Gabriel Myers Work Group
Summary/Minutes
May 14, 2009
Ft. Lauderdale, Florida

Members Present: Jim Sewell, Chair
Bill Janes
Anne Wells
Robin Rosenberg
Rajiv Tandon
Mike Haney

OPENING REMARKS

The meeting began with Dr. Jim Sewell introducing himself as Chairperson of the work group established by Department of Children and Families' Secretary George Sheldon.

Secretary Sheldon was introduced and asked to speak to the work group.

Secretary Sheldon thanked Dr. Sewell and the members of the work group for agreeing to serve. He noted that anytime a child dies it is tragic, but that the events surrounding the death of Gabriel Myers are particularly frustrating and devastating to the family as well as the Department's community partners. He shared that if you look at Gabriel, whose short time in Florida was only a few months, and the waning days of his life, you see that in the space of a few days he was told that his mother had lost visitation rights, he was going back to Ohio where he said he experienced sexual abuse by an older child, his medication was changed, his foster home was changed, his therapist was changed, and a lot of his toys were removed.

Secretary Sheldon asked the work group to take a broad look at the case and determine how to move forward and what can be learned. He further noted that a quality assurance review has been completed locally. He added that he had a serious concern that the only medication indicated for Gabriel in the FSFN (Florida Safe Families Network) database was Adderall. The other medications Gabriel was receiving were not in the database. He also noted that it is his understanding that judicial approval was not obtained for Gabriel's medication.

Secretary Sheldon advised the work group that because data regarding Gabriel were inaccurate, he fears the same could be true with other children. Because of this, he has ordered an across the board review of every case file statewide in every circuit. This review is currently in progress under the oversight of John Cooper, the Department's Acting Assistant Secretary of Operations. Deadlines for completion of this review and the report of findings from the work group have not been set. He wants to ensure that all reviews are thorough and complete.

Secretary Sheldon also asked that the work group look at other outside resources, particularly the Guardian Ad Litem Program, the Child Protection Team, the Department's community partner ChildNet and their subcontractors, the Broward County Sheriff's Office, the Margate Police Department, the Agency for Health Care Administration, and other necessary health practitioners and members of the judiciary. He further asked the work group to look at existing documentation and the use of psychotropic medications, as well as at the broader perspectives of the case, which includes allegations of child-on-child sexual abuse. He tasked the work group to also examine the issues relating to the relationship of the Department with its providers as well as the relationship of a therapeutic counselor with a psychiatrist. He stated that the work group's

task is not to reinvestigate the case, as that is being done by the Margate Police Department. However, the work group should review the results once the investigation is completed to see how that can help with their deliberations. He noted that he is not asking the work group to assess blame as that is the responsibility of other entities, but rather to determine what the Department of Children and Families, our society, and our community partners can learn from the tragedy of Gabriel Myers to improve the system statewide and to have the kind of assurances in place that will prevent this kind of tragedy from happening again.

He advised that in this case, the Department has contracted out for a lot of services as an agency. Case management is contracted out to ChildNet, child protective services are contracted out to the Broward County Sheriff's Office, and lawyers are contracted through the Attorney General's Office. But, ultimately, it is the Department of Children and Families that is the parent to these children. Ultimately, the Department of Children and Families is responsible. He advised that the Department intends to learn from this case and to hold people accountable.

Secretary Sheldon further stated that the Department has made huge progress in terms of children over the past two years. Children in foster care have been reduced by 31 percent and a substantial impact has been made on bringing services to keep them in their homes. Additionally, the legislature has taken specific interest in the psychotropic drug issue and will be reviewing the actions and findings of the work group.

Secretary Sheldon directed that the work group should present its findings to the Task Force on Fostering Success, chaired by former Attorney General Bob Butterworth, who will review those findings and make recommendations to the Department and its partners on how to proceed.

Secretary Sheldon directed the members of the work group to a letter from the Chairperson of the Senate Committee on Children, Families, and Elder Affairs. Her requests in the letter have been incorporated into the charge he has given, but he asked specifically that the workgroup look at the 4 items she has identified. Those items include:

1. Is the Department abiding by the 2005 law that was passed as it relates to the use of psychotropic drugs?

2. What additional actions should be taken? Secretary Sheldon reiterated that he is not asking the work group to make recommendations as that will be done by the task force, but rather to make findings as to where there may be gaps in current regulations or current statutes.

