



State of Delaware

Child Death, Near Death and Stillbirth Commission

Procedure Manual
(2004)

Introduction

The Child Death Review Commission was established by legislation passed on July 19, 1995. The Child Death Review Commission was created after a pilot project showed the effectiveness of having a review process for child deaths. The responsibilities of the Commission have since expanded and are carried out in large part by the three Review Panels statutorily authorized to operate in the State: one Panel reviews deaths of children who resided in New Castle County, a second reviews deaths of children who had resided in Kent and Sussex Counties, and a third Panel is designated to handle reviews of deaths and near deaths of children due to abuse or neglect, as well as deaths from either county to prevent a backlog of reviews.

Background

The Attorney General’s Abuse Intervention Committee (AIC) was convened in May 1988 to address various issues related to child abuse and neglect. The AIC’s focus is on developing coordinated, multi-disciplinary approaches to child abuse and neglect interventions.

In 1990, the AIC applied for and received technical assistance from the American Bar Association and the American Academy of Pediatrics Child Maltreatment Fatalities Project. As an outgrowth of this assistance, the AIC developed a subcommittee composed of multiple statewide disciplines for the purpose of developing a proposal for standard child death review procedures in Delaware. *The Child Death Review Panels Proposal* (Proposal) was published in November 1993 and provides a comprehensive model or "blueprint" for conducting statewide child death reviews in Delaware.

Formal presentations regarding the Proposal were provided to the Criminal Justice Council and the Infant Mortality Task Force and both groups supported the Proposal.

The AIC and sponsoring agencies explored funding options, but were unable to secure necessary funding to implement the Proposal on a statewide level. Therefore, it was decided to develop a Pilot Project in New Castle County utilizing existing staff and resources.

The Implementation Subcommittee of the AIC was created to formalize plans for the Pilot Project. This multi-disciplinary workgroup met monthly from July 1994 until March 1996. The Implementation Subcommittee adapted and operationalized the original 1993 Proposal into the *New Castle County, Delaware Child Death Review Pilot Project* (January 1995).

The Pilot Project implementation process involved a series of steps to adapt the Proposal into a county pilot review system. The steps included conducting a mock child death review in September 1994, providing an overview session for prospective Pilot Review Panel member agencies in November 1994, and training Pilot Review Panel members in January 1995. The Review Panel was convened in February 1995.

The goal of the Pilot Project was to review child deaths meeting established criteria, maintain and analyze data pertaining to the deaths, present findings regarding preventability, and provide recommendations for policy and system changes. The Pilot Project retrospectively reviewed deaths that occurred on or after June 1, 1994.

Legislation was drafted to establish a statewide Child Death Review Commission. House Bill 317 was introduced in June 1995 and was enacted by Governor Thomas R. Carper on July 19, 1995. The legislation establishes a Child Death Review Commission, which has the power to create up to three regional Review Panels, establishes confidentiality for the reviews, and provides the Commission with the ability to secure pertinent records. In addition, it provides protection to members of the Commission and regional Review Panels from claims, suits, liability and damages, or any other recourse, civil or criminal. Child death reviews continued to be conducted in New Castle County from February of 1995 until the present. Another Review Panel was appointed to cover Kent and Sussex Counties in October 1996. This Review Panel was trained and then began reviewing cases in October 1996. In 2002, legislation was amended changing the name to the Child Death and Stillbirth Commission. The new legislation gives the Commission the authority to review stillbirths occurring after at least 27 weeks of gestation (pending availability of specific resources and development of procedures) and revised the process of reviewing deaths by abuse and neglect. In 2004, the statute was further amended to include in the Commission's responsibilities the authority to review near-deaths of children due to abuse or neglect. Near death is defined as a child determined to be in serious or critical medical condition due to abuse or neglect as certified by a physician. One of the Review Panels shall be designated to have primary responsibility to review cases of child death and near death from abuse or neglect. To meet the new mandate the Commission formed a third panel to review the abuse and neglect cases. This legislation also provided that the Commission should be staffed, including an Executive Director. The initial appropriation included two additional supporting positions and funds for operating expenses.

Purpose of Reviews

The primary purpose of reviewing child deaths and near deaths is to provide recommendations to alleviate practices or conditions which impact the mortality of children, in order to safeguard the health and safety of children. The review is a retrospective system review intended to provide meaningful, prompt, system wide recommendations in an effort to prevent future deaths or near deaths and to improve services to children. A child death or near death is considered to be preventable if one or more interventions (medical, community, legal, psychological) might reasonably have averted the child's death or near death. The reasonableness of the intervention is defined by the conditions and circumstances of the child death or near death and available resources.

