

CHILD FATALITY & NEAR FATALITY EXTERNAL REVIEW PANEL
MARCH 10, 2014

Members Present: Judge Roger Crittenden, Chair; Judge Brent Hall; Detective Kevin Calhoon, Kentucky State Police (KSP); Dr. Melissa Currie, U of L Division of Forensic Medicine; Dr. Tracey Corey, State Medical Examiner; Dr. Kim McClanahan, CEO, Pathways, Inc.; Joel Griffith, Prevent Child Abuse Kentucky; Commissioner Teresa James, Department for Community Based Services, Cabinet for Health and Family Services (CHFS); Maxine Reid, Family Resource and Youth Service Centers, CHFS; Dr. Ruth Shepherd, State Child Fatality Review Team, CHFS; Dr. Jaime Pittenger, Child Abuse Pediatrician, University of Kentucky School of Medicine; Allison Taylor, designee for Dr. Stephanie Mayfield, Commissioner, Department for Public Health; and Sharon Currens, Kentucky Domestic Violence Association.

Members Absent: Senator Julie Denton, Representative Tom Burch, Dr. Carmella Yates, Robert Walker, Jenny Oldham, Nathan Goins, and Andrea Goin.

The meeting was called to order by Judge Roger Crittenden, Chair.

Judge Hall stated he feels the panel is stuck with the statutory definition of neglect and abuse because CHFS is stuck with it. Judge Crittenden remarked that the panel's definition could be different than what is statutory and that the panel could recommend a statutory change. Dr. Currie disagreed with Judge Hall noting that the panel is in a unique position and would be handicapping themselves to say certainly how much abuse/neglect occurs. She noted the difference in definitions would not be a reflection on the cabinet. Judge Hall recommended sending all the definitions to the panel members and what is serious physical injury, what is sexual abuse, problem with application or definition of application. Commissioner James agreed with sending a recap of definitions. Judge Crittenden suggested putting that on discussion for the next meeting as to how that relates to cases that we're reviewing. Dr. Currie stated the court can qualify all information. She noted one of the most valuable things the panel can provide is hard data regarding how much abuse and neglect IS occurring.

Dr. Corey asked to have the minutes be corrected to reflect her absence at the previous meeting.

Judge Crittenden asked Mr. Griffith to comment on the plans for the September meeting. Mr. Griffith noted it would coincide with the Kids Are Worth It Conference at the Crowne Plaza in Louisville on September 8th and 9th. He commented he is seeking sponsors to cover costs of registration. Consensus among panel members was reached to hold the September Panel meeting in conjunction with that conference in Louisville.

Judge Hall inquired about changing the meeting day. Judge Crittenden suggested moving to the third Monday of the month and panel members were in agreement. Judge Crittenden asked Mr. Cannady to send a notice to members indicating future meeting dates.

Judge Crittenden noted that the budget, if passed, would not be effective until July 1, 2014; therefore, the panel would not be hiring staff until after that date. Judge Crittenden also noted that a memorandum of understanding between the Justice & Public Safety Cabinet and the panel had been emailed to members. He remarked that he and Dr. Currie had met with Terry Brooks of Kentucky Youth Advocates and Representative Benvenuti. Some of the concerns were potential conflicts of interest with panel members who may receive funding from agencies under review. He noted most of the conflicts were statutory. He stated they invited Kentucky Youth Advocates to send copies of financial disclosure statements that can be used by panel members. He noted those would be distributed for discussion once received. Judge Crittenden remarked that the other issue that was discussed was the panel's attachment to an executive branch agency, the Justice & Public Safety Cabinet. He noted Secretary Brown suggested the memorandum of understanding that has been drafted by legal staff and can be discussed at the next meeting. Judge Crittenden asked to have any comments or changes to Mr. Cannady within thirty days and the panel will vote at the next meeting.

Judge Crittenden asked for an update on the case review tool. Dr. Currie indicated some initial piloting had been done with the tools being considered. She commented that once they have a tool that they feel works best, they will submit it to the panel. Judge Crittenden inquired if it would be beneficial for voting members to take one case each instead of reviewing four or five once there are summaries from an analyst on staff. Dr. Currie asked if that would help get thru all the cases. Mr. Griffith responded that there are 114 cases for the year currently being reviewed. He also commented on the timing of getting staff in relation to when the annual report will be due.

Judge Crittenden commented on an article in the Courier Journal regarding HB 157 and asked Dr. Currie to explain. Dr. Currie remarked that HB 157 required all physicians in Kentucky who see children to get one hour of continuing medical education about recognition of physical abuse and head trauma in particular.

