

Child Abuse: Improving Investigation & Prosecution Survey Report

October 2013



Virginia Department of Criminal Justice Services
www.dcjs.virginia.gov

Background

In the Commonwealth of Virginia, the Department of Criminal Justice Services (DCJS) administers the Children's Justice Act (CJA) program. The CJA program is established in Section 107 of the Child Abuse Prevention and Treatment Act (CAPTA, 42 U.S.C. 5106c). The purpose of the CJA program is to improve the investigative, administrative and judicial handling of cases of child abuse and neglect, particularly child sexual abuse and exploitation, in a manner that limits additional trauma to the child victim. This also includes the handling of child fatality cases in which child abuse or neglect is suspected and some cases of children with disabilities and serious health problems who also are victims of abuse and neglect. The Children's Justice Act program at DCJS works to support and strengthen the multidisciplinary response to child abuse and, in the past, has supported such programs as ChildFirst Virginia (formerly Finding Words), Trial Advocacy training, Improving Investigation and Prosecution of Child Abuse Conferences, child fatality team training, and mini grants to Child Advocacy Centers, to name a few.

Survey Rationale

CAPTA legislation requires that each state establish and maintain a State Task Force for CJA. In Virginia, the Advisory Committee to the Court Appointed Special Advocate and Children's Justice Act Programs (CASA/CJA) serves as the Task Force. Every three years the Task Force is required to undertake a comprehensive review and evaluation of the investigative, administrative and judicial handling of cases of child abuse and neglect and to make training and policy recommendations to improve those processes.

The *Child Abuse: Improving the Investigation and Prosecution Survey* was created to solicit feedback from those involved in the civil and criminal justice systems that investigate and respond to child abuse in Virginia. The feedback received is concisely outlined in this report and will be examined by the Task Force in the fall of 2013 to help inform them as they draft recommendations for system improvement in a three-year plan.

Methodology

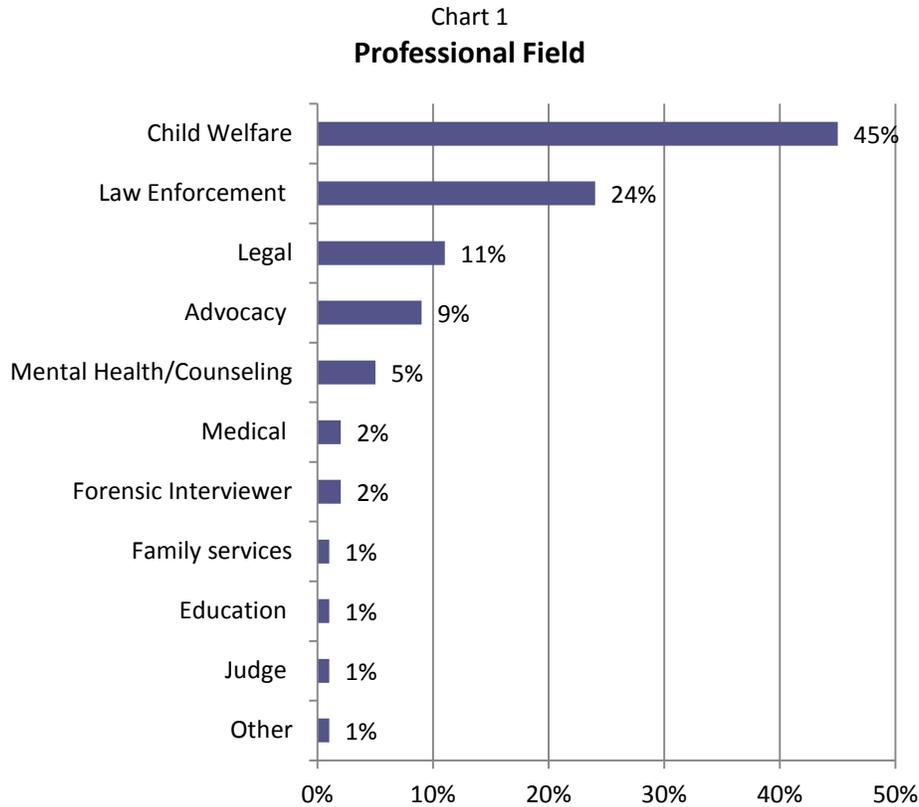
This survey was sent to the Virginia Department of Social Services, Court Appointed Special Advocate Programs, Children's Advocacy Centers of Virginia, Commonwealth's Attorneys' Services Council, Sheriff's Offices, Virginia Association of Chiefs of Police, Virginia Guardian ad Litem (GAL) Association, Local Government Attorneys Association, and State Child Fatality Review Team and they sent it to their staff, membership and constituents across Virginia. These groups were selected to respond to the survey because of their involvement with the system that responds to child abuse or serves child abuse victims in the Commonwealth of Virginia. The goal of the survey was to gather information on investigative, administrative, and judicial processes related to child abuse and neglect, including child sexual abuse/exploitation.

