STATE OF DELAWARE
Child Death, Near Death and Stillbirth Commission
900 King Street
Wilmington, DE 19801-3341

CAPTA[1] REPORT

In the Matter of
Zachary Cook
Minor Child[2]

9-03-2011-00006

May 17, 2013

[1] The federal Child Abuse Prevention and Treatment Act requires the disclosure of facts and circumstances related to a child's near death or death. 42 U.S.C § 5106 a(b)(2)(A)(x). See also, 31 Del.C. § 323 (a).
[2] To protect the confidentiality of the family, case workers, and other child protection professionals, pseudonyms have been assigned.

Background and Acknowledgements

The Child Death, Near Death and Stillbirth Commission (CDNDSC) was statutorily created in 1995 after a pilot project showed the effectiveness of such a review process for preventing future child deaths. The mission of CDNDSC is to safeguard the health and safety of all Delaware children as set forth in 31 Del.C., Ch., 3.

Multi-disciplinary Review Panels meet monthly and conduct a retrospective review of the history and circumstances surrounding each child's death or near death and determine whether system recommendations are necessary to prevent future deaths or near deaths. The process brings professionals and experts from a variety of disciplines together to conduct in-depth case reviews, create multi-faceted recommendations to improve systems and encourage interagency collaboration to end the mortality of children in Delaware.

Case Summary

The child who is the subject of this review, Zachary Cook, was born in July 1996 to mother, Jillian Cooper. Child was born via spontaneous vaginal delivery at 40 weeks gestation, weighing 6 pounds and 7 ounces. At birth, child presented with no known congenital anomalies or abnormal conditions. However, child was admitted to the Neonatal Intensive Care Unit for one week secondary to aspiration pneumonia. Child was also noted to be jaundice and spent two days under phototherapy.

In January 2010, at thirteen years of age, Zachary presented to the Emergency Department (ED) via air transport with the chief complaint of severe head trauma. Upon presentation, the child was unable to answer any questions and had a fluctuating level of consciousness. It was noted that Zachary's sister, Amy, was also en route to the hospital. Medical personnel were informed that injuries were most likely inflicted and the suspected perpetrator was mother's paramour, William Johnson.

Family History:

In December 2002, the Division of Family Services' (DFS) Child Abuse Reportline was contacted by law enforcement regarding a domestic dispute. The Corporal who responded to this complaint reported that mother, Jillian Cooper, and father, Gary Cooper, engaged in a verbal domestic dispute that led to father breaking a glass storm door in the presence of Jillian Cooper and children. DFS accepted this report for investigation. Upon completion of the investigation, it was determined by DFS that although there was no physical injury to the children, the children had suffered from emotional trauma. Therefore, the case was founded for emotional neglect against father and transferred to treatment for ongoing services. While in treatment, father successfully completed his court ordered counseling and no other services were warranted by the family. The case was closed in August 2003.

DFS did not have any further contact with the family until October 2006, when the Child Abuse Reportline received a referral alleging the sexual abuse of Amy, whom at the time was thirteen years of age. The reporter believed that the alleged sexual act had occurred in July 2006. However, the reporter was uncertain of the exact timeframe as the information he had obtained

was from second and third hand parties. These parties claimed that Amy had made statements that mother's paramour, William Johnson, was making sexual advancements towards her. The referral was accepted for investigation. Amy was interviewed by the DFS caseworker and she denied any sexual advancements made by her mother's paramour. Mother's paramour was also interviewed where he denied having any sexual thought or desire towards Amy. During this investigation, it was noted that mother and the landlord were in a disagreement regarding occupancy and this disagreement had risen to court involvement. It was believed that the report was made to DFS out of spite. With the consideration of DFS history and the fact that neither Amy nor her brother had expressed concerns about their home environment, the case was unfounded for sexual abuse and treatment services were not offered. Although the case was unfounded, the caseworker did caution Amy's mother about leaving her children alone with paramour.

Zachary's Near Death Event:

In January 2010, Emergency Medical Services (EMS) were dispatched to the residence of Zachary and Amy Cook. Upon EMS arrival both children were transported to the Emergency Department (ED). Zachary presented as a trauma code with severe head trauma. Zachary was noted to have been struck in the back of the head by an unknown object, later determined to be a hammer, and to have two open wounds. A Computed tomography (CT) scan showed severely depressed parietal and occipital skull fractures, small cerebral parenchymal hemorrhages, and subdural hematomas. A forensic nurse examiner collected evidence and performed an exam. Shortly thereafter, Zachary was taken to the operating room in order to undergo a left craniotomy with elevation of skull fractures, hematoma drainage, repair of the dura, and wound closure. Upon recovery, Zachary was transferred to the rehabilitation unit of the children's hospital due to constant headaches, balance and endurance issues, sleep difficulties, and cognitive deficits.