Mr. Griffith inquired about number of cases to reference in the panel's annual report versus the numbers referenced in the report that has been released by DCBS and what the panel can do to support getting the information more timely. Mr. Griffith and Dr. Currie expressed concern regarding the extensive time lapse between initiation of the investigation and when cases are finalized for panel review, and the complications created when the DCBS annual report numbers are delayed nearly a year. Commissioner James commented that DCBS is depending on autopsies and labs and sometimes on criminal investigations. Mr. Griffith recommended that DCBS include the number of cases still pending at the time of the DCBS annual report is

released, and DCBS should review cases with delays with the goal of identifying trends which could improve timeliness. Commissioner James responded that could be easily included in the report. Dr. Currie commented that she has noticed significant lag between the initial investigation and the later documentation. Dr. Corey noted from the medical examiner's perspective, with a brain-injured child it will take eight weeks or longer which is an acceptable timeframe in national standards. Dr. Currie remarked there should also be a mechanism to update information to include cases that had been pending. Dr. Corey inquired about timeframe of reports. Mr. Griffith noted that the panel could make a recommendation regarding timing of reports to have them all aligned together. Panel members agreed. Judge Crittenden asked Mr. Cannady to collect information regarding reporting date requirements.

F-16-13-C

Mr. Griffith stated this case was reviewed briefly in January and it was suggested to do an in-depth review. He noted the case included domestic violence, low functioning brain injured mother, substance abuse issues and criminal history. Dr. Currie pointed out that the child had typical newborn care but there is no mention that the mother had suffered a traumatic brain injury and had cognitive issues. She commented there was noted a referral for community resources but no information that occurred. She noted the two week checkup indicated safety issues were discussed; however, no indication which safety issues they chose to address during that visit or whether safe sleep was included. Dr. Currie stated considering the number of cases of unsafe sleep, at a bare minimum it should be documented that it was discussed with parents. Ms. Currens inquired about the correlation between unsafe sleeping and impairment. Dr. Corey commented that since there is no mandatory testing, it is unknown. Dr. Currie pointed out the panel is only getting the cases that went to DCBS. Dr. Corey also commented that sometimes babies slip between mattresses and headboards. She also noted that mothers of newborns are exhausted and may be sleeping heavily but the underlying issue is the unsafe sleeping environment. Mr. Griffith observed this is an opportunity to compare the data that the panel receives with the data the state team receives, suggesting there are twice as many cases than the panel is reviewing. Dr. Shepherd agreed and stated she could bring the numbers to the next meeting. She also commented that eighty-five percent of the sleep related deaths are co-sleeping. Mr. Griffith remarked that from a prevention point of view, we have to get to the point where the hospital identifies a high risk mother with an obvious brain injury and a history of child welfare services and has some kind of wrap around services. Dr. Currie noted that the mother had one child that did not live with her and that is a red flag. She also commented that if thorough social histories are taken, you can get a lot of information that allows you to help the family. She noted it was a system failure if the mother was not educated about safe sleep and a system failure to not have identified the risk that she had a past brain injury and that she had children that she had voluntarily allowed to be raised by other family members. Dr. Corey asked if there should be some type of screening tool used by hospitals. Dr. Currie

commented that after the consult, it would be nice if the social worker could identify a community resource that could be helpful. Commissioner James commented on the lack of resources available in communities due to the economy. Dr. McClanahan remarked that starting from 2004, there were nine or ten referrals. Mr. Griffith inquired about the referral in 2005. Commissioner James noted a case was opened on that one. Judge Hall asked if the court was involved and Commissioner James indicated there was a petition filed in court. Dr. Currie remarked that it was an excellent investigation and the worker was incredibly thorough. This referral helped with resources for the family. Judge Hall inquired about the September 2, 2011 referral. Commissioner James responded that it related to a truancy issue and the mother reported that she had moved closer to the school and it was no longer an issue. She also noted the referral came in May, DCBS did not catch up to the family until July and the face to face contact occurred in September. She also noted a referral was made for counseling for the child. Judge Hall inquired about the final referral noting the time lapse between the fatality in December 2012 and the referral not occurring until July 2013. Dr. Currie pointed out that five months passed before the mother was offered mental health intervention after the loss of the baby and it appeared the mother deteriorated during that time and ultimately lost custody of all children. She noted for one of the children, the family member that showed interest in taking in the child worked fulltime and had inquired about available resources to help care for the child. The family member was told there were no longer any financial resources available. She remarked that lack of funding for a family member resulted in the child being placed in foster care. She noted the worker had documented that she informed the family member there was no longer funding available. Commissioner James noted there is some funding available so DCBS must have missed that. She briefly explained the benefits available. Judge Hall commented on the school system's delay in reporting the truancy. Dr. Currie remarked from a potential recommendation standpoint, the panel identified the need for safe sleep education, the unmet need for support services for high risk families who don't meet criteria to be screened in for DCBS purposes, and consistency and timeliness for school systems in reporting unexcused absences. Mr. Griffith commented that domestic violence, substance abuse and mental health assessment needs were noted. He also commented on the lack of parenting assessments. Dr. Currie responded that there is a need for timely mental health assessments.

