

CHILD FATALITY AND NEAR FATALITY EXTERNAL REVIEW PANEL
November 27, 2012
KSP Training Academy

Members Present: Judge Roger Crittenden, Chair; Senator Julie Denton; Representative Tom Burch; Detective Kevin Calhoun, Kentucky State Police (KSP); Dr. Tracey Corey, State Medical Examiner; Sharon Currens, Kentucky Domestic Violence Association; Dr. Lisa Pfitzer (Designee for Dr. Melissa Currie, U of L Division of Forensic Medicine); Joel Griffith, Prevent Child Abuse Kentucky; Judge Brent Hall, Family Court Judge; Commissioner Teresa James, Department for Community Based Services, Cabinet for Health and Family Services (CHFS); Jenny Oldham, Hardin County Attorney; Maxine Reid, Family Youth and Resource Centers, CHFS; Dr. Ruth Shepherd, State Child Fatality Review Team, CHFS; Robert Walker, Social Work Clinicians, University of Kentucky; Dr. Carmel Wallace, University of Kentucky Department of Pediatrics' Medical Home Clinic; Dr. Camella Yates, Chrysalis House, Inc..

Members Absent: Andrea Goin, Court Appointed Special Advocate (CASA)

The meeting was called to order by Judge Roger Crittenden, Chair, and members made brief introductions.

Judge Crittenden began by noting that case files to be reviewed by this panel will be redacted as when made available to the public; however, some may be identifiable due to work on or knowledge of particular cases by panel members. Judge Crittenden commented that while the information is not specifically confidential, it is sensitive and asked that members be careful in handling the information.

Judge Crittenden stated that legislation will need to be drafted to incorporate the Executive Order establishing the panel. Joel Griffith commented that he had worked on legislation introduced during the last legislative session. Representative Burch stated that he and Representative Susan Westrom sponsored the legislation and asked if the panel would prefer to review it for any necessary modifications. Representative Burch commented that there is a need for openness and transparency. Dr. Corey noted the importance of the timing of the transparency in cases where there could still be open investigations or cases that have yet to go to trial. Joel Griffith expressed agreement with the need for transparency and the concept building public confidence in the system but noted the need for a broad focus on child fatalities as opposed to only those involving the Cabinet for Health and Family Services. Senator Denton stated that she worked with Representative Burch and Representative Westrom to push legislation through the Senate last session. Joel Griffith noted that focusing on a bill clearly targeted to the work of the panel may have a better opportunity of being passed.

Judge Crittenden inquired if there had been any funding or staffing included in the previous legislation. He noted that the panel is attached to the Justice & Public Safety Cabinet but no funds were appropriated and that may need to be included in the legislation. Dr. Corey stated that funding for a staff person dedicated to the panel is one of the most important parts of the

legislation. Senator Denton and Judge Crittenden noted that adding funding could impact the ability to pass the legislation. Senator Denton remarked that if the Justice & Public Safety Cabinet or the Cabinet for Health and Family Services are required through the legislation to supply a staff person it would have to be incorporated into their budget. Mr. Walker commented on the need for the staff person's allegiance solely to the panel with no conflict in working at an agency in question. Senator Denton remarked that she would prefer the staff person come from the Justice and Public Safety Cabinet and that it is incorporated into the proposed 2014 budget.

Judge Crittenden asked Tina Webb from the Cabinet for Health and Family Services to give a brief synopsis of their protocol for investigations. (See attached.) Judge Crittenden inquired about the information contained in the internal annual report. Ms. Webb noted that there are two annual reports and their report relates specifically to child abuse or neglect deaths and near deaths while Dr. Shepherd's report relates to all child deaths regardless of the manner or cause of death. Dr. Shepherd commented that the role of her group is to assist coroners in determining an accurate manner and cause of death. She stated that coroners call local teams together to gather information in order to make a determination for accurate manner and cause of death and that information is sent to the state team which meets every two months to look at trends and prevention efforts. Dr. Shepherd noted they do not get the information that would allow them to know if a death is child abuse related as death certificates may indicate blunt force trauma or drowning that may have been abuse or neglect.

Judge Crittenden noted that there were a total of fifty-five fatalities and near fatalities determined to be due to child abuse or neglect for FY2012, of which thirty had a prior relationship with the Cabinet for Health and Family Services. He noted CHFS supplied six cases to the panel. Detective Calhoun inquired if the cases included law enforcement investigations. Dana Nichols stated it was her understanding the cases included information from the local office file which was then redacted by their legal department which did not remove documents but did redact names. She stated the file could include law enforcement information and medical records. Detective Calhoun stated that when he does investigations with DCBS, unless they ask for reports, they do not get them. He commented that if the panel is going to look at transparency, all aspects of the investigation need to be included. Senator Denton inquired why the law enforcement information would not automatically be included in a case file. Judge Hall inquired about CHFS protocols and if there are certain items or checklists for each case file. Dr. Shepherd noted that at this time there is not a protocol; therefore, information may vary in each case file. Jenny Oldham commented that the panel needs to have the law enforcement component and perhaps the prosecution component as well. Joel Griffith noted medical records should be reviewed as well as training records and caseloads for DCBS workers. Dr. Shepherd also suggested reviewing emergency room records and substance abuse records as well as those from the Administrative Office of the Courts.

Senator Denton recommended that every panel member look at each case. Dr. Corey suggested looking at all the cases but breaking the record distribution down into areas of expertise to increase efficiency and yield. Senator Denton expressed the need for each panel member to get the full case so there can be no assertion that information was routed away from any particular group of experts. Joel Griffith inquired if the information in the files was sorted or could be sorted into relevant section. Commissioner James stated CHFS would work to put the

information in the format preferred by the panel. Mr. Walker stated that he would prefer to view the complete file. Judge Crittenden stated that members can review the files and make any requests for additional information through Tom Cannady.

Judge Hall commented that Tennessee's fatality review panel has subpoena powers to get additional records and that may need to be addressed in legislation. Judge Crittenden noted that names of others involved, SSN's, addresses, and school information have been redacted from the files and documents removed include medical records, juvenile records, psychological reports and family court documents. He commented that panel members might want to review those items but under the executive order the panel is only entitled to public documents; therefore, the panel may want to address that with legislation. Judge Hall stated those things should be included in the file for a comprehensive review. Commissioner James noted that the panel will need to review federal legislation for managing the information as well.

Judge Crittenden suggested requesting CHFS to provide the fifty-five cases from FY2012 for review and the panel can discuss at the next meeting what may be needed that is not included. Joel Griffith noted that both Michigan and Tennessee allow for an exemption for their panel to have access to information that is not available to the public. Dana Nichols stated CHFS could provide a list of what is and is not included in the file for the fifty-five cases. Commissioner James stated the eight fatality cases with CHFS involvement would be available within a week and would hope to have the remaining cases available before the end of December.

Judge Crittenden stated that the annual report would be discussed at the second quarterly meeting. The next meeting will be held on Monday, January 28, 2013.

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

Minutes submitted by Marlene Mundine.