3. What policy does the Department have, and this also includes the Agency for Health Care Administration, as it deals with red flag psychiatrists or psychiatrists who are considered outliers as it relates to these psychotropics?

4. To what extent are psychotropics being used for behavioral modification as opposed to being used for true medical and psychiatric purposes?

Secretary Sheldon again emphasized the importance of the task assigned to the work group adding that he wanted them to be deliberate and thorough, and to let things fall where they fall. He stated that this is not the time to be protective of anyone, including the Department, but rather it is a time to learn from this experience and move forward.

He recognized Judge John Frusciante, who was in the audience and directed the work group to use him as a resource. He also recognized Senator Nan Rich, a member of the Children,

Families, and Elder Affairs Senate Committee as well as the Senate Appropriations Committee, and asked for any comments she might be willing to make to the work group.

Senator Rich thanked Secretary Sheldon and recognized him as someone who takes responsibility for what happens and believes in addressing issues head on as evidenced by the creation of the work group. Senator Rich advised that she was also representing Senator Storms, Chairperson of the Senate Children and Families Committee, who is extremely interested and committed to ensuring appropriate legislative action is initiated to address any identified loopholes or gaps within the law as a result of the Gabriel Myers incident. She advised that the Senate Committee will follow the progress of the work group and will be ready to work with the Task Force and the Department on any issues requiring legislative authority.

Dr. Sewell advised the members of the workgroup and the audience that he felt it was best to understand completely the instant case absent the investigation of the actual death of Gabriel Myers and understand where there were strengths and deficiencies in this case during the last year.

Dr. Sewell asked that each of the members of the work group introduce themselves and provide information on their background.

Mike Haney is the Director for Prevention and Intervention in Children's Medical Services overseeing child abuse programs within the Florida Department of Health, which includes the Child Protection Team. He also serves as the Department's Child Abuse Death Review Coordinator and a member of the State's Child Abuse Death Review Committee. He has been involved in child abuse for approximately 28 years and is a child and adolescent therapist by training at the University of Florida. He is a licensed mental health counselor.

Dr. Ann Wells is the Bureau Chief for Medicaid Pharmacy Services at the Agency for Health Care Administration and oversees all processes related to the development and sustaining of the Medicaid preferred drug list. She is a graduate from the University of Florida College of Pharmacy with a PharmD degree and masters focusing on pharmacy regulation and public policy. Prior to her current position, she was Assistant Director for the Ambulatory Pharmacy Service at Shands Hospital at the University of Florida.

Robin Rosenberg is the Deputy Director of Florida's Children First, a statewide legal advocacy organization that focuses on the rights of children, primarily those in foster care. Prior to her current position, she worked at Holland and Knight as pro bono council. Her first exposure to child welfare was in the resolution of the ME vs. Bush lawsuit, which was the largest class action in the country at the time focusing on the mental health needs of children in state care, both in dependency and delinquency. She was part of the discussions of the creation of the system of care that was to ensure children got the type of mental health treatment they needed for their particular needs. Robin is also a foster mother.

Bill Janes is the Director of the Office of Drug Control in the Governor's Office, which includes the Office of Suicide Prevention. He also serves as the Assistant Secretary for Substance Abuse/Mental Health in the Department of Children and Families.

Dr. Rajiv Tandon is currently a Professor of Psychiatry at the University of Florida's Department of Psychiatry. Prior to his current position, he was the Chief of Psychiatry in the Mental Health Program Office at the Department of Children and Families. In that role, he served on Judge Liefman's Supreme Court subcommittee on mental health, which reviewed the

interface between mental health and criminal justice. Dr. Tandon also served on the Blue Print Commission on Juvenile Justice. Prior to moving to Florida, he was a tenured Professor of Psychiatry in Michigan and also served on the Governor's Commission on Mental Health.

Dr. Jim Sewell is a retired law enforcement officer whose last assignment was as Assistant Commissioner with the Florida Department of Law Enforcement. At the end of 2006, he was asked to serve on the transition team for newly-appointed Secretary of the Department of Children and Families, Bob Butterworth. He currently serves as Special Assistant to Secretary Sheldon. He holds a PhD in Criminology from Florida State University.

Dr. Sewell noted that his intent is to have a working group that can identify hard core facts and, working with General Butterworth's Task Force on Fostering Success, can have an impact on changing things that need to be changed within the child welfare system. He further advised that in the spirit of transparency that the Department of Children and Families has prided itself on for the last 2-1/2 years, all work group materials will be posted on the Department website so that the press and the public has access.

