

## **CHILD FATALITY AND NEAR FATALITY EXTERNAL REVIEW PANEL**

September 9, 2013

KY Domestic Violence Association Building

**Members Present:** Judge Roger Crittenden, Chair; Representative Tom Burch; Robert Walker, Social Work Clinicians, University of Kentucky; Dr. Kim McClanahan, CEO, Pathways, Inc.; Nathan Goins, State Chair, Citizen Foster Care Review Board Executive Committee; Detective Kevin Calhoun, Kentucky State Police (KSP); Dr. Melissa Currie, U of L Division of Forensic Medicine; Dr. Tracey Corey, State Medical Examiner; Joel Griffith, Prevent Child Abuse Kentucky; Commissioner Teresa James, Department for Community Based Services, Cabinet for Health and Family Services (CHFS); Jenny Oldham, Hardin County Attorney; 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; Dr. Carmella Yates, Chrysalis House, Inc.; and Andrea Goin, Court Appointed Special Advocate (CASA).

**Members Absent:** Senator Julie Denton; Judge Brent Hall; Sharon Currens and Dr. Stephanie Mayfield.

The meeting was called to order by Judge Roger Crittenden, Chair, who began by swearing in Representative Burch, Dr. Kim McClanahan and Mr. Nathan Goins. The July meeting minutes were approved as submitted.

Mr. Griffith introduced guest speaker, Teri Covington, with the National Center for Child Death Review. Ms. Covington gave an overview of child fatality and near fatality review processes. She expressed the importance of having the panel staffed noting that both Colorado and Michigan panels are staffed. Representative Burch inquired where the authority comes from to gather records. Ms. Covington remarked that it was done through legislation to have full access to all records necessary. Dr. Corey asked if funding was included for staff when legislation was passed. Ms. Covington indicated it was not. She stated it was later added as a line item in social services budget and cannot be done without staff. Dr. Currie asked her to speak about the process after the panel does case reviews and generates recommendations. As far as accountability, who is that presented to and how it is followed up. Ms. Covington indicated the recommendations were initially sent to social services where they sat on a desk for approximately the first three years. After contacting the director of social services to meet with the panel, the director indicated there were too many recommendations which were not specific enough, did not indicate who should be the lead and also were not presented timely to be put into the budget. Ms. Covington said her panel then agreed to come back the following year with twenty very specific recommendations with findings to support. She mentioned as an example formal training provided by the state to emergency room staff and the implementation of a 24/7 resource for emergency room physicians. Dr. Corey asked how the 24/7 hotline is funded. Ms. Covington stated it is funded and paid per call by the state and the University of Michigan currently has the contract. Mr. Griffith inquired about the timeliness of cases being reviewed. Ms. Covington recommended cases be reviewed within a year. Dr. Corey inquired if the reviews

are open records if done within a year. Ms. Covington stated they are not open records. She stated Michigan's reviews are closed and open meetings are only held when they present their recommendations. Representative Burch asked what Michigan has done to correct the problems once identified. Ms. Covington noted judiciary issues are tough. Judge Crittenden inquired about Michigan's reporting requirements for teachers. Ms. Covington remarked that was a recommendation and Michigan did a public campaign about reporting. Dr. Currie asked Ms. Covington to address the transparency issue. Ms. Covington stated her panel never reports out names of children and never reports on just one child but always clusters of cases. She also discussed a template developed when reviewing fatality cases, which contained ten identifying areas. Mr. Griffith asked if the template used in Michigan is similar. Ms. Covington noted it is similar and she will provide them to the panel. Dr. Shepherd inquired about the issue of transparency again and if there is any pushback for doing closed reviews. Ms. Covington remarked there is not from the public but definitely from the press but their law is tight enough that they have been able to remain closed. She noted that what they have learned is that the press wants information on specific cases. She commented that she believes the public should know what the findings are but not the individual cases as there are so many surviving children. Mr. Griffith noted the way Kentucky's statute is specifically written the panel does not become custodian of the records it receives; therefore, if the press wants access they need to go to DCBS. Ms. Oldham said the aim of the panel is not to prevent child abuse but to prevent deaths from abuse and neglect and that is an important distinction. Ms. Covington remarked when you look at the data there is no predictor really for what makes a child die versus just being abused. She stated people have been trying to figure this out for a very long time and there is no data because kids die from a single moment of abuse versus long term battery. She commented ultimately you are going to be preventing fatalities and definitely preventing abuse but you cannot separate the two as there is nothing unique about a fatality other than the child died. Ms. Oldham asked if the panel has the right people or if a teacher or front line investigator might be needed. Ms. Covington remarked that her panel does not have a front line investigator but that she would encourage bringing those people in to provide perspective. Mr. Walker asked about avoiding discovery issues when reviewing cases that are still open for prosecution. Ms. Covington stated to always send them back to the source. Mr. Griffith inquired about prioritizing cases for review. Ms. Covington suggested reviewing all cases but she noted you can sort cases, for example, by cause or by regions around the state. She noted her panel clusters cases by type, for example, drownings, motor vehicles and fires fall into one type. Mr. Griffith inquired whether every panel member is reading the entire case or just their specific part and following the summary. Ms. Covington noted her panel will have at least two readers that review the entire case. Dr. Pittenger inquired about how often her panel meets. Ms. Covington stated her panel meets every other month for approximately six hours. Judge Crittenden inquired about the makeup of the panel. Ms. Covington noted it was very similar.

