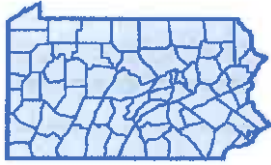


Pennsylvania Children and Youth Administrators, Inc.



PO Box 60769 - Harrisburg, PA 17106-0769
(717) 526-1010 - Fax (717) 526-1020



TESTIMONY REGARDING OPIATE IMPACTS ON CHILD WELFARE

PRESENTED TO THE CENTER FOR RURAL PENNSYLVANIA
MAY 10, 2017

BY

BRIAN BORNMAN, ESQ.
EXECUTIVE DIRECTOR

My name is Brian Bornman. I am the Executive Director for the PA Children and Youth Administrators Association, an affiliate of the County Commissioners Association. Our association consists of all 67 counties. I have worked in the field of social work since 1988 in various roles, including those of child therapist, a child welfare caseworker, and legal counsel for a county child welfare agency. I thank you for the opportunity to testify before this body and appreciate the efforts being made here to address the critical issue of opiate use on child welfare.

As this body has undoubtedly heard on other occasions, the impacts of opiate use have seriously impacted the child protection system in Pennsylvania. Throughout the state, county children's services agencies have seen increases in the number of cases being referred to them due to substance use of parents that impairs their ability to provide for the safety and well-being of their children. Indeed, throughout the state, impairment of parental abilities due to substance use accounts for between 30% to 80% of the placements of children outside their home.

It should be noted, however, that substance use is rarely the only factor requiring placement. While there are certainly cases where the use of substances is the only factor, there are frequently co-occurring mental health issues, untreated trauma, homelessness, or lack of support for isolated parents. These multiple concerns truly point out the need for a holistic approach between the various systems serving families so the family can be strengthened and healed, leading to fewer placements of children outside the home or shorter stays in placement, when this becomes necessary.

As this hearing is focusing on the issues surrounding grandparents caring for their grandchildren, I want to address some of the challenges they may experience when working with child welfare. While there are a great many grandparents caring for their grandchildren due to county children and youth agency involvement, I would submit that this is likely only a small percentage of the overall number of grandparents raising grandchildren. There is no mechanism to track how many children are being cared for by their grandparents through informal or formal family arrangements. One could check court orders where grandparents are awarded custody through the PA courts and

how many were granted custody through the involvement of a county CYS agency, but many, if not most, of these arrangements are simply the result of parents signed a guardianship agreement with the grandparent or where the grandparent simply provides for all the child's care and needs without anything granting them any custodial rights or guardianship. In my time representing a county CYS agency, it was not uncommon for such situations to continue on unknown to children and youth until something occurred that required the legal authority to sign for a child for education or medical care and the parent being unable to be located or unwilling to sign.

That being said, I will discuss some of the challenges facing grandparents when there is involvement of children and youth. There are a number of laws impacting grandparent involvement in children and youth cases. Primarily, county CYS agencies intervene to take protective custody of children when necessary under the Juvenile Act. There are extensive due process and constitutional protections for parents inherent in this law. A not infrequent theme for grandparents is frustration with the county agency for not intervening to protect their grandchild or not doing so earlier than it does occur. While a grandparent may have intimate knowledge of a parent's behavior or struggles with substance use, this knowledge alone may not be sufficient to allow a county agency to prove that the safety of the child is being endangered by clear and convincing evidence.

This frustration is certainly understandable and the county agencies are not unconcerned. The reality is simply that what someone may know and what can be proven in a court of law can vary greatly. Compounding this situation may be the hesitancy of a relative to testify against a parent as to what they have witnessed. The entire legal process can be extremely frustrating for grandparents and may lead some to believe that parents are given too much latitude or deference, at the expense of the child's well-being.

A bright spot in the child welfare practice in Pennsylvania has been a dramatic increase in what is known as kinship care. When it is determined that a child can no longer safely remain with parent, county agencies are obligated to conduct family finding efforts to locate kin. Pennsylvania has a very liberal definition of what constitutes kin and includes relatives, the more traditional definition, but also persons who have a substantial relationship to the child or the child's parent. The purpose of this is to reduce trauma to a child by allowing them to be cared for by people they know and have an existing relationship with, rather than a foster parent they do not know.