PRESENTATION/DISCUSSION

Dr. Sewell recognized Kim Welles, Southeast Region Family Safety Program Manager, to present the Gabriel Myers case to the work group on behalf of the Department and its partners and noted that questions arising will be directed through Kim for the appropriate partner to respond.

Ms. Welles presented a PowerPoint presentation starting with a picture of Gabriel and highlighting issues and events up to the time of his death. Details of that presentation and subsequent questions/comments follow.

Gabriel was born on January 30, 2002 in Scioto County, Ohio to Candace Myers and Rocky Newman. Both parents were drug users and had a history of domestic violence. Shortly after Gabriel's birth, Mr. Newman was incarcerated. In the first couple of years of his life, Gabriel was taken to jail to see his father on a regular basis. At the time when Gabriel moved to Florida, he had not seen his father in over a year. At the time of Gabriel's death, Mr. Newman was not incarcerated; however, Ms. Myers was incarcerated.

Slide 1: At the beginning of his life, an abuse report was made for Gabriel, at which time no judicial action was taken in the state of Ohio. However, the maternal grandparents did file for an order granting them temporary custody of Gabriel through civil court in May 2002. Ms. Myers and Gabriel lived with the grandparents most of his life until Ms. Myers moved to Florida. At that time, the grandparents brought Gabriel to Florida to reside with his mother.

Slide 2: On June 29, 2008, an abuse report was received alleging that Ms. Myers was found in a car severely intoxicated with multiple prescription medications in her possession. Gabriel was in the car as well. Ms. Myers was under a warrant from Ohio and was arrested and incarcerated by Hallandale Police on that warrant. Gabriel was brought into custody of the Department of Children and Families. At that time, Gabriel was on Adderall and consent for medical treatment was obtained and presented to the court. An additional sequence was received on the same date alleging that Gabriel was sexually abused.

Slides 3 and 4: The Broward County Sheriff's Office investigation on that case found no indicators initially of sexual abuse because Gabriel denied the allegation during the Child

Protection Team interview. There were some indicators of physical abuse because he had visible marks, bites and bruises, the cause of which could not be determined. There was a verified finding of substance abuse based on the mother's arrest and her intoxicated state at the time. There were also verified findings of threatened harm due to the conditions in which Gabriel was found in the car. The mother was listed as the caregiver responsible for the verified maltreatments. Gabriel was removed from his mother's custody and placed at ChildNet's SafePlace where he came in with a prescription of Adderall. He was diagnosed at age 5 with ADHD in the state of Ohio. The medication appeared to be melted and it could not be determined how consistently he received his medication based on his living conditions. He also reported at the time that he was administering his own medication.

Slide 5: While at SafePlace, ChildNet completed an initial Temporary Intervention Emergency Services (TIES) Assessment. The TIES Assessment clearly indicated that Gabriel had the most severe rating in all categories directly referencing issues regarding sexual abuse. At that time, there were no present or historical suicidal indications. He did report to the clinician that somebody had inappropriately touched him and that was called into the Florida Abuse Hotline in accordance with protocol and policy.

Slide 6: On June 29, Gabriel was placed in the home of John McGuigan, awaiting completion of a home study of the maternal aunt and uncle. Mr. McGuigan is a single foster parent with no other children in the home at the time. A safety plan was created. Broward County uses an alert process for sexually reactive children and sexually aggressive children ensuring that safety plans are created so other children aren't hurt and foster parents are appropriately trained on how to manage the children in the home.

Questions/Comments:

1. The TIES Assessment indicated that Gabriel scored the most severe rating on all categories directly referencing issues regarding sexual abuse. At what point was it determined that sexual abuse had occurred?

Response: That information will be provided later in the presentation.

2. How much additional information was obtained from Ohio in terms of Gabriel's care and did the case manager in Ohio have a case file?

Response: Because there was no judicial action in Ohio and only the one case reported in 2002, there was virtually no information. The information available to the Department was given during the Comprehensive Behavioral Health Assessment, which was initiated on July 11, 2008. The Department has no assessment or clinical information from Ohio.

3. Was Dr. Variath, the Ohio physician that prescribed the Adderall, a pediatrician or a psychiatrist?

Response: That information is not reflected in the case file.