Respondents were instructed that, although staffing, funding, and resource allocation may be areas that need improvement, for this survey they should focus on the areas of 1) laws, 2) policies/procedures, and 3) training, specifically in the processes that directly impact child victims and how these processes may minimize or worsen their trauma.

The survey collected responses from these groups during June 2013, resulting in 298 completed survey responses. A summary of their responses is contained in this report.

I. BACKGROUND INFORMATION OF RESPONDENTS

Professional field: Respondents to this survey represent the following professional fields. Nearly half (45%) of the respondents identified themselves as being in the Child Welfare field. (See Chart 1.)

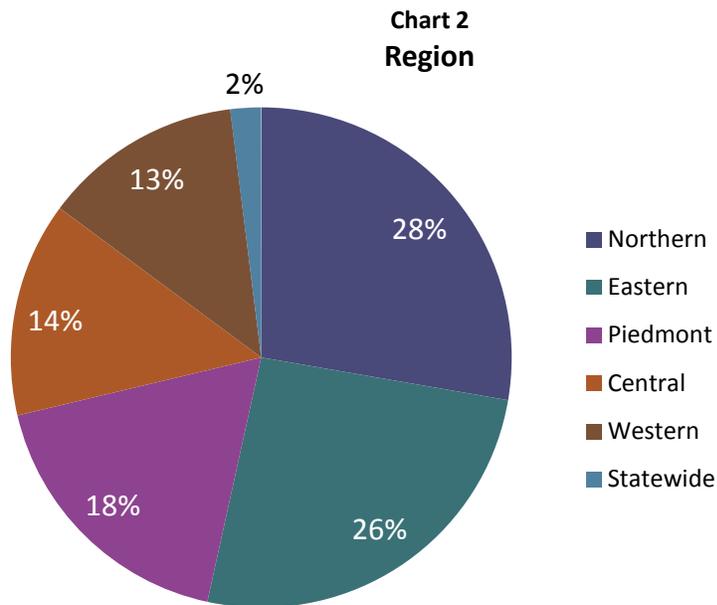


Agency/Organization: Respondents to this survey selected the following agencies/organization as that which best describes where they work. Nearly one-third (29%) of the respondents said they worked for Child Protective Services (CPS) and nearly one-quarter (23%) said they worked in a law enforcement agency. (See Table 1.)

Table 1
Survey Respondent’s Agency/Organization

Agency/Organization	Percent
Child Protective Services (CPS)	29%
Law Enforcement	23%
Local Department of Social Services	13%
Child Advocacy Center (CAC)	9%
Prosecutor’s Office	9%
Dept. of Social Services (DSS) Attorneys’ Office	5%

Over half of the respondents indicated that they work in the Northern Virginia or Eastern Virginia regions. Only two percent said their work is statewide. (See Chart 2.)