Child Death, Near Death and Stillbirth Commission

The Commission is comprised of the following (or their designees):

- Cabinet Secretary, Department of Health and Social Services
- Cabinet Secretary, Department of Services for Children, Youth and Their Families
- Cabinet Secretary, Department of Education
- State Medical Examiner
- Superintendent of the Delaware State Police
- Attorney General
- Child Advocate, Office of the Child Advocate
- Chair, Child Protection Accountability Commission
- As appointed by the Governor:
 - Representative of the Medical Society of Delaware in Neonatology
 - Representative of the Medical Society of Delaware in Obstetrics-Gynecology
 - Representative of the Medical Society of Delaware in Pediatrics
 - Representative of the Medical Society of Delaware in Perinatology
 - Representative of the Delaware Nurses Association
 - Representative of the National Association of Social Workers
 - Representative of the Police Chief's Council of Delaware who is an active law enforcement officer
 - Representative of the New Castle County Police Department
 - Two (2) child advocates from statewide non-profit organizations.
- Chair of each Review Panel

Responsibilities of Commission Members

All Commissioners are to:

- Attend Commission meetings to hear the recommendations resulting from reviews;

- Attend the annual public meeting held jointly with the Child Protection Accountability Commission to discuss advancement of recommendations resulting from reviews;
- Vote on recommendations to be reported out;
- Facilitate the report of recommendations annually or in an expedited fashion as outlined in statute (see below).
- Ensure their agencies use the recommendations and actions plans to make improvements,
- Support their representatives on the Review Panels to ensure effective reviews.

The Review Panel Chair must also report the findings and recommendations resulting from the reviews.

The Commission Chair has additional responsibilities to:

- (a) Conduct the meetings,
 - Prepare meeting agenda;
 - Establish that there is a quorum;
 - Convene meeting;
 - Ascertain approval of minutes from last meeting;
 - Facilitate meeting;
 - Maintain integrity of review process; and
- (b) Author and send any letter conveying recommendations from an expedited review to the Governor and the General Assembly in compliance with Delaware Code and provide copies to all Commission Members.

Attendance: A Commission member may identify a proxy to represent him/her in Commission meetings. A letter authorizing the identified person should be composed by the Commission member and provided to the Commission staff prior to the beginning of the meeting. A letter can also be written to authorize a person to serve as a permanent proxy. The Commission shall meet at least semi-annually, and currently meets quarterly (although not mandated by enabling legislation, quarterly meetings accommodate the 2002 and 2004 mandates to complete expedited reviews in the event of child death or near death due to abuse or neglect within three months). The Commission also meets annually in a joint public session with the Child Protection Accountability Commission to discuss the advancement of recommendations resulting from reviews.

Conduct: Commissioners will acknowledge the diverse backgrounds and expertise of the commission members, respect the dialogue required to fulfill the Commission’s mission, and communicate with each other in a productive and respectful manner.

Confidentiality: Although discussion is confidential, the sharing of information with the Commission and Panel is protected and permitted. Pursuant to 31 Del. C., Sec. 324 the records of the Commission and all Regional Panels including original documents, documents produced in the review process and other verbal information shared shall be confidential and shall not be released to any person outside the Review Panel or the Commission. Such information shall be used for the proper function of the Commission or Panel and shall not be public records and shall not be available for subpoena or subject to discovery. Only aggregate statistical data may be released at the discretion of the Commission, except in cases of expedited reviews, as discussed in the following section about “Recommendations”. The Commission is solely authorized to release Panel recommendations to the public.

31 Del. C. sec. 324(b) has been interpreted to grant immunity to a panel member who in good faith releases information pursuant to obligations imposed upon them by Delaware or federal laws or regulations or duly adopted procedures. Therefore, the release of information to the Board of Medical Practice to report suspected unprofessional conduct or medical incompetence and the Division of Family Services to report suspected child abuse or neglect is permitted if recommended by the Panel and approved by the Commission.

Relationship to Review Panel Representatives: Commissioners should communicate as need be with their representatives on Review Panels to ensure full participation contributing to a quality review of a child death or near death as well as completion of any relevant action plans. For Commissioners without organizational ties to their Panel representatives, the Commission staff shall provide contact information so that the Commissioners can establish collaborative relationships with their representative(s).

Commissioners have the privilege of attending Panel review meetings and participating in general discussions, but do not become part of the Panel quorum and do not have voting rights on the Panel.

Election of Chair: There should be an annual election of a chair to be held the first Commission meeting of the calendar year. Commission staff will request nominations from the Commission prior to the election. Commission members should obtain the approval for the nominee before submitting the nomination. Commission staff will prepare a paper ballot at the meeting.