4. What is the normal protocol if the child is known to be from another state, and is there a standard as to who should be looking for that prior child welfare history?

Response: At the time of the investigation, the typical policy was that attempts would be made to contact the case worker for the agency in the other state. Unfortunately, that was not done.

The report was investigated by the Broward Sheriff's Office, and upfront the responsibility lies with that agency. After transfer of the case, the responsibility to gain additional information rests with ChildNet.

5. Clarification was requested on the sexual abuse allegations in the June 29, 2008 report.

Response: An additional report (an 02 report) was added to the original investigation. It was not a separate report. An 02 report is when the child abuse investigation comes into the Hotline and then it is determined that there are additional maltreatments. If this occurs with 60 days, a new report does not need to be generated.

Slide 7: On June 30, Judge Bristol found probable cause for Gabriel's removal from his mother's custody while she was incarcerated. The father was in Ohio at this time. The Order documents that DCF/ChildNet is authorized to continue administration of medication that Gabriel came in with for a period of 28 days or until the arraignment, whichever is sooner. The Order further directed that the Department has the discretion to shelter the child with a positive home study. So, at the time Gabriel came into care, a consent form was signed and the judge authorized the consent of using medication.

Slides 8 and 9: On the June 30 Child Protection Team medical examination and forensic interview, Gabriel showed non-specific bruising to the arms, legs, and torso. The examiner was unable to determine physical abuse.

On July 1, Gabriel had a Child Health Checkup, which is consistent with policy. It was recommended that he be referred to an ophthalmologist, cardiologist and psychiatrist. Follow up occurred on all those recommendations.

On July 3, placement with the maternal aunt and uncle, Jonathan and Elizabeth Myers, was recommended. Gabriel was placed in their custody on July 8.

Slide 10: On August 4, Smith Community Mental Health completed their Comprehensive Behavioral Heath Assessment, within the 30-day time frame required by law. Based on the results of the assessment, it was recommended that Gabriel be maintained in the care of the maternal aunt and uncle, that he receive an updated psychiatric evaluation, continue individual counseling, continue tutoring, that a meeting occur with his current caretakers, guidance counselor, therapist and ChildNet case manager to address how his academic needs can be met, that he receive a dental evaluation and see the doctor regarding his nocturnal enuresis.

Ms. Welles noted that all items recommended were completed. However, based on a review of the file, it could not be determined with clarity if the recommended meeting between Gabriel's caretakers, guidance counselor, therapist, and case manager to address how his academic needs could be met occurred.

<u>Questions/Comments</u>:

1. What is the intent of the Comprehensive Behavioral Health Assessment, how long does it take, what are the credentials of the individual conducting the assessment, and what is addressed?

Response: Prior to privatization to community based care, the child welfare community was struggling with getting proper assessments to help with case planning. Several years ago, efforts

were made to develop a Comprehensive Behavioral Health Assessment. Medicaid standards allow for 28 days from the date of receipt of the referral to complete the assessment.

2. Children are automatically eligible for Comprehensive Behavioral Health Assessment when they are in shelter status. More children are coming in through the system that are not legally in shelter status and, in some parts of the state; those children are not getting Comprehensive Behavioral Health Assessments. So there is a gap that needs to be looked at, because children are being lost in the process.

Slide 11: Other recommendations from Smith Community Mental Health included supervised phone contact with his mother, supervised face-to-face and phone contact with his father once released from prison, supervised contact with the maternal and paternal grandparents, assignment of a Guardian Ad Litem, assignment of a Big Brother/Mentor, participation in extracurricular activities, and referral to a fire-setting prevention program. Ms. Welles noted that during the Comprehensive Behavioral Health Assessment, family members reported that there was a time when Gabriel had played with matches and had a fire setting history.

Supervised contact with the mother did occur, documentation supports that contact with the father never occurred, the grandparents did have telephone contact, and a Guardian accepted the case on July 18. That particular Guardian remained until leaving the program on October 14. A second Guardian was assigned on October 28. There was no evidence of referral to a fire-setting prevention program.

Questions/Comments:

1. Gabriel transitioned from one therapist to a second therapist around April?

Response: It was in 2009. He actually had a different therapist in the summer while he was with a relative. After the psychosexual assessment, there was a specific therapist from Chrysalis Center.

2. Were the mother and grandparents interviewed during the Comprehensive Behavioral Health Assessment?

Response: Yes, the history about the fire setting came specifically from the family members.