II. RESOURCES

MULTIDISCIPLINARY TEAM: For the purposes of this survey, a child abuse Multidisciplinary Team (MDT) was defined as:

*a group of professionals from various agencies (at minimum: CPS, law enforcement and prosecutor) who work in a coordinated and collaborative manner to ensure an effective investigation and response to cases of child abuse and neglect. [NOTE: A MDT is **not** a Family Assessment and Planning Team (FAPT)].*

When respondents were asked if they have a MDT in their locality,

- 71% (212) said yes,
- 19% (55) said no, and
- 8% (23) weren't sure.

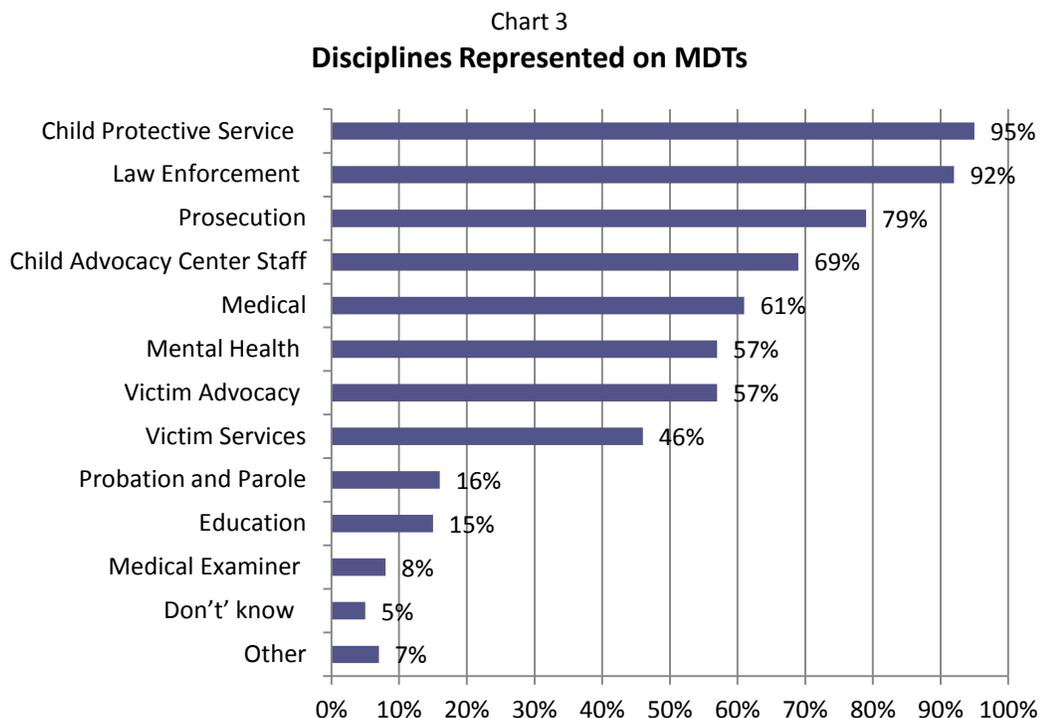
(The question wasn't applicable to 3% of respondents.)

Those with MDTs: Next, the 212 respondents who said that they do have a MDT in their locality were asked a few follow-up questions about their MDT.

Meeting frequency: In response to how often the MDT meets, most (74%) said that it meets monthly. Other responses included as needed (7%), weekly (4%), quarterly (4%), doesn't meet (2%), and don't know (9%).

Written protocol: When asked if their MDT has a written protocol, 61% said yes. Additionally, 9% said they do not have a written protocol and 30% didn't know.

Disciplines on MDT: Respondents were asked to indicate which disciplines are represented on their MDT from a list that was provided. Their responses are shown in Chart 3.



(Other was made up of 5 City/County Attorneys, 2 DSS Attorneys and 1 each of the following: CASA, Civil Prosecution, Domestic Violence, Forensic Interviewing, Foster Care, Health Department, FACT Director @ Fairfax INOVA, Military, NFA, Parent representative, Shelter, and Victim Witness.)

