



# THE FIELD CENTER

for Children's Policy, Practice & Research

Mr. Chairman and members of the Task Force, thank you for the opportunity to appear before you today and offer testimony. My name is Debra Schilling Wolfe. I am the Executive Director of the Field Center for Children's Policy, Practice & Research at the University of Pennsylvania. The Field Center is an interdisciplinary collaboration of the University of Pennsylvania's Schools of Social Policy & Practice, Law, Medicine, and Nursing, and the Children's Hospital of Philadelphia, bringing together experts from a variety of disciplines to advance reform in the child welfare arena.

I have worked in the child welfare field for over 30 years, in seven different states, have served on national boards, and am a member of Montgomery County Office of Children and Youth's Citizens Advisory Committee. I began my career investigating child abuse and neglect reports and subsequently supervising caseworkers in the Massachusetts child welfare system. My experience includes directing the New York Foundling Hospital's Crisis Nursery in New York City, serving as Director of Child Welfare for Catholic Social Services in Oakland County, Michigan, and establishing the former Boston City Hospital's interdisciplinary child sexual abuse team, tasked with assessing alleged sexual abuse of children and providing treatment to victims and their families. My clinical work includes individual, family and group therapy with victims of child abuse and their families in New Hampshire, Massachusetts, and Ohio. Prior to relocating to Pennsylvania, I served as Clinical Director of a community based non-profit agency in Tucson, Arizona, and piloted a public-private partnership called Family Builders, developed to provide an alternative response for child abuse and neglect reports and heralded as one of the top ten new innovative government programs the year it was initiated.

My testimony today will cover two distinct areas: a national perspective based on my own professional work and an analysis by the Field Center's team of experts with recommendations for reform. The Field Center's team, comprised of renowned faculty, fellows, and staff, each with distinct expertise in one or more aspects of child welfare, gather weekly to review research, analyze policy and laws, and address needed reform on local, state and national levels. The disciplines of law, social policy, pediatric medicine, nursing, social work, forensic psychology, and research are all at the table, and I am honored to represent my colleagues with the following analysis and recommendations.

Pennsylvania is a national outlier in the investigation and substantiation of child abuse. In 2009, Pennsylvania's substantiated child abuse rate was the lowest in the country at 1.4 per 1,000 children, compared to the national average of 9.3 per 1,000. There are many factors that contribute to this. Some of the reasons are the "high bar" for determining abuse, the ambiguity of the definition and perceived need to identify a perpetrator, and Pennsylvania's unique two-tiered system that excludes a significant number of cases from being counted in state data.

Pennsylvania's current child abuse reporting law is flawed. We find the statute to be both confusing and widely open to interpretation. The law should serve as a roadmap for caseworkers to investigate reports of child abuse, yet there are fundamental differences from county to county on how the law is applied. If a child is abused, then it should not matter if he or she lives in Monroe or Montgomery County; it should be clear and the same determination should be made.

Pennsylvania's laws are not victim or child-focused. If a child is abused, then that child should be determined to be abused. In practice, in many Pennsylvania counties, caseworkers fail to substantiate abuse if they cannot identify the perpetrator, as the current statute requires that abuse be committed by someone who falls within the statutory definition of perpetrator. This narrow definition can also prevent reports from being accepted for investigation. The very case that brought us here is a good example. One of the Field Center's law fellows analyzed the statute. It appears that Jerry Sandusky likely failed to meet Pennsylvania's definition of a perpetrator and therefore, his alleged victims would not have fallen within the purview of the child welfare system. Just the fact that this is open to debate demonstrates the problem. In child or victim-focused laws, a determination is made much in the way a medical diagnosis is reached. If a child has chicken pox, it doesn't matter if he or she caught it from a sibling, friend or classmate; the child still has chicken pox. If a child has been determined to have been abused, then the report should be substantiated. Identification of the perpetrator should fall under the purview of the criminal justice system. We recommend that the law be amended to no longer require a specific perpetrator in order to investigate or reach a determination of child abuse.