Slide 12: Ms. Welles continued with the recommendations from the Comprehensive Behavioral Assessment for the relative placement. The recommendations were: the caretakers need education regarding child dependency issues, caretakers would benefit from attending family counseling, caretakers would benefit from attending parenting classes geared toward raising children with emotional and behavioral problems, and ChildNet should request records for child protective services in the state of Ohio.

Ms. Welles noted that she does not believe the maternal aunt and uncle received education related to childhood dependency. They took Gabriel to his counseling appointments, but no documentation could be found to support their participation in family counseling. A representative from ChildNet noted that the record does reflect that the maternal aunt and uncle engaged a licensed clinical social worker who was working with the child. So, there was evidence of communication, just not family counseling sessions. It is not believed that the maternal aunt and uncle received parenting classes and the records were not requested from Ohio until this year.

Questions/Comments:

1. Why would we not request the records from Ohio if there is an allegation of sexual abuse which occurred in Ohio until this year? Is there a policy?

Response: The case manager failed to do so. It is a noted deficiency in this case. It was not done in the investigation and it was not part of the UCCJEA (Uniform Child Custody Jurisdiction Enforcement Act). The UCCJEA is to reflect where the child has lived or any actions or interventions by other jurisdictions during the past five years. It is a standardized document that is done as part of the shelter petition. Gathering all priors and history is part of 65C-29, Florida Administrative Code.

2. With this evaluation why is there no comment dealing with the sexual abuse issue that was so strong in the initial TIES Assessment and why aren't medications a big start point for our discussions with this assessment?

Response: The uncle took the child off the medication. It could have been that at this time, the child was off the medication.

3. What efforts were made to contact Dr. Variath or any of the physicians in Ohio, what happened in terms of his medication regimen, was he taking the medication when he saw the psychiatrist in August? Did the psychiatrist decide not to prescribe medication until November?

Response: Dr. Punjwani, double board certified child psychiatrist in Broward County, responded. The first time he saw Gabriel, he was brought in by the uncle. He was prescribed Adderall, but the aunt and uncle were not giving it to him at that time. Gabriel was in a new setting, he had just started psychotherapy, and everybody was learning about him. There were a lot of symptoms at that time, but adjusting and getting better was the report at the first evaluation. Dr. Punjwani's recommendation was to keep him off the medication, continue the therapy, and see how things progress. Dr. Punjwani would reassess in 3 months. Gabriel missed his second appointment but was present for the third appointment.

4. Were any efforts made to contact the physician who prescribed the Adderall?

Response: Based on the documentation, Dr. Variath was contacted at the time the TIES assessment was done and the child was at SafePlace just to verify that he prescribed the medication and that it was a valid medication.

5. There are two critical issues that are very obvious right from the outset. Those are the allegations of sexual abuse and the child was prescribed medication, which we are not sure he has been taking. When the child was interviewed by the Child Protection Team, because he denied the sexual abuse allegations, did that take the allegation off the radar screen?

Response: When a child comes through SafePlace as part of the intake process and identifies himself as a victim as Gabriel did in the TIES Assessment, at that time, consistent with policy and procedure, alert coding is assigned. As such, Gabriel had a "D" alert (an alert as a victim). Although there were inconsistencies and no verified investigation from Ohio, ChildNet erred on the side of caution and implemented a family safety contract. The family safety contract is an internal document used by ChildNet when a child has been identified as a victim and there are certain safeguards that a custodian must be aware of that need to be exercised to ensure the

safety and well-being of the child. Those safety contracts were executed for all of Gabriel's placements.

6. Is there anything in place that says when you have a child that has had contact with a medical provider or someone else and it is out of state you must get that information as part of your investigative process?

Response: Pat Badland was asked to research and responded later in the meeting that in 65C-28.003, Florida Administrative Code, there is a requirement that during the initial removal, but no later than the first court proceeding, either the child protective investigator or the case worker shall request the following information from the child's parents, family members, or health care providers, which would suggest a follow up to doctors to get medical history of the child, of the child's family, medical consents, etc. So, it does place that responsibility on an investigator.

7. With regard to the Comprehensive Behavioral Health Assessment, is there a staffing team that is together when it is prepared or is this done by an individual?

Response: A licensed clinician makes all the contacts, conducts all the interviews, collects all prior information, and then summarizes and makes recommendations.

8. Is there a treatment team or group that is brought together after the assessment is completed to determine how to move forward?