Voting

- **Chair:** Members shall, by affirmative vote of a majority of all members, appoint a chair from its membership for a term of 1 year.
- **Establishing Panels:** The Commission shall by resolution passed by a majority of its members establish at least 1 but no more than 3 regional child death, near death, and stillbirth Review Panels. One of the panels must be designated to review child death or near death cases due to abuse or neglect. Members of the Commission shall appoint representatives to each regional Panel such that the regional Panel reflects the disciplines of the Commission. The Commission shall also appoint to each regional Panel (i) a representative from each of the 3 police departments which investigate the majority of child deaths and near deaths in the region covered by the Panel, and (ii) a citizen of the region interested in child death, near death, and stillbirth issues.
- **Procedures:** Except to the extent already required by law, the Commission may amend such procedures upon a three-quarters affirmative vote of all members of the Commission.
- **Recommendations:** The Commission shall make recommendations to the Governor and the General Assembly, in the form of an annual report, regarding those practices or conditions, which impact the mortality of children. Except as expressly provided by law, an affirmative vote of 60% of all members of the Commission or any regional Panel is needed to adopt any findings or recommendations of the Commission or such regional Panel.

System-wide recommendations arising from an expedited review of a death or near death due to child abuse or neglect must be made to the Governor and General Assembly, as well as any members of the public requesting the recommendations, within 20 days of the completion of such investigation and review. All recommendations made pursuant to this subsection shall

comply with applicable state and federal confidentiality provisions, including but not limited to those enumerated in § 324 of this title and § 9017(d) of Title 29.

Witnesses: In conducting reviews, the Commission has authority to administer oaths and compel attendance of witnesses.

Delaware Child Death, Near Death and Stillbirth Commission Meeting Process

Preparation for Commission Meeting (Commission staff)

1. Reserve meeting room;
2. Request refreshments for the meeting;
3. Mail/e-mail all correspondence to Commission members;
4. Copy all necessary documents for Commission meeting;
5. Prepare packets for Commission meeting;
6. Set a tentative agenda in collaboration with the Chair;
7. Prepare name cards;
8. Prepare Sign-in sheet;
9. Collect proxy letters;
10. Record minutes of meeting and distribute draft copy to all members.

Meeting Procedures (Commission Chair)

1. Convene meeting;
2. Review/vote on minutes;
3. Review Panel reports;
4. Vote on recommendations to be adopted;
5. Review progress on action plans as needed;
6. Other business;
7. Set next meeting date;
8. Conclude.

Review Panel Members

A. The following agencies and professions participate in the Review Panels:

1. Department of Health and Social Services
 - a. Division of Substance Abuse and Mental Health
 - b. Division of Public Health
 - c. Office of the Chief Medical Examiner
 - d. Office of Emergency Medical Services
2. Department of Services for Children, Youth and Their Families
3. Attorney General's Office (Criminal Division)
4. Law Enforcement (3)
5. Department of Education
6. Medical Specialists: Neonatologist, Obstetrician-Gynecologist, Pediatrician, Perinatologist and Pediatric Nurse Practitioner
7. Child Advocates:
 - a. Office of the Child Advocate
 - b. NASW
 - c. Citizen of the region interested in child death and near death issues
 - d. Community child advocates (2)
8. Child Protection Accountability Commission

B. Appointment of Panel Members

1. Panel members representing public agencies on the Panel shall be appointed by the head of their agency.
2. Panel members who do not represent public agencies shall be appointed by the Commission, to serve a term of three years.

Roles of Review Panel Members

Attendance: A quorum of the Panel shall consist of 50% of the designated Panel members and an affirmative vote of 60% of those present shall be required to adopt any findings and recommendations. Each Panel member should have an identified proxy to represent him/her during the review in his or her absence. A letter authorizing the identified person should be composed by the Panel member and be provided to the Commission staff prior to the beginning of the Panel meeting. A letter can also be written to authorize a person to serve as a permanent proxy. If a Panel member misses 3 or more meetings per calendar year without notice or the arrangement of a proxy, they could be asked to forfeit their position on the Panel.

Conduct: Team members will acknowledge the diverse backgrounds and expertise of the Panel members, respect the dialogue required to fulfill the Panel's mission and communicate with each other in a productive and respectful manner.

Confidentiality: Although discussion is confidential, the sharing of information with the Commission and Panel is protected and permitted. Pursuant to 31Del. C., § 324, the records of the Commission and all Regional Panels including original documents, documents produced in the review process and other verbal information shared shall be confidential and shall not be released to any person outside the Review Panel or the Commission. Such information shall be used for the proper function of the Commission or Panel and shall not be public records and shall not be available for subpoena or subject to discovery. Only aggregate statistical data may be released at the discretion of the Commission. The Commission is solely authorized to release Panel recommendations to the public.