Those with NO MDT: The 55 respondents who said that they do not have a formal child abuse MDT in their locality were asked to indicate the primary reason why. Nearly one-third said that they do not know why there is no MDT in their locality. The rest selected from a list of reasons why their locality does not have a MDT.

Reasons why a locality does not have a MDT:

- 16% “There is resistance from one of the key partners”**
Not enough partners to form team, too many staff changes, no one wants to take the lead, leadership doesn’t want it

- 15% “We had one, but it dissolved over time”**
Disagreements about protocol and mission, poor attendance to meetings due to lack of cases, meetings that were unproductive and hostile to one partner

- 15% “We are in the process of forming one”**
New Commonwealth’s Attorney is heading up effort, in process of developing MOUs and protocols, dissolved over time but now reorganizing

- 7% “We would like to form one, but have not gotten around to it”**
Staff turnover, lack of management follow-through, new Commonwealth’s Attorney

- 6% “We have never thought about forming one”**

- 11% “Other”**
Lack of leadership/time/money, view that a MDT somewhat duplicates the work of the CPMT, use of other resources, competency concerns of partner agencies

CHILD ADVOCACY CENTER: Respondents were asked whether or not their locality has access to a Child Advocacy Center (CAC). Their responses were as follows:

- 41% Yes, it is in a neighboring jurisdiction
- 39% Yes, it is in my jurisdiction
- 8% No, and I would like to see one established
- 4% No, and we function OK without one
- 9% Don’t know

Those with access to CACs: The 236 respondents that said that they DO have access to a CAC were asked a few follow-up questions.

Multiple interviews: Respondents were asked in what percentage of cases in which they were involved was a victim of child maltreatment interviewed more than once. Half (51%) said that this occurred in 1% to 25% of cases. (See Table 2.)

Percent of cases – Range	Percent
0% (Never)	3%
1% – 25%	51%
26% – 50%	15%
51% – 75%	9%
76% – 100%	6%
Don't Know	12%
Not applicable	4%
Total	100%

Joint interview criteria: Those who also said their locality had a MDT were asked to indicate the criteria used by the MDT to determine when a child WILL be interviewed jointly. Of the given criteria, more than half of respondents said desire to minimize trauma to child (65%) and severity of the case (55%), and just under half of respondents said victim characteristics, including age (46%) and urgency of the case (46%). (Respondents were instructed to select all that apply so percentages equal more than 100%.)

Factors that contributed to not conducting a joint interview: The most frequently cited factors were

- There is not time to gather the team because the interview must be conducted immediately to protect the child (63%),
- Team members are not available to participate (62%),
- Availability of victim (19%), and
- Location of child (18%).

Other factors were cited by 10% or less of respondents. Further explanation was asked of respondents who selected certain factors.

Age of the child: There were 23 respondents that said age of the child was a factor in whether or not a child was interviewed jointly. Most of the responses regarding older children involved law enforcement interviewing teens (typically 14–17) outside of the CAC. Most of the responses regarding younger children mentioned that children under a certain age (toddlers and younger) are difficult/impossible to interview.

Location of the child: There were 33 respondents that said location of the child was a factor in whether or not a child was interviewed jointly. Of these, the top three explanations included when a child is

outside jurisdiction/locality (10), travel considerations/coordination of victim and team/efficiency (7), and when a child is in a secure location/transport not possible without alerting alleged abuser (7).

Availability of the child: There were 34 respondents that said availability of the child was a factor in whether or not a child was interviewed jointly. Of these, the top three explanations included when a child is in a secure location/transport not possible without alerting alleged abuser (6), scheduling/coordination of victim and team/efficiency (5), and when victim is outside jurisdiction/locality (4).