Response: There is not a team in place; however, behavioral health specialists do review with child advocates on any case where behavioral health recommendations are made for the child.

9. Did the assessor review the TIES Assessment prior to the Comprehensive Behavioral Health Assessment and where did the sexual abuse allegations drop off?

Response: The instrument procedures used for the assessment were the adult and adolescent parenting inventory. The allegations of possible sexual abuse didn't drop off and were included in the Comprehensive Behavioral Health Assessment.

10. Are the people that are doing the Comprehensive Behavioral Health Assessments always going back and looking at the TIES Assessment?

Response: They certainly should be, they are instructed to be, and they are contracted to do so. In practice those people that work the case, the Attorney General's Office, Child Welfare Legal Services, and the case management team rely on that Comprehensive Behavioral Health Assessment to define and put things into the case plan and then it is the case plan that drives the case.

11. One of the things that the work group really needs to explore is what is in place, are roles clearly defined, and are there certain roles that are needed that are not specified.

With no further questions or comments, Ms. Welles continued with the presentation.

Slide 13: On August 7, it was reported that the case manager conducted a home visit. The result of that home visit was that Gabriel was having minor difficulties following placement and household rules and was still adapting to living with his uncle and aunt. He was taken off the Adderall by the primary doctor pending another psychiatric evaluation at Compass Health.

Slide 14: On August 21, the aunt and uncle took Gabriel to Dr. Punjwani for psychiatric evaluation, at which time he was diagnosed with Attention Deficit Disorder. Dr. Punjwani documented that his mood was normal, his affect was appropriate, no suicidal ideations and a global assessment of functioning score of 56. Dr. Punjwani also commented that the aunt and uncle stated that Gabriel's medication was discontinued on July 21 because it was no longer needed. Dr. Punjwani's report states no medication indicated at the present time and that he would follow up in 3 months.

Questions/Comments:

1. There is the evaluation by the psychiatrist, but no discussion about need to contact the prior medical provider either by Dr. Punjwani or by the case worker.

Response: Dr. Punjwani responded that at the time of the evaluation, he was told that Gabriel was prescribed Adderall in Ohio but no further information was available.

2. How long does a session like Dr. Punjwani's session with Gabriel traditionally last?

Response: Dr. Punjwani responded that the evaluation is about 45 minutes, but can vary.

3. What discussions or paperwork did Dr. Punjwani have from the work that was done by the Department of Children and Families and its partners with Gabriel? Was he aware Gabriel was on Adderall before and it was not being taken? Did he have the Comprehensive Behavioral Health Assessment?

Response: Dr. Punjwani responded that he could not remember off hand what he had at that time.

Slide 15: The licensed mental health counselor hired by the aunt and uncle documented that he was seeing Gabriel on a weekly basis since July 16, 2008. He reported that Gabriel was struggling with lying, impulsivity, hyperactivity, lack of focus and self control, poor decision making skills and blame shifting. He further recommended that visits with the father be supervised. He wrote that the court should take care of the full cost of Gabriel being placed in a residential program that deals with children who have been sexually assaulted or molested and who are now acting out in sexually deviant behaviors.

Questions/Comments:

1. Was Gabriel offered counseling through ChildNet and the relative caregivers picked their own and paid for it on their own?

Response: It is not specified with clarity, but it appears they made choices to put him into a private school and to retain a private counselor and a psychiatrist. It is ChildNet's policy to offer those services that are appropriate for every child when they come into care.

Slide 16: On September 12, the assigned case manager made a scheduled home visit and recorded that Gabriel's school adjustment was satisfactory and he was interacting well with teachers and peers and having no disciplinary/behavioral issues. Ms. Welles noted that just consistently knowing what is known about Gabriel and some of his ongoing issues, this was probably not true.

Slide 17: On September 16, a letter from the pediatrician states the aunt brought the child in for examination. Dr. Million did not find any heart murmurs as previously stated and his ophthalmologic evaluation was unremarkable and 20/20 vision in both eyes was noted. Dr. Million did not feel it was necessary for Gabriel to have a follow-up with the pediatric cardiologist or ophthalmology based on the current examination.

Slide 18: On October 10, a report was called into the Broward County Sheriff's Office that the victim, Gabriel, suffers from unspecified behavioral problems. Since August, the victim has been molesting other children at school. While living in Ohio, the victim was molested by another 12-year-old boy while being held at knife point.