F-12-13-NC

Judge Crittenden asked Detective Calhoon to comment on this case. Detective Calhoon stated he had received discs from Mr. Cannady in reference to the interviews conducted in this case involving the child found in the beanbag. He noted some documentation was received from the coroner's office. He commented that the information contained on the discs is protected and he will continue to try to access the information with the assistance of KSP Computer Technologies. Detective Calhoon commented that the coroner's report did not provide additional information. Dr. Currie remarked the autopsy showed that the child had swallowed

some of the beads which indicate that she was alive at some point when she was exposed to the beanbag. She noted there were also beads on the floor outside of the beanbag and the first responder that the beanbag looked oblong and funny when he saw it. She commented that she is still concerned about the zipper from the way it is described. Dr. Corey mentioned the presence of the petechiae which causes her concern. Dr. Currie also noted that the child was naked when she was found. She also pointed out that when the police asked at the home what the child was wearing, he said he could not remember. Dr. Corey noted the medical examiner ruled that the manner of death was undetermined. Dr. Currie inquired if the beanbag was taken as evidence. Dr. Corey commented the documentation stated the beanbag would remain in the custody of Mr. Russell, Lexington PD. Judge Crittenden noted one of the things identified was a system breakdown in that the cabinet was called but not involved in the investigation. Commissioner James remarked that the family moved and DCBS had difficulty getting access and did not complete an investigation. Dr. Currie identified the recommendations from this case would be addressing the system issues that prevent DCBS involvement. Mr. Griffith asked if the local team reviewed this case. Dr. Currie stated there is no report from the local child fatality team.

F-17-13-C

Judge Hall noted this case was reviewed in January and he had concerns with the judge's decisions and the timeline. Mr. Griffith commented that additional records were requested for this case. Dr. Currie agreed. Mr. Cannady stated that he had posted law enforcement records for this case to SharePoint. Dr. Currie asked to keep this case pending until the next meeting so that everyone can review documents posted.

Judge Hall noted that he would be posting comments on NF-07-13-C and NF-30-13-C as there appears to be some judicial deficiencies in those two cases. He also commented that he is notifying AOC of the need for training. Judge Crittenden remarked that recommendation could be made as a panel.

Group 1

F-8-13-C

Detective Calhoun stated this case involved the babysitter with a three year old in the bathtub. He also noted there was a history of domestic violence in the family. Dr. Corey noted there was bruising on both front and back of the head and other injuries present as well. Ms. Currens stated the nanny had two children there and had taken the older one out of the tub and gone with him to get him dressed, leaving the three year old in the tub. The three year old was dead by the time she returned to the bathroom. She noted that by the time the emergency personnel arrived the child was pretty dry except for the roots of her hair but the nanny was soaked. She commented that there seemed to be some concern about that. She also remarked there was a towel that was used to clean up where she'd thrown up or they'd pulled

something out of her mouth and somehow that towel had been thrown in the dryer and covered up with other towels. Dr. Corey remarked that it would be highly unlikely that a three year old falling in a tub would knock them out, which is why the medical examiner left it as undetermined. Ms. Currens asked if police then just decide they cannot prove a case. Detective Calhoon remarked that the police investigate and conduct interviews with everyone involved and report to the county or commonwealth attorney who determines if there is enough to prosecute. Mr. Griffith commented that the panel had decided to always request law enforcement records on all cases. Judge Crittenden noted this case was reviewed prior to that decision. Ms. Currens noted in this case the nanny immediately hired an attorney. Judge Crittenden asked about previous cabinet involvement. Detective Calhoon noted that there was domestic violence between the husband and wife but it did not involve the nanny. Ms. Currens noted the referral for domestic violence began in January but was not completed until after the child died. Commissioner James noted the case had not been closed out and the policy of the department is that when you get the second case, you must immediately stop the first case and end it. Dr. Currie inquired if there was any evidence of previous abuse or neglect by the nanny. Detective Calhoon responded there was nothing in the report to indicate that. Dr. Currie commented the only prevention issue would be not leaving a three year old unattended in a bathtub. Commissioner James remarked that this case was substantiated for neglect.