The definition of serious physical injury in the statute creates a bar so high that it often prevents the substantiation of serious physical abuse. The statute requires the child to experience "severe pain," which is a subjective and medically and developmentally inappropriate measurement. As a result, it is very difficult to substantiate physical abuse cases in Pennsylvania in comparison to other states. There is something wrong when a hospital makes a definitive diagnosis of child abuse yet the child welfare system cannot substantiate the report. A caseworker in one county told me that she was unable to substantiate a case according to the current law yet the criminal justice system was able to arrest the perpetrator nonetheless. We recommend a modification in the definition eliminating "severe pain" as criteria and instead focusing on serious physical injury and imminent threat of serious harm to define physical abuse.

In order to substantiate abuse, the child's injuries must be the result of non-accidental conduct by the perpetrator. "Nonaccidental" as defined in the statute appears to intend to impose something akin to a criminal negligence standard on the perpetrator. However, the word "intentional" in the definition is often misinterpreted; it was meant to mean that the perpetrator's acts were not involuntary, but it is often interpreted to require that the perpetrator *intended to harm* the child. We recommend clarifying this definition so it, too, is not left up to interpretation and practice reflects the statute's intent.

Pennsylvania's statute currently requires a professional who works in an institution to report suspected abuse to his or her superiors; it is then only the duty of the institution, not the professional, to report to ChildLine. We are concerned that this not only prevents

the most accurate information from being conveyed, but that it also dilutes responsibility. We believe that both the individual with direct knowledge of the abuse and the institution in which he or she operates must be required to report. The rationale for this is straightforward: the person with direct knowledge is the most reliable source of information, and their account must be reported. Meanwhile, the institution must demonstrate that it is aware of the incident and produce its own report. When those with direct knowledge report to others who are then charged with reporting, the allegations can take a different form and (1) not accurately portray the incident or (2) become so diluted that they change from reportable to non-reportable conditions, such as in the Penn State case. Here, alleged sexual contact in the shower became “horsing around” when the incident was reported up internally. “Horsing around” is not a reportable condition. We recommend the following modifications to this provision of the law:

1. Institutions must be required to develop procedures for reporting child abuse both internally and externally, including designating an individual within the institution to receive such reports;
2. The individual with direct knowledge must report up the chain in his or her institution to a designated individual according to the institution’s new statutorily-required policy;
3. The institution must report to ChildLine;
4. Those individuals with direct knowledge must also report; however, these individuals have the option of either reporting individually or reporting in conjunction with others who also have the same direct knowledge. This will prevent duplicative reports with the same information from mandated reporters who all work within the same institution and are reporting the same information, such as shift nurses in a hospital. Hospital trauma teams are good models of such policies.

Pennsylvania currently has a bifurcated reporting procedure, with one set of rules applying to schools and another set applying to everyone else, unlike other states. Reports stemming from schools can only result in GPS action, not CPS, which is a decision that we neither understand nor endorse. We see no reason for this distinction and division, and it may be counterproductive: in 2010, there were only 16 cases of substantiated school abuse across Pennsylvania. We recommend that the school reporting system be eliminated entirely and that schools and school employees be required to follow the same reporting procedures as everyone else.

For several years, the Field Center has been studying jurisdictional barriers to accepting reports for investigation when the victim, perpetrator, and incident involve more than one state. Often, these cases fall through the cracks, with states refusing to accept referrals that cross state lines, resulting in no one investigating these allegations. We are recommending that the reporting law be amended to provide jurisdiction to investigate reports of child abuse when the victim, perpetrator, or incident are in Pennsylvania.

The Field Center does not recommend extending the mandate to all adults for reporting child abuse. Research shows that reports by professionals are substantiated at a significantly higher rate than those of the general public. ChildLine is unable to process the calls it currently receives. We need to improve both training and confidence in the child welfare system for current mandated reporters before there is any consideration to further open the gates.

Many of our county agencies are at capacity; any increase in reports must be accompanied by an increased capacity to investigate these reports and provide services for those families who are determined to need further intervention. Adding additional reports without additional resources at the county level is creating an unfunded mandate, a recipe for disaster in the current economic climate. This could easily create a situation in which more serious cases fall through the cracks while already stretched agencies try to meet the increased demand. However, any individual always has the option of reporting suspected child abuse voluntarily. In light of the Sandusky case, we would recommend adding additional classes of mandated reporters, such as sports coaches. In addition, we do not believe that increasing the penalty for failing to report will have the desired result, making a substantive difference in responsible reporting of suspected child abuse.