Election of Chair: There should be an annual election of a chair to be held the first Panel meeting of the calendar year. Commission staff will request nominations from the Panel prior to the election. Panel members should obtain the approval for the nominee before submitting the nomination. Commission staff will prepare a paper ballot at the meeting.

Relationship to Commissioners: Panel members should communicate as need be with their representatives on the Commission, to ensure full participation contributing to a quality review as well as completion of any relevant action plans. For those Panel members without an existing organizational tie to their Commissioners, the Commission staff shall provide contact information so that the Panel member can establish a collaborative relationship with their Commissioner.

Responsibilities of Review Panel Members

1) Department of Health and Social Services

a) Division of Substance Abuse and Mental Health

- 1) Review and record case specific information. Information will be recorded on the agency data sheet and submitted to Commission staff prior to the scheduled

review. If during the review of this case information, abuse or neglect is suspected, a report to the DFS Hotline (800-292-9582) is to be made as required by the Delaware Mandatory Reporting Law (see Chapter 5 for additional instructions);

- 2) Review the Review Packet (compilation of Data Sheets) prior to scheduled review;
- 3) Provide information or answer questions about mental health and chemical dependency diagnosis and treatment, which may come up in the course of case review;
- 4) Provide an understanding of individual and family psychodynamics, psychopathology and the psychological issues associated with child abuse, which can help make examination of cases more productive and useful for members of the Panel;
- 5) Review previous treatment records for information that may be relevant to the prevention, identification, management or treatment of child abuse; individual mental health professionals may be designated "temporary" members of multi-disciplinary Panels, which then allows them to share appropriate information within the group;
- 6) Use the recommendations of the Panel to develop prevention and screening programs in the mental health system;
- 7) Communicate any Action Plan items to their Commission Representative.

b) Division of Public Health

- 1) Review and record case specific information. Information will be recorded on the agency data sheet and submitted to Commission staff prior to the scheduled review. If during the review of this case information, abuse or neglect is suspected, a report to the DFS Hotline (800-292-9582) is to be made as required by the Delaware Mandatory Reporting Law (see Chapter 5 for additional instructions);
- 2) Review the Review Packet (compilation of Data Sheets) prior to scheduled review;
- 3) Assist in the discovery and review of previous public and/or private health care and medical records;
- 4) Provide vital statistics (birth and death records) to assist in case/system evaluation if available;
- 5) Liaison to public health based prevention/intervention systems;
- 6) Evaluate and utilize the recommendations of the State Panel in the further development of prevention programs;
- 7) Communicate any Action Plan items to their Commission Representative.

c) Office of the Chief Medical Examiner

- 1) Review and record case specific information. Information will be recorded on the agency data sheet and submitted to Commission staff prior to the scheduled review. If during the review of this case information, abuse or neglect is suspected, a report to the DFS Hotline (800-292-9582) is to be made as required by the Delaware Mandatory Reporting Law (see Chapter 5 for additional instructions);
- 2) Review the Review Packet (compilation of Data Sheets) prior to scheduled review;
- 3) Provide medical history of the decedent, including subpoenaed records if necessary;
- 4) Explain cause and manner of death:
 - a) Interpret injuries as accidental vs. non-accidental
 - b) Differentiate natural disease from abuse or neglect;
- 5) Interpret the number of events and time of events;
- 6) The forensic pathologist will interpret autopsy findings, particularly in regards to mechanism of death;
- 7) Communicate any Action Plan items to their Commission Representative.

d) Office of Emergency Medical Services

- 1) Review and record case specific information. Information will be recorded on the agency data sheet and submitted to Commission staff prior to the scheduled review. If during the review of this case information, abuse or neglect is suspected, a report to the DFS Hotline (800-292-9582) is to be made as required by the Delaware Mandatory Reporting Law (see Chapter 5 for additional instructions);
- 2) Review the Review Packet (compilation of Data Sheets) prior to scheduled review;
- 3) Communicate any Action Plan items to their Commission Representative.