Group 2
NF-26-13-C

Judge Crittenden commented that this case involved a four month old boy from Grant County that was taken to Cincinnati Hospital with serious head trauma. The last report indicated the child is now developmentally delayed and has serious visual issues as a result of the head trauma. Judge Crittenden noted there was cabinet involvement previously with other children for various reasons. The mother was seventeen years old who had been working, going to school, had a four month old baby and living with her parents who had allowed her twenty year old boyfriend to live with her when she was thirteen. He also noted her sixteen year old sister was in the household with her boyfriend also and there had been allegations of abuse previously and an unsubstantiated neglect allegation. He commented that there was massive help after the child was injured. He also noted there is a foster mother who is doing a wonderful job. Dr. Currie pointed out the parents of the seventeen year old had a peer relationship with her rather than a parent/child relationship. Dr. Currie commented that the hospital knew this was a case of abuse immediately. She noted the child was taken to an outlying facility and was then transferred to Cincinnati and had subdural hemorrhage, an obvious brain injury. She stated from a medical standpoint, the abuse was diagnosed quickly. She commented the investigators, police and CPS, seemed to work together very well but they did not necessarily continue communication with the hospital or vice versa. Judge Crittenden asked if this was a problem across state borders. Dr. Currie indicated it is not. Dr. Currie remarked this would have been a great family for the

HANDS program. She noted the father was very violent and everyone knew of his violence. She mentioned he had a history of violent behavior such as shooting dogs and kicking puppies. She commented that multiple people were in the home the day the child was injured and heard him in the bedroom where he was keeping the baby isolated, yelling and cursing at the baby. Judge Crittenden noted the child was not placed back with the mother or her parents and they were not showing much interest in the child. He stated there is a foster mother who is meeting all the needs of the child at the present time. Dr. Currie commented from her perception this was a very straight forward criminal case. Judge Crittenden asked to have this case placed as pending and to request the police report.

Group 3
NF-07-13-C

Mr. Griffith noted this case had previous involvement with the cabinet and involved a baby born in March of 2012 with marijuana in its system. He stated that after the baby was discharged, the hospital called the social workers to report the positive toxicology report. He noted workers investigated, followed up for a month or so and did not find any neglect so the case was closed and five months later the baby had pediatric abusive head trauma with a severe brain injury. Mr. Griffith pointed out that a prior emergency room visit was referenced in the case regarding some type of injury to the child and he would like to have those records. He noted there was reference to a relative observing the father spanking the baby and being rough with the baby but no one reported to authorities. He commented the investigation was very thorough. Dr. Currie agreed that it would be helpful to have the previous pediatrician and emergency room records. Commissioner James questioned the role of social workers in hospitals and what tools they are giving parents of new babies before they leave the hospital. Dr. Currie agreed it is a critical issue and remarked that she suspects there is not clarity about their scope of practice and what truly falls within their responsibility. Mr. Griffith noted this is another case of no services in between leaving the hospital and the child being injured. Dr. Shepherd commented that the focus is on the baby in these situations and no treatment is given for the mother and there are no support services available. Dr. Currie noted that data gathered by this panel will help to show doctors in Kentucky that these are the issues we are seeing that are killing babies and that need to be addressed. She commented that it would be a reasonable recommendation that there be discretion on topics discussed with parents but safe sleep and choosing safe caregivers for kids are the two that you have to cover.

Group 4
NF-14-13-NC

Dr. Pittenger stated this case involved an eight month old who was in a motor vehicle accident with his mother who was under the influence of alcohol and oxycodone. She noted the mother was paralyzed from the waist down after the accident. She also stated the child suffered multiple broken bones and was in ICU

for quite some time and then went to foster care. She commented that the mother had a history of substance abuse and alcohol abuse in the past but had been doing well for a while. Dr. Currie commented on the need for medical records if the panel is going to track data such as neonatal abstinence. Judge Crittenden inquired about the child's injuries. Dr. Pittenger noted the child fully recovered according to the last documentation. She mentioned he was placed in foster care as the maternal grandmother could not care for both the child and the mother who is now paralyzed. Commissioner James commented that the biological father now has permanent custody of the child. Dr. Currie noted that on non-cabinet cases the panel does not have the benefit of the cabinet having gathered the records and will need to request any records that may be available for the child.