III. INVESTIGATIVE / ADMINISTRATIVE PROCESS

Respondents were asked to review a list of reporting and investigative process components while keeping in mind the investigative and administrative process (CPS and criminal) in cases of child abuse, neglect, and sexual abuse as it directly impacts child victims. For each listed item, they were asked to indicate whether the specific process needs to be improved or if no change is needed. For components of which they had no knowledge, they were instructed to respond “don’t know.” The 14 listed components were:

- Reporting of a child abuse/neglect situation to CPS
- CPS response time
- CPS initial interview with child
- CPS initial safety assessment & safety planning
- CPS follow-up investigation
- Reporting of a child abuse/neglect situation to law enforcement
- Law Enforcement initial investigation
- Law Enforcement contact with CPS
- Law Enforcement follow-up investigation
- Forensic interview of child
- Medical examination of the child
- Adherence to joint protocols
- Investigation of child maltreatment-related fatalities
- Investigations involving individuals with disabilities

Of the 14 listed process components, the three that were selected most often as “no change needed” were:

- CPS initial safety assessment & safety planning (220)
- CPS response time (219)
- Medical examination of the child (203)

The three selected most often as “needs to be improved” were:

- Reporting of a child abuse/neglect situation to CPS (110)
- Law Enforcement contact with CPS (108)
- Adherence to joint protocols (102)

For the items selected as “needs to be improved” respondents were asked whether improvements were needed in the areas of laws, policies & procedures, and/or training and to provide some information about why. Policies

and procedures and training were cited most often as the areas that need change among the process components.

The reasons *most often* provided as to why each of the cited processes needs to be improved are provided below.

Reporting of a child abuse/neglect situation to CPS

Rules/laws/policies need to be enforced for those “mandatory reporters” who are required to report child abuse and neglect issues to CPS; this group also needs more training, especially among those in the education and medical fields.

Reporting of a child abuse/neglect situation to law enforcement

Efforts to improve communication and cooperation between law enforcement and CPS are needed. Reporting protocols need to be reexamined, law enforcement needs to keep CPS updated on investigations, and CPS shouldn’t withhold case information from law enforcement investigations.

Adherence to joint protocols

Joint training is needed both for team members and for CPS and law enforcement. For team members, joint training should focus on protocols, roles/responsibilities, and teamwork to help accomplish goals. Joint training for CPS and law enforcement should focus on improving communication, roles/responsibilities, and who should be included in what processes.

IV. JUDICIAL PROCESS

Respondents were also asked to review a list of eight judicial process components that are common in cases of child abuse, neglect, and sexual abuse as it directly impacts child victims. For each listed item, they were asked to indicate whether the specific process needs to be improved or if no change is needed. For components of which they had no knowledge, they were instructed to respond “don’t know.” The eight listed components were:

- Prosecutor’s involvement and interaction with the child during court involvement
- Guardian ad litem’s involvement and interaction with the child during court involvement
- CASA’s involvement and interaction with the child during court involvement
- Local DSS attorney’s involvement and interaction with the child during court involvement
- Court processes that minimize trauma to child
- Court’s role in monitoring child’s safety while under court’s jurisdiction
- Timeliness of civil court processes and hearings
- Due process and fairness to the alleged abuser in court proceedings

Of the eight listed process components, the three that were selected most often as “no change needed” were:

- Due process and fairness to the alleged abuser in court proceedings (221)
- Local DSS attorney’s involvement and interaction with the child during court involvement (162)
- Court’s role in monitoring child’s safety while under court’s jurisdiction (152)

The three selected most often as “needs to be improved” were:

- Court processes that minimize trauma to child (129)
- Guardian ad litem’s involvement and interaction with the child during court involvement (122)
- Timeliness of civil court processes and hearings (104)

Again, for the items selected as “needs to be improved” respondents were asked whether improvements were needed in the areas of laws, policies & procedures, and/or training and to provide some information about why. And while again, policies and procedures and training were cited most often as the areas that need change among the judicial process components, changes in laws were cited by nearly half of respondents relative to court processes that minimize trauma to child and timeliness of civil court processes and hearings.