Mr. Griffith commented on the annual report. Judge Crittenden asked if everyone had seen the outline for the draft. He noted the first couple of pages talk about the historical basis for the existence of the panel, then the process review will be done and then continue to the findings. Judge Crittenden remarked that the panel has made individual findings in meetings which need to be correlated into a group. Dr. Shepherd commented that the panel has an opportunity to learn from what Ms. Covington has done and be more specific. Mr. Griffith commented that the panel is going to be more limited in its ability to trend data as it did not have a process in the beginning

to do so. Dr. Currie commented that a decision needed to be made regarding this year's annual report and whether the panel has the resources to do an aggregate of findings and an attempt at recommendations. She remarked the panel may be better served to talk about the process primarily in this year's annual report as well as how findings and recommendations would be presented in the future. Ms. Oldham agreed and noted the panel could either spend the next three months on the findings of reviewed cases or begin working on the next group. Mr. Griffith agreed with focusing efforts on the process and remarked that the panel needs to make a specific recommendation about staffing and resources. Ms. Covington added that when she began in Michigan there was pressure after the first year to report out finding; however their report was nothing but the process with recommendations specifically related to that. Dr. Shepherd noted this was only the second meeting after the legislation passed; therefore, it would be premature to start putting out case recommendations. She agreed the recommendations should be process related.

Judge Crittenden inquired when the panel should meet again. Dr. Currie suggested meeting in November; Dr. Shepherd agreed. Mr. Griffith suggested meeting as early as possible in November in order to have the report complete early in December and out before session begins. Tom Cannady reminded the panel the report is due December 1<sup>st</sup> by statute. Judge Crittenden suggested meeting on November 4<sup>th</sup> at 10 a.m. at the KY Domestic Violence Association Building. He also suggested asking Glenn Thomas, Commonwealth Office of Technology, to provide basic instruction on the use SharePoint at the meeting. Mr. Griffith asked if Mr. Thomas could send a tutorial on the basic use of SharePoint prior to the meeting.

Representative Burch inquired about the recommendation for funding. Judge Crittenden commented that he had not spoken with cabinet secretary regarding who would be requesting the funding. He remarked that he thought Secretary Brown would be including it in the Justice & Public Safety Cabinet's budget. Mr. Griffith motioned to have a group write the budget to be approved by the panel then ask for a meeting with cabinet leadership to discuss. The motion was approved. Judge Crittenden asked for volunteers. Mr. Walker volunteered as he noted he has done preliminary work on a proposal for funding. Judge Crittenden also included Mr. Griffith and requested that Mr. Cannady work with them. Judge Crittenden remarked that the November 4<sup>th</sup> meeting agenda would consist of discussing the draft report and an overview of SharePoint.