Pennsylvania started a concerted effort to increase levels of kinship care many years ago and the percentage of children placed in kinship care has been steadily increasing over the past decade. It is often at this point that grandparents have their first involvement with the county CYS agencies. Once identified as a potential kinship caregiver, county agencies will assess who among the potential caregivers will be able to best provide for the child. Numerous factors go into this assessment such as the ability of the child to remain in their school, the willingness of the potential caregiver to work with the parents on reunification efforts, past criminal or child welfare involvement, and others. The driving factor is the best interest of the child.

Once identified as a caregiver and the caregiver that will best provide for the child's well-being, there is two possibilities for being a kinship caregiver. There exists informal kinship care, in which the caregiver is not licensed and is unable to receive a subsidy to assist with the care of the child. The more common is to become a formal kinship caregiver. Kinship caregivers may be granted the care of a child with very preliminary clearances and home safety check, but within 60 days, they

must complete everything necessary to be licensed as a foster parent. This involves a substantial home study, clearances, and training. It is not uncommon for this to be a second point of consternation for those caregivers, as the process is considered by many to be somewhat intrusive and time consuming. This is all set forth by statute and regulation, however.

Another theme of grandparent frustration is that of the requirement for county agencies to seek permanency for a child. This is set out in the Juvenile Act and reinforced in regulation and caselaw. Under the Adoption and Safe Families Act, county agencies having custody of a child are required to file a petition to terminate parental right, barring a compelling reason, if the child has been in placement for 15 of the preceding 22 months. The goals for permanency are a hierarchy that starts with reunification and works down less desirable outcomes through adoption, placement with a fit and willing relative, permanent custodianship, to the least desirable outcome of Another Planned Permanent Living Arrangement, which is only available for children over the age of 16 and is being sought to be eliminated altogether.

This can sometimes put caregiving grandparents in a difficult position when a parent is unable to remedy the situation that brought the child into care within that time frame. While agencies are legally required to find an adoptive resource for a child, grandparents may feel uncomfortable in adopting a grandchild as it may seem to be a legal fiction or due to the ever present hope that the parent will resolve their struggles and be able to resume parenting safely at some unknown point in the future. This will sometimes create a conflict between a grandparent's desire to simply be a grandparent and the county agencies legal obligation to provide the child with permanency.

Lastly, there can be serious emotional challenges for grandparent caregivers. The love and compassion grandparents feel for their grandchildren cannot be underestimated, but this often comes hand in hand with frustration, a sense of loss, anger, and embarrassment that they are needed to provide care for their grandchild due to the inability of the parent, possibly their own child, to do so. Thankfully, there has been more focus in recent years to provide support to caregivers through the post-permanency services through the Statewide Adoption Network (SWAN).

The benefit of grandparents providing care for their grandchildren should not be underestimated. Some studies have put the financial benefit to public welfare at between \$23 and 39 billion a year nationwide due to these children not coming into the care of child welfare. Even more important is that millions of children each year are spared the trauma of being separated from their families through the efforts of grandparents who intervene to provide what is often the last critical safety net before the intervention of child welfare. They truly deserve our thanks and admiration.

While this hearing focused on the challenges grandparents may experience when involved with child welfare, I would be remiss to not address a number of challenges that child welfare faces today. So what are the challenges facing child welfare in PA right now? I would submit to you that caseload ratios, unrealistic demands, and inadequate funding are the top three.

First, the changes to the child protective services act that went into effect at the beginning of 2015 dramatically increased the number of referrals that are coming to the county child welfare agencies. Most counties have seen a 35-50% increase in the number of investigations they must complete, with some counties seeing sustained increases over 2014 investigations of over 100% for 2015, with

these increases remaining constant through 2016, as well. When these laws came out, there was no way to know exactly what additional staffing resources would be needed to accommodate the increase in referrals and investigations. DHS would not approve requests for staff increases based on guesses of what the increase would be. The result has been that intake units across the state are largely overwhelmed. The well-being type units in the counties that benefitted families with increased visitation, better parenting training, and other non-safety specific services have had their staff moved to intake units to try and absorb the increases in investigations.