2) Department of Services for Children, Youth and Their Families

- 1) Review and record case specific information. Information will be recorded on the agency data sheet and submitted to Commission staff prior to the scheduled review. If during the review of this case information, abuse or neglect is suspected, a report to the DFS Hotline (800-292-9582) is to be made as required by the Delaware Mandatory Reporting Law (see Chapter 5 for additional instructions);

- 2) Review the Review Packet (compilation of Data Sheets) prior to scheduled review;
- 3) Provide case management information regarding past and/or current interventions with child and his/her family;
- 4) Provide information regarding other types of services available within DSCYF and/or any known community resources which may be appropriate for the family;
- 5) Provide feedback from the Panel to the Department on issues relating to child protection;
- 6) Communicate any Action Plan items to their Commission Representative.

3) Attorney General's Office (Criminal Division)

- 1) Review and record case specific information. Information will be recorded on the agency data sheet and submitted to Commission staff prior to the scheduled review. If during the review of this case information, abuse or neglect is suspected, a report to the DFS Hotline (800-292-9582) is to be made as required by the Delaware Mandatory Reporting Law (see Chapter 5 for additional instructions);
- 2) Review the Review Packet (compilation of Data Sheets) prior to scheduled review;
- 3) Provide legal definitions and explanations;
- 4) Provide criminal history background, case status, and case disposition information as appropriate to the case review process;
- 5) Provide assistance/guidance for the review process;
- 6) The Attorney General's Office has the responsibility to request the appropriate police department or agency to investigate cases if information reviewed discloses possible criminal activities involved in a child's death;
- 7) Communicate any Action Plan items to their Commission Representative.

4) Law Enforcement

- 1) Review and record case specific information. Information will be recorded on the agency data sheet and submitted to Commission staff prior to the scheduled review. If during the review of this case information, abuse or neglect is suspected, a report to the DFS Hotline (800-292-9582) is to be made as required by the Delaware Mandatory Reporting Law (see Chapter 5 for additional instructions);
- 2) Review the Review Packet (compilation of Data Sheets) prior to scheduled review;
- 3) Provide reports containing witness information and witness statements;

- 4) Provide information regarding the parties involved and evidence relating to the case;
- 5) Provide an explanation of the investigation process;
- 6) Provide background information on involved parties and resources to conduct the review process;
- 7) Serve as a liaison to local law enforcement agencies and provide feedback to law enforcement regarding issues related to child deaths;
- 8) Communicate any Action Plan items to their Commission Representative.

5) Department of Education

- 1) Assist in the request and receipt of subpoenaed school information;
- 2) Review and record case specific information. Information will be recorded on the agency data sheet and submitted to Commission staff prior to the scheduled review. If during the review of this case information, abuse or neglect is suspected, a report to the DFS Hotline (800-292-9582) is to be made as required by the Delaware Mandatory Reporting Law (see Chapter 5 for additional instructions);
- 3) Review the Review Packet (compilation of Data Sheets) prior to scheduled review;
- 4) In cooperation with the local school district, provide appropriate school records (e.g., medical, achievement tests);
- 5) Provide information to the Panel on educational issues related to child development;
- 6) Communicate any Action Plan items to their Commission Representative.

6) Medical Specialists

- 1) Review and present medical information to the Panel. If during the review of the medical records, abuse or neglect is suspected, a report to the DFS Hotline (800-292-9582) is to be made as required by the Delaware Mandatory Reporting Law (see Chapter 5 for additional instructions);
- 2) Review the Review Packet (compilation of Data Sheets) prior to scheduled review;
- 3) Provide information about the processes of normal infant and childhood growth and development;
- 4) Provide interpretation of the diagnoses of children;
- 5) Provide information in the area of community standards of medical care;

- 6) Serve as a liaison with the medical community;
- 7) Provide the Panel with current information from the medical literature pertinent to the case or topic under discussion;
- 8) Communicate any Action Plan items to their Commission Representative.

7) Office of the Child Advocate

- 1) Review and record case specific information. Information will be recorded on the agency data sheet and submitted to Commission staff prior to the scheduled review. If during the review of this case information, abuse or neglect is suspected, a report to the DFS Hotline (800-292-9582) is to be made as required by the Delaware Mandatory Reporting Law (see Chapter 5 for additional instructions);
- 2) Review the Review Packet (compilation of Data Sheets) prior to scheduled review;
- 3) Represent the needs of children in Delaware;
- 4) Provide any known community resources which may be appropriate for the family;
- 5) Communicate any Action Plan items to their Commission Representative.

8) Other Child Advocates

- 1) Review the Review Packet (compilation of Data Sheets) prior to scheduled review;
- 2) Act as an impartial participant representing the needs of children in Delaware, rather than any one agency;
- 3) Serve as a community resource specialist by furnishing resource information;
- 4) Provide training for the community about child advocacy in relation to child deaths and prevention.
- 5) Communicate any Action Plan items to their Commission Representative.

