subject matter experts to offer them at the Protecting Delaware's Children Conference. The third item is the under resourced DOJ Child Victims Unit. Ms. Culley and Mr. Cochran will reach out to the Attorney General and Ms. Manning to assess the need. The last item is the child torture piece. A torture checklist has been developed and will be approved by the Committee next week.

f. Medical

Dr. Colmorgen reported on the medical recommendation. CDRC will send a letter regarding this recommendation to the agencies listed in the Joint Action Plan, and the responses will be shared at the next meeting. The Training Committee will need to review the recommendation in relation to the current training for physicians are receiving and determine if additional components need to be added. CPAC may consider partnering with a group of physicians on drafting this legislation, but follow up should occur with the Medical Society of Delaware as they partnered with CPAC to revise the training during the last re-licensure period.

VII. Presentation – Use of History and Predictive Factors of Risk

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Raelene Freytag from the Children’s Research Center discussed the use of history and predictive factors of risk. She stated the 3 primary ways risk is measured is through personal judgment, consensus based tools, and actuarial tools. The SDM tools used by DFS are an example of actuarial tools. She mentioned that predictive analytics is emerging as a fourth way to measure risk, but it is not ready yet. She provided further detail on how the Risk Assessment Tool was created and validated by states. She explained there are 4 items on the abuse scale and 3 items on the neglect scale that relate to history. The tool provides a risk classification of low, moderate, high, and very high, so they can tell which families have the greatest likelihood of abuse or neglect in the future. Identifying and providing services to the families that are rated very high is a priority.

VIII. CPAC Dashboards

Mr. Cochran discussed the salient points in the dashboard. He indicated the statewide DFS Investigation caseloads have been over standard for a year. Mr. Cochran suggested identifying a remedy between now and the next meeting.

Mr. Cochran also noted the educational outcomes for children in foster care are substandard. He said the past Secretary of the Department of Education (DOE) was invited to the next meeting to discuss this data and potential solutions.

Lastly, Mr. Cochran noted a spike in the recurrence of maltreatment in less than a year. A year ago, it was at 5.7% and at 11.4% in June.

Dr. Kelly said the 10 new positions that DFS received in January are now fully in their complement. There is evidence of an ongoing structural deficit in the number of positions relative to the continuing volume. DFS supports help from CPAC over next few months in looking at this. Dr. Kelly also mentioned that when the treatment caseload standard of 18 was set it was not best practice. Currently, they count the number of families, so it significantly under represents the number of children on treatment caseloads.

Janice Mink made a motion to write a letter to members of the General Assembly highlighting the issue regarding caseloads and copying Anne Visalli at the Office of Management and Budget. The motion was seconded. Dr. Kelly abstained from the motion and the remaining Commissioners voted in favor of the motion.

IX. CPAC Committee Reports

a. Child Abuse Medical Response

Randy Williams reported the Committee had its first meeting, and the second meeting is scheduled for this Friday. They plan to expand the network of medical providers beyond Dr. De Jong and to work on a medical response protocol for all first responders in the state. Captain McLucas agreed to appoint a representative from the New Castle County Police.

b. Child Torture

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In addition to the checklist, Ms. Morales reported that the Committee was asked by national experts to submit an abstract to give a presentation at the 13th Hawaii International Training Summit in March 2016. Members of the MDT have been identified to participate on the Panel, and the presentation will highlight the checklist and CAN Panel cases. Federal funds will be used to support the team members.

c. Other Committee Reports

The remaining CPAC Committee Reports were submitted in writing and distributed to the Commission and are attached.

X. Commissioner Announcements and Public Comment

As there was no public comment, the meeting was adjourned at 12:03 pm.