Group 1
NF-11-13-C

Ms. Currens stated this case involved driving under the influence and substance abuse. Detective Calhoon noted there was not much prior history in this case. He stated the KSP post received numerous complaints of the mother's reckless driving throughout the entire day and had been looking for her but unfortunately the accident occurred prior to locating her. He noted there was the presence of alcohol and multiple narcotics. Dr. Currie inquired about the age of the child and the injuries. Detective Calhoon responded that he was seven years old. Commissioner James indicated he was in the ICU with a skull fracture and epidural hematoma. Commissioner James noted he was initially placed with his father and then returned to his mother. Mr. Griffith inquired about why the judge returned the child to the mother. Ms. Currens noted there was information about the mother's clean drug screens and treatment.

Group 2
NF-09-13-C

Judge Crittenden noted this case involved a one month old baby in Kenton County. He noted it was determined there was a laceration of the liver. He stated the mother was drug addicted. Dr. Currie stated the family members noticed bruising on the baby several days before this happened. She noted the mother reported calling the pediatrician to tell him that the baby was feeling well and was told to watch him for a couple of days. Dr. Currie noted this may not have happened and it would be interesting to see the records. She also mentioned this child also had a hole in the back of his throat. Judge Crittenden commented the child was placed with a relative as the mother kept relapsing. Dr. Currie commented CPS and law enforcement worked together well. She asked to keep the case pending for previous medical records.

Group 3
NF-30-13-C

Dr. McClanahan noted there was some confusion with this non-fatality case as there is another child in the case that was a fatality. Mr. Griffith commented that he wasn't certain the child was critically injured. Dr. McClanahan stated that one child had a non-accidental spiral fracture to his femur. Commissioner James explained the NF reference was how the case began but then the child died. She noted this child arrived at the emergency room with bruises in different stages of healing covering his entire body, suffered internal injuries including a liver contusion, was unresponsive and airlifted to St. Mary's and then to Cincinnati where he died as a result of his injuries. Dr. Currie remarked that this was a four year old and he had a healing posterior rib fracture. She communicated that she had never seen that in a four year old. Dr. Corey also had not seen that. Mr. Griffith noted there were two previous unsubstantiated reports from 2007 and then they reappear in 2012. Ms. Currens asked who was causing the injuries. Mr. Griffith stated it was believed to be the boyfriend and mom was also charged as she had to know. Commissioner James stated the case against the mother was substantiated for neglect of the children. Dr. McClanahan noted charges for murder were pending against the boyfriend and mother. Mr. Griffith commented he thought the grandparents' actions were questionable. He noted they claimed to have never seen the injuries. He pointed out the natural father and his wife had reported that they had seen genital bruising on the little boy and claimed that they made a report to Ohio County DCBS but there was no indication in the file. Dr. Currie mentioned that Judge Hall intended to post comments to SharePoint regarding this case. Dr. Currie noted the perpetrator was not biologically related to the children in this case. Detective Calhoon stated the trial for the perpetrator is scheduled for later this month.

Mr. Griffith stated that the panel needs to request the law enforcement records on NF-07-13-C. Judge Crittenden asked Mr. Cannady to note that.

Mr. Griffith and Dr. Corey commented on the need to decide on what the focus should be for the panel due to the limited resources and volume of cases. Dr. Currie noted the primary goal should be how these cases and future cases can be prevented.

Group 4
NF-36-13-NC

Dr. Shepherd stated this case involved a two month old who presented to the emergency room with bleeding from the mouth and nose. She commented the story was that the boyfriend was feeding the baby and the baby choked and he did a finger swoop. She remarked that fortunately the emergency room doctor knew this was not normal and sent the baby to the University of Kentucky Hospital. Dr. Pittenger stated the baby had lacerations to the throat and also had a bruise on his tongue. She commented it is nearly impossible to bruise your tongue. She noted the bruise was such that the baby could not eat from a bottle and had to have a tube through his nose to his stomach. She stated the baby went to medically fragile foster care.

Judge Crittenden asked panel members to be considering two or three areas to focus on for the next six months to enable us to prepare the annual report.

The next meeting will be on Monday, May 19th. With no further business to discuss, the meeting was adjourned.