9) Child Protection Accountability Commission

- 1) Review the Review Packet (compilation of Data Sheets) prior to scheduled review;
- 2) Communicate any Action Plan items to their Commission Representative;
- 3) Provide feedback from the Panel to CPAC on issues relating to child protection.

10) Child Death Review Panel Chair

- 1) Prepare meeting agenda;
- 2) Establish that there is a quorum/reschedule meeting as necessary;
- 3) Convene meeting;
- 4) Facilitate meeting using common parliamentary rules of order to the extent that these rules are not inconsistent with the code;
- 5) Complete Review Documentation Sheet;
- 6) Maintain integrity of review process;
- 7) Serve as a Commission Member;
- 8) Attend Commission meetings and present summary of Panel reviews including tracking information gathered during Panel reviews.

11) Child Death Review Panel Co-Chair

- 1) Co-Chair will resume the roles and responsibilities in the Chair's absence;
- 2) Complete the Review Tracking Data Sheet.

12) Panel Witness/Expert

- 1) A witness is a professional person who upon request of the Chair or staff will attend a Panel review meeting and present case specific information;
- 2) The witness will sign the confidentiality agreement;
- 3) The witness will not have voting power.

13) Commission staff

Three full-time positions are allocated to manage the review process: CDNDSC Executive Director, Medical Records Abstractor, and a Secretary with the following responsibilities are predicated on full staffing:

- 1) Assist local Panel chairs to facilitate the local Panel meetings and to record the official findings;
- 2) Invite professionals involved with individual cases to present information as required;

- 3) Prepare cases for review (refer to Case Preparation, Chapter 3);
- 4) Prepare necessary reports and recommendations relating to trends and patterns, preventability, obstacles in service delivery, and adequacy of interventions;
- 5) Staff the CDNDSC Panel and Commission meetings;
- 6) Maintain a database of Panel and Commission members;
- 7) Provide/coordinate initial and annual training to Panel members;
- 8) Assist the Chairs of the local Panels and Commission in writing the annual report;
- 9) Analyze trends and collate data from the local Panels;
- 10) Consult with Departments and agencies on the implementation of Panel recommendations;
- 11) Report on and evaluate the implementation of the recommendations;
- 12) Produce policy and procedures to establish the review process;
- 13) Represent the State of Delaware at regional and national meetings regarding reviews;
- 14) Upon implementation, compare the Delaware review process to national standards as developed and contribute data to a national data bank.

Delaware Child Death and Near Death Review Panel Process

Purpose of Child Death and Near Death Reviews

The primary purpose of reviewing child deaths and near deaths is to provide recommendations to alleviate practices or conditions which impact the mortality of children, in order to safeguard the health and safety of children. The review is a retrospective system review intended to provide meaningful, prompt, system wide recommendations in an effort to prevent future deaths or near deaths and to improve services to children. A child death or near death is considered to be preventable if one or more interventions (medical, community, legal, psychological) might reasonably have averted the child's death or near death. The reasonableness of the intervention is defined by the conditions and circumstances of the death/near death and available resources.

Type of Review

The reviews are retrospective investigations. A retrospective investigation is a case and system review that focuses on identifying trends, patterns, and obstacles in service delivery, and assessing the adequacy of agency interventions. The reviews do not focus on the performance of individual agency personnel.

Criteria of Cases Reviewed

1. All State of Delaware residents under the age of 18 whose deaths or injuries occurred within the state.
2. Near deaths are defined as a child in serious or critical care due to abuse or neglect as certified by a physician.
3. Deaths involving criminal investigations (with the exception of abuse/neglect cases) are delayed contingent upon authorization of the Attorney General's Office.

4. Deaths and near deaths involving abuse and/or neglect shall be reviewed within three months of a report to the Commission notwithstanding unresolved criminal charges.
5. Special requests to review a case that does not meet the review criteria can be made by agencies and professionals affiliated with the Panels and are approved or denied by the Panel Chair.

Case Preparation and Data Maintenance (Commission staff)