Pennsylvania has a differential *reporting* system, not a differential *response* system. Currently, cases that fall outside of the narrow definition of child abuse and neglect are classified as General Protective Services, or GPS. GPS cases are not tracked and do not count in the data as child abuse reports, rendering those who are interested unable to compare Pennsylvania's data with that of other states. Of greater concern is that GPS reports are not maintained in the state's central registry and therefore may not be available if and when a subsequent report is made on the same child or family.

The Philadelphia Department of Human Services conducted an analysis of subsequent reports for SFY2006 and SFY2009 for both CPS and GPS cases. In both years, GPS reports were substantially more likely than CPS reports to have a repeat incident within 18 months. The data using a DHS internally designed severity rating scale suggest that a substantial number of the subsequent reports were as serious or more serious than the initial reports received on cases.

GPS represents a catchall for cases that fail to meet the high bar for CPS. For example, reports of alleged sexual abuse that fail to meet the current strict criteria end up being classified as GPS cases. Ironically, many of these cases are serious enough to warrant a forensic interview at county Child Advocacy Centers.

Although GPS cases are often referred to as "just neglect," they often represent some of the highest risk child welfare cases. The death of Philadelphia's Danieal Kelly is a case in point. With a history of no less than seven different reports of neglect, at age 14, Danieal died, weighing only 46 pounds at the time of her death. She was profoundly and fatally neglected. Child neglect constitutes close to 80% of reports nationally, yet these cases are virtually ignored by Pennsylvania's child protection system.

Differential response, in which child protection agencies offer both traditional investigations and alternative assessments for child abuse and neglect reports, has

been implemented in other parts of the country and evaluated as to their impact and effectiveness. The Administration on Children and Families reviewed the existing research and the Child Information Gateway published a comprehensive issue brief on differential response in 2008. As a result of differential response, a larger percentage of investigations were substantiated as focus was on the more serious cases. Among the findings was that:

1. Child safety was not compromised under differential response systems.
2. Increased services to families lowered subsequent reports.
3. Services could be provided to families quicker than if they were served through the traditional child protection system.
4. Families were found to be more cooperative and willing to accept services.
5. Differential response appeared to be cost effective over the long term.

I had the opportunity to pilot Arizona's former differential response system, Family Builders, coordinating the private sector portion of a public/private partnership designed to better meet the needs of children reported for abuse and neglect. At the time, Arizona was unable to investigate all of their CPS reports, resulting in a legislative mandate for differential response. Arizona classified child abuse and neglect reports into four categories of severity, and elected to defer the less serious reports to consortiums of community-based private agencies in lieu of a CPS investigation. Cases involving sexual abuse, physical abuse that required medical attention, and victims who were in the care and custody of the state all received full CPS investigations; all other cases were offered an alternative response. Consortiums of providers approached families, informing them of the CPS report and that they were being offered voluntary services in lieu of a CPS investigation. If, when in the home, the assessment team felt that the situation warranted more serious involvement, the case would be referred back to the CPS unit for investigation. Similarly, the reports of families who refused an assessment were screened for possible CPS involvement.

An assessment was completed on each family that agreed and traditional and non-traditional services were offered, focused on alleviating the cause of the report, rather than just the allegations. For example, if it were determined that mom's drug involvement resulted in her losing control and hitting her child, she would be referred for drug treatment; traditional investigative services would have focused on the "symptom" of her drug problem: hitting her child. In one case in a rural community, two parents and their adolescent children were living together in a small trailer, causing great stress due to their close quarters. Family Builders helped the family identify supportive friends and relatives and provided building supplies so that they could put an addition on their trailer – addressing the cause of the problem. Each consortium was contractually required to provide a variety of services to families, including substance abuse treatment, office and home-based counseling, emergency funds, and a variety of other services. Non-traditional partners were also included. For example, we engaged Home Depot who agreed to provide a 10% discount for building supplies.

Based on published research and program evaluation, significant challenges with the current CPS/GPS structure, and the need to focus resources on the highest risk cases, I recommend that Pennsylvania adopt a differential response system in lieu of the current CPS/GPS system to better address the needs of our at risk children.

I wish to close by acknowledging and honoring Jerry Sandusky's alleged victims who told their story and thereby caused all of us to take a hard look at how Pennsylvania is protecting its children. They are providing us with the opportunity to do better. Thank you.