In addition, numerous laws outside the CPSL changes have gone into effect in recent years increasing demands on caseworkers such as the Fostering Connections Act, Preventing Sex trafficking and Strengthening Families Act, and the recently enacted Every Student Succeeds Act. Despite this, there has not been a change to the regulations regarding what is a permissible caseload ratio is since 1987. Currently, CCAP is working with the Penn State Network on Child Protection and Well-Being to have a time study completed to better ascertain what an appropriate level of cases can be carried by a caseworker with the goal to have it completed by the end of the year.

Many of the new laws and initiatives focus on child well-being. There have been initiatives to address overuse of psychotropic medication, more focus on locating family and building connections for youth in care, more family involvement through family group decision making, more focus on assuring that kids in care have opportunities to develop skills that will prepare them for adulthood and allow them to participate in extracurricular activities, more awareness of the risks of being trafficked for sexual exploitation, and more focus on educational stability. Kids now have the opportunity to return to care after they leave upon reaching 18 years of age and realizing that they still need the additional support. Nearly everyone within the system agrees with these goals, but every new initiative, regardless of how laudable the goal, comes at a cost of time and resources. Caseworkers who now have to go to doctor appointments to discuss the prescribing of psychotropic medications with doctors so they can explain why they are prescribed in court have less time to do other things, such as providing support to kinship caregivers. Increased family groups taking several hours each now means that the caseworker has less time to do something else. Preparing a more comprehensive court report to address all these initiatives takes time and means less time to do other things.

The opiate epidemic, increases in cases, and additional demands have all created a system where caseworkers are overwhelmed. The safety and protection of children in PA should always remain at the forefront of what we do. These increased demands have created a situation in which the overload of cases has been going to the most seasoned caseworkers out of necessity; however, those workers then get burned out and move on to other jobs with less pressure and frustration. This has resulted in newer caseworkers having more difficult and larger caseloads and many of them burn out quickly. As a result, many county agencies get trapped in a perpetual start-up cycle where all they are doing is constantly trying to fill vacancies and get staff trained. It is generally accepted that you need a caseworker on the job for around 2 years before they are able to really do effective casework. It is crucial to keep and retain qualified staff.

The following are critical to maintaining a high quality child welfare system that protects the children of Pennsylvania. Caseworkers need to be given caseload sizes that are realistic given the demands put on them in Pennsylvania. This must be based on a realistic assessment of what is

asked of them and what can actually be accomplished in the time they have available. There must be a realization that caseworkers are child welfare professionals and not doctors, lawyers, or school superintendents. The demands put on them have to be realistic. Funding must be realistic and appropriately timed to allow the system to function. Whenever bills are passed that put additional demands on staffing, there needs to be a means to fund it. Rather than legislation always coming out with an effective in 60 days provision, I believe there needs to be language that times roll outs with the timetable that will allow it to be successfully effectuated in the Needs Based Budget Process. There should be more use of pilots in order to ascertain what the impact will be before mass implementation. If legislation needs to be immediately effective, there needs to be a supplemental appropriation in order to give effect to the increased demands. By doing this, we would be able to more purposefully and effectively implement the various initiatives that serve our children. Ultimately, no one wants to see the efforts to improve child welfare having a detrimental effect on the children of the Commonwealth because there was no means to increase staff to actually implement the changes.

These staffing difficulties were exacerbated by the budget impasse because no one wanted to fill new or vacant positions without knowing when the funds would be forthcoming. As a result, there was additional burden put on the individual caseworkers. I would ask that there be steps taken to assure that funding for child welfare, and all human services, continue to flow if there is another impasse.

Lastly, I want to thank this body for holding this hearing to address this important issue and all the grandparents in the Commonwealth who are caring for their grandchildren in whatever fashion. Their struggles are not in vain for the children in their care and their efforts will allow these children to be healthier, both physically and emotionally. The long-term effects of children's removal from their families has been the subject of an ever growing body of research and now, more than ever, the importance of keeping children connected to their families is being recognized and prioritized. Lastly, I want to thank all the professionals in Pennsylvania who have committed their lives to protecting and caring for the at-risk and abused children in the state. I have personally witnessed the tremendous lengths caseworkers will go to helping the families they serve, but they have to be given the time and resources to do so.

Thank you.



Brian C. Bornman, Esq.

PCYA Executive Director

bbornman@pacounties.org