1. Review Death Certificates and Infant Mortality Report (if applicable) upon receipt from Vital Statistics, screening all death certificates for persons birth to age eighteen and select those cases that meet review criteria;
2. Cross reference obituary and news items related to child deaths and near deaths;
3. Enter information into Database;
4. Request the Attorney General's Office to subpoena needed records (medical, education, school wellness centers, mental health etc...);
 - a. Medical records may be subpoenaed from hospitals, physician offices, clinics, home healthcare agencies, hospices, etc... At a minimum the treatment records related to the death will be requested. The birth records of the mother and child are generally requested for children under age one.
 - b. Education records are subpoenaed for all children who have attended kindergarten or above, or if the child has special needs and is enrolled in a special, early childhood school program. An exception is that education records will not be routinely requested for children who died from cancer. A physician on the Panel, preferably a pediatrician, will pre-screen the medical records and other available information on the patient. If review of those records raises additional questions regarding the circumstances of the death, then the school records should be requested. If no questions arise, then education records will not be subpoenaed.
5. Create a case file for each Death Certificate and near death report received;
6. Record subpoena request in data base and file copy of subpoena request;
7. Monitor all subpoena requests for records to ensure receipt;
8. Contact the appropriate facility if the subpoenaed record is not received by the due date recorded on the subpoena;
9. Screen medical records and extract relevant data;
10. Schedule cases to be reviewed by either a Review Panel or physician. All children older than 28 days are reviewed by a panel. Infants ≤ 28 days of age are reviewed by a physician serving as a Panel member. The physician can either complete the review or recommend a Panel review. However, all cases designated for an expedited review or identified by the OME as SIDS or SUIDS will be referred to the Panel for review;
11. Complete cover sheet;

12. Distribute cover sheets to Panel members;
13. Collect and review all Data Sheets submitted by Panel members to determine if additional information is needed;
14. Compile Data Sheets into packets and distribute to Panel members in advance of scheduled review;
15. Prepare the Confidentiality Sheet for each meeting to be signed by each Panel member in attendance;
16. Prepare case review sheet to be completed by Chair and staff person at the time of review;
17. Review agenda with Chair prior to meeting.
18. Collaborate with the Chair in the development of meeting minutes;
19. Enter and maintain aggregate data and findings in the data base from the reviews;
20. Shred copies of records upon completion of the review process.

Review When Criminal Proceeding is Pending

1. The Attorney General panel member will contact staff when it is determined that a criminal case is pending in a child death;
2. With the exception of cases where an expedited review is required, staff will coordinate with the Panel Chair to move the case to the deferred list and assign it to the Attorney General's action plan. It will remain on the Attorney General's action plan until the case is resolved and is approved to be reviewed by the Attorney General's office;
3. When the case is ready for review, follow the case preparation and review steps outlined for routine review.

Review Panel Procedures

1. The Review Panel meets monthly for approximately two hours and reviews an average of four cases each session.
2. Prior to the reviews, the staff provides the Review Panel members the names of the deceased children scheduled to be reviewed.
3. Deaths involving criminal investigations (with the exception of abuse/neglect cases) are deferred contingent upon authorization of the Attorney General's Office (see previous section).
4. Completed Data Sheets are to be submitted to Commission staff prior to the scheduled review. A completed packet of all Data Sheets submitted will be maintained in the case record. Additional information gathered during the review will be collected and recorded by staff. After the review, the Data Sheets will be collected and destroyed. If the Panel makes any

recommendations to the Commission based on a review, the Panel Chair will keep his or her documents and notes from the review until the Commission has acted upon the recommendations.

5. Panel Chair determines if there is a quorum and facilitates the review.
6. Professionals directly involved in a case are invited by the Panel Chair to participate in the review of that case when it is believed that relevant information could be obtained.
7. When more than one representative of an agency is present, such as an alternate or a Commissioner, one person must be designated to present the information and identified as the voting member. Voting members have a priority seat at the table.
8. Review Panel members orally summarize their agencies' interaction with the child and/or family when applicable. Panel members will bring and discuss their agency records regarding the child and/or family scheduled for review. Upon completing the review, Panel members will return any agency files to their respective agencies. However, aggregate data and recommendations generated by the review process are not bound by rules of confidentiality. Review Panel members are expected to excuse themselves from the Review Panel if a relationship exists with the deceased child or family being reviewed which could compromise objectivity.
9. At each Panel meeting, Review Panel members and invited professionals must comply with and sign the Confidentiality Statement for the Review Process. Confidentiality sheets are collected and maintained by staff. At all times specific case information will remain confidential and restricted to Panel and Commission members.
10. Upon completion of the review (excluding SIDS/SUIDS reviews), the Chair determines if there is sufficient information to vote. Once a vote is taken, there will be no additional discussion or questions. Votes are recorded as Preventable, Not Preventable, or Undecided (find definitions at the beginning of this chapter, in section "Purpose of Child Death and Near Death Reviews"). An affirmative vote of sixty percent of those present is needed to adopt any findings and recommendations.
11. Recommendations are recorded for all deaths voted as Preventable. Recommendations shall: be clearly written with enough information so that others not involved in the review will understand; logically relate to the incident; and, address changes to specific systems.
12. Action plans will be recorded as necessary and shall: include steps to address the concerns and findings of the Panel; assign responsibilities to individuals or agencies; and, provide timelines for completing the steps.
13. When reviewing cases determined to be SIDS/SUIDS, the Panel does not vote on a finding of preventable/not preventable, but does identify risks factors. Risk factors will be recorded and tracked by staff.
14. The Co-chair or a Panel member designated by the Panel Chair will complete a Tracking sheet noting any items of relevance.
15. The Chair or Co-chair completes the Review Documentation Sheet summarizing agency activity, the Panel vote and recommendations/action plans at the end of each review for the purpose of data collation.