The initial criminal investigation revealed that mother's paramour, William Johnson, was a convicted felon, domestic offender, and had a significant history of motor vehicle violations, assaults, and weapon related offenses. As law enforcement began to establish a timeline of the events that led to the near death incident, Mr. Johnson's account of what had occurred began to slowly unravel.

Initial statements made by Mr. Johnson alleged that he was attacked by several unknown intruders upon entering the trailer at his mother's residence. Mr. Johnson reported that he was at his mother's residence to pick up an envelope of money. Mr. Johnson advised that his parents frequently rent the trailer out to tenants. However, at that point in time, the trailer was vacant. While retrieving the envelope of money, Mr. Johnson noticed that the door of the trailer was ajar and went to investigate why. Upon entering the trailer, Mr. Johnson stated that he was attacked by several intruders and that these were the same suspects who also assaulted the two children.

A search warrant was granted to complete a suspect rape kit on Mr. Johnson. A search and seizure warrant was also obtained where the Evidence Detection Unit was utilized to preserve, examine and obtain any and all evidence, including Mr. Johnson's vehicle. Law enforcement also obtained cell phone records which revealed that after the assault, Mr. Johnson first notified his mother that something had happened at the trailer. Mr. Johnson informed his

mother that he was being followed by a vehicle and that the children were injured. That particular phone call then set off a series of phone calls between Mr. Johnson and the children's mother. There was no documentation that Mr. Johnson called 911 to report the crime or the children's injuries. The first 911 call was received approximately 52 minutes after Mr. Johnson had made contact with his mother. This call was made by the children's mother.

Furthermore, blood splatters were found on Mr. Johnson's clothing. When Mr. Johnson was asked to explain why blood was found on his clothing, Mr. Johnson reported that the blood was a result of him dragging the children from the trailer to the car after the assault. The clothing was examined by an expert in the field of bloodstain pattern analysis in order to determine if Mr. Johnson's story could be corroborated. The expert determined that the blood spatters were not a result of the children being dragged to the car and therefore, Mr. Johnson's story was unable to be corroborated.

Law enforcement initially interviewed Amy while she was inpatient at the hospital, approximately three days after the near death incident. Amy had difficulty in recalling the events of that night, but was able to offer key details as it pertained to the physical abuse of her brother and her own sexual abuse. A follow up interview was conducted approximately 20 days later. At this time, Amy was able to provide more in-depth information regarding the near death event. Amy informed law enforcement that mother's paramour, Mr. Johnson, had agreed to take the children to the superstore for ice cream. However, prior to going to the superstore, paramour needed to stop by his mother's residence to pick up a key. On the way home from the superstore, paramour returned to his mother's residence. The children were asked to go inside, but Amy initially refused as she was eating her ice cream. Shortly thereafter, paramour exited the trailer and asked for Amy's help again and she agreed. Amy entered the trailer and asked were Zachary was. Amy was informed that Zachary was in the living room. Amy informed the investigating officer that when she entered the living room of the trailer she found her brother on the floor unconscious. Amy then recalled being struck in the head multiple times with a blunt object, later determined to be a hammer, until she was rendered unconscious. Amy disclosed that the next time she regained consciousness she watched as paramour carried them out to his vehicle, placing Zachary in the front seat and her in the back seat. Amy blacked out once again but when she awoke paramour had driven them to a secluded area where he then proceeded to rape her. Amy was able to describe the exact location of where the rape occurred as she, her mother and paramour had visited the location on more than one occasion.

Amy was asked by the officer if there were any intruders in the trailer. Amy stated no. Amy was asked if she was positive it was mother's paramour who attacked her. Amy stated yes. Amy was then asked if anybody was following paramour's vehicle. Amy stated no. Amy's answers to the questions above completely discredited paramour's story. Moreover, Amy's brother, Zachary, was also interviewed on two occasions where he was able to partially corroborate the account given by his sister, Amy.

Zachary informed law enforcement that he did not remember much about the night of the near death incident. However, Zachary was able to confirm that paramour had stopped at his mother's residence on two occasions that night. The first occasion was prior to getting ice cream and the second occasion was after getting ice cream. Zachary stated that paramour requested help

with retrieving a video gaming system. Zachary reported that the last thing he remembered was entering the trailer and bending over to pick up the gaming system. Law enforcement asked if there was anyone else in the trailer and Zachary stated no. Zachary further reported that paramour was not fond of Amy and they had a very contentious relationship. Zachary advised that there had been one occasion when Amy and paramour had a physical argument. This occurred approximately one month ago and paramour had pulled Amy out of her bed by the arm. Zachary stated that he was not fond of paramour and paramour was always acting sneaky and strange.