Questions/Comments:

1. Is this something Ohio is investigating today?

Response: They have substantiated the allegations, but there is no mention in their report of a weapon. The incident occurred while the boys were out riding bikes.

2. This information is documented on October 10, but when did it become available to the Department? The report says he has been doing this since August. It sounds like there were a lot of people involved with this young man at that point in his life. If he was exhibiting these behaviors at school and someone was aware of it, why was there not a report made earlier?

Response: There was an issue at the daycare where Gabriel was displaying behavior, and a report was not done. Educating the entire community on child-on-child sexual abuse and the responsibility for calling in a report is a process that needs to be pointed out.

3. What is the policy for Broward County Sheriff's Office, what is done with the report, who in the child welfare system is now made aware of this allegation, and when?

Response: The report goes to the investigator. In this case, there was no abuse history. An abuse report was never called into Ohio. It was learned later in this investigation that the grandfather had called in a police report.

If a child is in out-of-home care and the Broward County Sheriff's Office received that information in an abuse report, they have a responsibility to complete an incident report notifying ChildNet as well as the Department of Children and Families. Child-on-child cases are staffed through an institutional staffing. However, in this situation, Gabriel was in the home of the relatives, so that notification did not occur because it wasn't appropriate, it wasn't institutional. It is important to note that there is a process for all out-of-home care children in licensed care.

4. At this point, we have another flag on sexual activity involving Gabriel. What is the case manager doing about this?

Response: A psychosexual was done subsequent to this. The child was also referred to the Child Protection Team.

Slide 19: On October 13, the case manager conducted an unannounced visit to the home. The child was enrolled in a private school and presented problems at school with girls. Once again,

he was touching classmates in an inappropriate way. The current caretakers refused to send Gabriel back to school and asked that he be removed from their care.

Gabriel's behaviors were escalating in school and it was becoming increasingly difficult for the caregivers to know how to respond, how to address the issues and also deal with the school system.

Questions/Comments:

1. This is very disturbing behavior for a 6-year-old. What is being done in terms of addressing this particular issue?

Response: The psychosexual evaluation is the starting point. The psychosexual evaluation was done so that an informed decision could be made regarding what the child's needs are at the starting point. The psychosexual evaluation occurred on October 28. A licensed psychologist with specific training and experience in assessing children of sexual abuse victimization and reactive aggressive behaviors was utilized.

The psychosexual is used as part of the staffing process to determine the level of intervention, if we need to modify the safety contract to make sure the child is safe. In the particular instance of Gabriel, that was done. There are different types of alerts set forth in ChildNet's policy and procedure as to children who are sexually reactive, children who are sexually aggressive, and children who are victims of sexual abuse. The psychosexual that was completed on Gabriel identified him as sexually reactive and sexually abused.

Experts are utilized to complete the evaluations and provide treatment recommendations. In Gabriel's case, it was recommended at that time that he remain in his current placement with sexual specific therapy in the home for him and the caregiver.

2. When this type situation comes up, would the psychiatrist be called?

Response: Not necessarily. One of the processes in place is the CRR (Child Resource Record). The CRR is kept at the foster home placement, the licensed placement, and has been expanded to include relative placements as well. All medical documents are to be kept in the CRR and taken to medical appointments so that the most informed decisions can be made.

3. It is a little puzzling that this is an unannounced visit, but it coincided on the day the maternal aunt and uncle were ready to give up.

Response: Part of the problem is that the case manager's documentation has inaccuracies.

ChildNet has developed a mechanism within their system of care to assist in identifying when those types of patterns occur. There is a web based internal dashboard that all child advocates, supervisors, everybody within the entire agency has access to. It allows you to look specifically at the child advocate, their case load, the visits they have scheduled, the timeframes, the time, day of the week, the week during the month, so their visitations can be closely monitored to ensure the children are being seen at the frequency and regularity that is required. This is a new tool that was recently developed and is being implemented.

Slide 20: On October 13, a special conditions report was called in alleging child-on-child sexual abuse. On the same date, an emergency order modifying the placement was granted by Judge

Bristol. Gabriel was placed back in the home of John McGuigan, a Kids in Distress licensed foster home, with a safety contract because there was a 2-1/2 year old child in the home at the time.

Slide 21: On October 14, once again, a child health check was completed. Gabriel was given a normal rating on his physical exam with no follow up recommendations. It is important to note that Gabriel had two child wellbeing check ups in less than 9 months.