16. If a review cannot be completed due to lack of information, the following should be considered:
 - a. Request additional information be subpoenaed
 - b. Panel members to research additional case information within their own agency
 - c. Invite a professional(s) who can be of assistance in completing the review
 - d. Reschedule the review
17. All data will be entered into a secured computerized database, which will be maintained by the staff.
18. All Data Sheets and Findings Forms and other related review materials, (e.g., confidentiality forms) will be stored in a locked file maintained by the staff.

Expedited Reviews

State code requires that the Commission investigate and review the facts and circumstances of cases resulting in near death injuries as certified by physician and death due to abuse and/or neglect of the identified child. Near deaths and deaths involving abuse and/or neglect shall be reviewed within three months of a report to the Commission. Those responsible for reporting such cases to the Commission are:

- The Attorney General;
- The Department of Services for Children Youth and their Families;
- Any other state or local agency with the responsibility for investigating child near deaths and deaths. This includes local and state police departments and the Office of the Chief Medical Examiner.

These agencies have 14 days to report such cases to the Commission once it is determined that the near death or death is due to abuse and/or neglect.

Note: These reviews will be conducted notwithstanding unresolved criminal charges.

The following procedures will be followed:

1. Reporting agency refers the case to Commission staff. Information about the child is provided to staff so that cover sheets can be created.
2. Commission staff coordinates with the Panel Chair to expedite the review.
3. Commission staff contacts the Attorney General's Office and requests that the office determine if the potential witnesses can be questioned, deposed, or interviewed by the Panel.
4. If a witness is not allowed to participate in the review, the Attorney General's Office will contact the witness to determine an appropriate proxy.
5. Case will be scheduled and reviewed by the local Panel.
6. Recommendations will be forwarded to the Commission for their review and upon approval, will be sent to the Governor and General Assembly.

7. The case will be added to the deferred list and placed on the Attorney General's action plan for follow up, and the review will be finalized post disposition of the criminal case.

Review When Child Abuse and/or Neglect Becomes the Suspected Cause of Death

State code mandates that any person who knows or in good faith suspects child abuse or neglect to make a report to the Division of Family Services of the Department of Services for Children, Youth, and their Families. The Commission's confidentiality requirement does not supersede the requirement to report suspected child abuse or neglect. In preparing for a review or during a review, information may lead a Panel member to suspect abuse or neglect. The following should occur if abuse or neglect is suspected:

Information Gained While Preparing for a Review

- 1) The Panel member will make a report to the Division of Family Services.
- 2) The report should include:
 - a) The age of the child.
 - b) The names and ages of other children in the home and/or the family.
 - c) The nature and extent of the abuse and/or neglect of the child, including any known information of possible previous abuse or neglect.
 - d) All available information that might aid in establishing the cause and seriousness of the injury.
 - e) All information about the person or persons responsible for the abuse and/or neglect, including mental illness, pending criminal charges, use of illegal substances and/or abuse of legal substances.
- 3) The Panel member will inform Commission staff that a report has been made to DFS.
- 4) Commission staff will inform the Panel Chair and the DSCYF Panel representative that a report of abuse or neglect has been made.
- 5) The case will be deferred until an investigation can be completed or until a determination of whether abuse or neglect contributed to the death is made.
- 6) If it is determined that the cause of death was related to abuse or neglect, then the case review would follow the expedited review process as stated above. If it is determined that the death was not due to abuse or neglect, the case will be placed back on the review schedule by Commission staff.

Information Gained While Conducting a Review

- 1) When it is suspected that a death under review was due to child abuse or neglect, the Panel Chair will stop the review and defer it to the following month's review.
- 2) Commission staff will refer the matter to the Attorney General
- 3) The Attorney General's Office has the responsibility to request the appropriate police department or agency to investigate cases if information reviewed discloses possible criminal activities were involved in a child's death.
- 4) If it is determined that the cause of death was related to abuse or neglect, then the case review would follow the expedited review process as stated above. If it is determined that the death was not due to abuse or neglect, the case will be placed back on the review schedule by Commission staff.