During the criminal investigation, mother's paramour had made numerous spontaneous and unsolicited statements that he wanted to "take the rap" for the physical assault, but not the sexual assault. Mr. Johnson gave several different accounts of what had occurred on the night of the near death incident. However, after the inconsistencies in his accounts were noted, Mr. Johnson became reluctant to assist in the investigation. Mr. Johnson further advised that Amy had a lot of hidden issues involving male figures and that he, William Johnson, was not going to take the full blame for the incident.

The civil investigation resulted in DFS substantiating mother's paramour, William Johnson, for the sexual abuse of Amy and the physical abuse of Zachary, level IV. DFS determined that the children were safe in mother's care as Mr. Johnson would not be returning to the residence. Both children were receiving outpatient rehabilitation and grief counseling.

Furthermore, Mr. Johnson was arrested and initially charged with two counts of Attempted Homicide, two counts of Aggravated Assault, one count of Intimidation/Reckless Endangerment/Terroristic Threatening/Harassment/Other Assaults/Non-Aggravated, one count of Rape in the Second Degree without Consent, and one count of Possession of a Deadly Weapon during the Commission of a Felony. Criminal prosecution resulted in Mr. Jones drawing two counts of Attempted Murder and Rape in the First Degree. Mr. Johnson was sentenced to 25 years, suspended after 7 years and 30 years suspended after 15 years.

Primary System Recommendations

After review of the facts and findings of this case, the Child Abuse and Neglect Panel determined that all systems did not meet the current standards of practice and therefore the following system recommendations were put forth:

DELAWARE POLICE DEPARTMENTS

1. CDNDSC recommends the continued use of the Children's Advocacy Center (CAC) for forensic interviewing and the use of the Memorandum of Understanding (MOU) between the Department of Services for Children, Youth and Their Families, theCAC, the Department of Justice, and Delaware Police Departments when investigating all cases alleging physical and/or sexual abuse.
    a. Rationale: The purpose of the CAC is to "reduce the devastating long-term effects that child abuse has on children, their families, and society through immediate, coordinated, child focused services, education, and advocacy."During the 2006

investigation, it was alleged that the child had been sexually abused by mother's paramour. Although the child was interviewed by DFS, she was not interviewed at the CAC. Due to the allegation of sexual abuse, it is believed that the child should have received a forensic interview through the CAC. Moreover, neither child was interviewed at the CAC during the 2010 investigation of physical and sexual abuse.

b. Anticipated Result: Compliance with the MOU as it pertains to the forensic interviewing of children.
c. Responsible Agency: Delaware Police Departments

DEPARTMENT OF JUSTICE

2. CDNDSC recommends the continued use of the Children's Advocacy Center (CAC) for forensic interviewing and the use of the Memorandum of Understanding (MOU) between the Department of Services for Children, Youth and Their Families, the CAC, the Department of Justice, and Delaware Police Departments when investigating all cases alleging physical and/or sexual abuse.
    a. Rationale: The purpose of the CAC is to "reduce the devastating long-term effects that child abuse has on children, their families, and society through immediate, coordinated, child focused services, education, and advocacy." The purpose of the MOU is to establish a procedural agreement for the investigation of and collaborative intervention on cases of child abuse and neglect. With that said, during the 2010 investigation, the CAC was not utilized for forensic interviewing of either child.
    b. Anticipated Result: compliance with the MOU as it pertains to the forensic interviewing of children.
    c. Responsible Agency: Department of Justice

DEPARTMENT OF SERVICES FOR CHILDREN, YOUTH AND THEIR FAMILIES

3. CDNDSC recommends the continued use of the Children's Advocacy Center (CAC) for forensic interviewing and the use of the Memorandum of Understanding (MOU) between the Department of Services for Children, Youth and Their Families, the CAC, the Department of Justice, and Delaware Police Departments when investigating all cases alleging physical and/or sexual abuse.
    a. Rationale: The purpose of the CAC is to "reduce the devastating long-term effects that child abuse has on children, their families, and society through immediate, coordinated, child focused services, education, and advocacy." The purpose of the MOU is to establish a procedural agreement for the investigation of and collaborative intervention on cases of child abuse and neglect. With that said, during the 2010 investigation, the CAC was not utilized for forensic interviewing of either child.
    b. Anticipated Result: compliance with the MOU as it pertains to the forensic interviewing of children.
    c. Responsible Agency: Department of Services for Children, Youth and Their Families