Judge Crittenden then inquired about the expected caseload. Ms. Webb stated she was waiting to see how the panel wanted to proceed and how many as well as what order the panel wanted cases loaded. She noted that lists are sent to Mr. Cannady every month of all cases that came in that the panel can expect to review at some point. She went on to explain that the cases do not get loaded into SharePoint until they are complete and the investigation is finalized. Ms. Webb stated she would defer to the panel regarding how many cases to upload and asked for feedback on the organization of the cases currently on SharePoint. Mr. Griffith remarked that he thought the table of contents and the way it was separated was very helpful.

Mr. Griffith suggested having another subcommittee come up with a recommendation regarding how many cases and type of cases to look at first. Dr. Currie inquired about the new cases on the list given to Mr. Cannady. Ms. Webb stated the cases the panel has received for review are FY13 cases as they are completed but the list given to Mr. Cannady includes all cases with

allegations some of which are still pending completion. She noted the cases listed are coded by state fiscal year on the spreadsheet. She also remarked that cases could still be pending after the end of the fiscal year due to criminal prosecution, waiting on autopsy report and various other reasons. Dr. Currie suggested prioritizing cases beginning with the simplest relatively short cases to review which were the supervisory neglect, drowning types of cases. She suggested grouping those together and loading those cases first and having the more complicated cases toward the end after the process has been refined and the panel is more efficient. Judge Crittenden and Mr. Griffith agreed. Mr. Griffith also suggested having a listing uploaded to SharePoint of every fatality and near fatality case that occurred in the past fiscal year which includes case name, whether it is done, what has been done so far and the reason if not complete. He gave the example if it is taking nine months to get a coroner report that is a systemic issue the panel should be looking at and also noted that if the panel does not have an upfront list of all cases coming in and what they are waiting on, it will be hard to manage the workload. Dr. Corey commented that, with rare exception, medical examiner cases are signed out within eight weeks so there will not be a systemic problem from the medical examiner's office. Ms. Webb remarked it is difficult to get to what the holdup on a case may be as it is a multisystem issue but the cabinet will do their best to get the information included on the list to upload to SharePoint instead of emailing to Mr. Cannady. Dr. Currie suggested adding to the agenda for the next meeting continued discussion of how to group cases and what order to review. Dr. McClanahan asked if every panel member reads every case. Judge Crittenden responded that the panel will read all cases as they are posted before the next meeting.

Detective Calhoon asked Ms. Covington if her cases contained police reports and Ms. Covington indicated they did. He commented that in all the cases he has reviewed he only had one case with a police report and that may be something the panel needs to look at through legislation. Commissioner James remarked that the legislation does carry with it the authority to request that information but it does not carry with it the ability to always make it happen. Dr. Currie noted that might be a good first situation to draft a form letter signed by Judge Crittenden and the panel. She also commented that the panel staff person could take the request and have a letter that helps to follow up when it becomes an issue. Mr. Griffith inquired whether the legislation would allow anyone other than DCBS to request information. Dr. Currie stated she thought the panel could request information. Commissioner James remarked that it was an assumption that DCBS would take on that responsibility which they are willing to accept. Judge Crittenden stated DCBS could have a letter from the panel if needed. Commissioner James asked that those on the budget committee please remember the expenses incurred by DCBS as part of the budget request. Mr. Griffith questioned if the panel receives funding would it come from CHFS and go to the staff assigned to the committee. Commissioner James stated she thought both cabinets will need to be included and there would be an agreement between the cabinets on the budget.

Mr. Griffith inquired about meeting more often. Judge Crittenden commented that unless action would be taken, a quorum would not be necessary. Dr. Currie agreed that the panel needs to meet more often and suggested committing to monthly meetings through February or March. Mr. Walker suggested having at least a couple of four hour sessions. Ms. Covington commented that she could not see the panel getting through a lot of cases in two hours. Judge Crittenden remarked that most of the work would be done prior to meeting so that the discussions can be focused. He suggested meeting on December 2<sup>nd</sup> from 10AM – 2PM. The panel will also meet

on January 13<sup>th</sup> from 10AM – 2PM. Judge Crittenden stated that Mr. Cannady would schedule additional meetings by email and perhaps they would meet every other month after January.

Mr. Griffith inquired about adding Ms. Covington's template questions to the summary sheet developed by Dr. Shepherd. Mr. Walker inquired about having a strictly numeric version of the summary sheet to facilitate statistical reporting. Ms. Webb agreed.

With no further business to discuss, the meeting was adjourned.