The following are the reasons *most often* provided as to why each of the cited processes needs to be improved.

Court processes that minimize trauma to child

There were many frequent recommendations for changes to minimize trauma for child victims. The need for speedy trials and reducing continuances and delays to reduce trauma of repeated preparations;

allowing forensically sound interviews as testimony (other states do) so that children may not have to testify in the courtroom; the need for laws and policies to increase use of closed-circuit television (CCTV) testimony for children (judges and prosecutors are not using the option - it is rarely allowed) and, when it is permitted, the CCTV area where the child testifies should be more child-friendly. Additionally, there were accusations of inappropriate conduct by court personnel and victim-blaming of children in the courtroom.

Guardian ad litem's involvement and interaction with the child during court involvement

There were numerous concerns about the quality of GALs. Most of these concerns involved GALs that don't see the child until just before they enter the court; and generally that most GALs need to spend more time with child victims to be able to better represent them.

Timeliness of civil court processes and hearings

The overall consensus is that the whole process needs to be completed in less time. There are too many delays/appeals/continuances - there should be a limit to the number and length that are allowed.

V. ADDITIONAL THOUGHTS

Survey respondents were asked if they had any additional thoughts about or suggestions for changes in laws or in policies and procedures that could help improve the investigative, administrative, and judicial handling of child abuse cases and would limit additional trauma to the victim. Overall, respondents' comments were similar to those offered in previous questions in the survey. The following highlights the common themes:

Coordinated, team response with protocols for multidisciplinary child abuse investigation was overwhelmingly cited as a need. Specifics included the following themes:

- Mandating a multidisciplinary team (MDT) response;
- Collaborative investigation protocols written to clarify roles and enhance information sharing;
- More funding to allow for more Child Advocacy Centers and access to CACs for all localities;
- MDT must include prosecutors as well as CPS and law enforcement; and
- Role clarification for MDT members would help communication and collaboration, specifically, clarify responsibility of CPS v. law enforcement.

Suggestions regarding **flexibility in the child's testimony** in court proceedings included:

- CCTV should be used more often and/or in all cases in which a child will testify;
- CCTV statute should be revised to eliminate the requirement for expert testimony demonstration of "severe emotional harm" for the victim, thus allowing for more flexibility in child's method of testimony;
- There should be no age restriction on use of CCTV for child under the age of 18;
- Allow hearsay exception to child's statement in civil proceedings; and
- Allow for videotaped deposition and/or video of forensic interview as an alternative to actual court appearance for child.

Investigatory timeframes:

- CPS investigation timeframe should not be limited to 45-60 days;
- CPS timeframes interfere with law enforcement investigation;
- Law enforcement does not respond as quickly as needed for CPS to assess child safety; and
- Prosecution of case should not take years; too many continuances.

Representation by the child's Guardian ad litem (GAL):

- GALs should be mandated to see the child and make regular contact;
- Require the GAL to certify that they met with the child;
- More rigorous training for GALs on trauma

Respondents were also asked if they had any additional thoughts about or suggestions for changes in training that could help improve the investigative, administrative, and judicial handling of child abuse cases and would

limit additional trauma to the victim. Overwhelmingly, the most common theme was the **need for joint training and/or cross training with CPS, law enforcement, prosecutors and others** on child abuse investigation in order to clarify roles and sharing of information. Other training-related themes included:

- Educate judges, bailiffs, and court personnel about how to minimize trauma to the child and how child abuse/trauma impacts child;
- Promote MDT and CAC model in all child abuse training;
- Cross training on policies/processes for CPS and law enforcement who investigate and respond to child abuse;
- Training on child development, interviewing, and process of disclosure for law enforcement, prosecutors, judges and GALs; and
- Continue multidisciplinary conferences on child abuse response.

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