An additional report was called in on October 15 for physical abuse because Mr. McGuigan noticed bruises on Gabriel's backside in various stages of healing. The bruises were not noted originally by the doctor who was seen at the child health check up.

Slide 22: On October 16, based on the report allegations, once again policy was followed and an immediate referral was made to the Child Protection Team. The medical examination and forensic with Gabriel revealed the following. He was placed in the McGuigan home on the evening of the 13th. McGuigan saw the bruises on Gabriel's buttocks on the 14th, a report was called in. Gabriel reported that his uncle spanked him with a belt for lying, sneaking food, and getting kicked out of private school for touching girls. Gabriel also made disclosures of sexually related incidents while residing in Ohio with the maternal grandfather. Specifically, he disclosed seeing a movie with his grandfather which showed girls that did not have clothes on and boys and girls touching one another. Additionally, Gabriel reported a sexually related incident with a boy in Ohio. This is the first documentation of real concern found in the file regarding the maternal grandparents. The Comprehensive Behavioral Health Assessment clearly articulates some neglect related incidents that are believed to have occurred with the maternal grandparents.

Questions/Comments:

1. Who on the Child Protection Team is talking to him? What happened on the 16th?

Response: On the 16th, there are indicators in the child protective investigation. There is a mandatory referral to the Child Protection Team, the experts in abuse and neglect in the State of Florida. Those experts help determine whether or not abuse is substantiated.

Dr. Wright is the Medical Director for the Broward Child Protection Team. He is a board certified pediatrician and an expert in child abuse. Either Dr. Wright or a nurse practitioner would have performed the medical evaluation on the child. In terms of the forensic interview, there would have been one interviewer in the room with the child, but that interview could be observed by Broward investigators. Typically there is a group of involved parties who are observing the interview while it is being videotaped.

2. Was the case manager involved?

Response: It cannot be determined if in this instance the child was accompanied by the case manager. However, it is policy that whenever possible the child advocate will accompany the child to the Child Protection Team interviews and evaluations.

3. Who is playing the parental role in this process?

Response: It will either be ChildNet or the caretaker that has temporary custody of the child.

4. Would the Guardian Ad Litem be informed that the child is being taken to the Child Protection Team and be invited to participate or accompany the child?

Response: We have a responsibility to notify the court that there is a new abuse allegation. There is a requirement to notify the guardian. In this particular instance, the Guardian Ad Litem was not notified, but they do not normally attend the Child Protection Team interviews.

5. Whose responsibility is it for making that happen?

Response: It would most likely be the child advocate. However, this illustrates some of the challenges within the system. The Broward County Sheriff's Office investigator would actually be filing a report with the court. With that filing with the court, the parties are all noticed.

6. Is the Department of Children and Families getting this information?

Response: The only information to the Department of Children and Families if an abuse report was called in while he was in licensed care, would be notification via the incident report. The only other possible venue for the Department to be aware is if ChildNet's clinical department needs assistance from the Substance Abuse/Mental Health portion of the Department. In that case, they may be included in the staffing process to seek mental health services. However, normally, the Department would not know about any incidents involving Gabriel unless an incident report was received.

7. At what time does the Department become aware of Gabriel?

Response: Substance Abuse/Mental Health actually sits on the staffing team. That staffing was held on March 25, 2009. Aside from that, the Department was not aware of Gabriel's difficulties until the time of his death.

8. How many times did the Guardian Ad Litem meet with Gabriel from June until this October date?

Response: The guardian who was initially assigned to Gabriel visited 2 to 3 times a month. This was her choice. It is mandated by standards that they visit once per month. The guardian who was assigned in October was visiting once per month.

9. Does the guardian's case file reflect any concerns on Gabriel?

Response: There were no serious red flags in the guardian's reports. In talking with the guardian, he said that Gabriel was happy and talkative. In looking back and reviewing all the records, notes, and files after Gabriel's death, there were things that should have been red flagged, but that did not happen.

10. Can it be documented from that file who the guardian talked to during this period about Gabriel or is the guardian doing his or her observation in isolation of all the other partners? What does the file show about connectivity to the team? Do the notes reflect that the Guardian Ad Litem was aware of all the evaluations and assessments?

Response: They do not reflect awareness.

Slide 23: On October 24, following the alert process that is managed in Broward County, the current alert code of D signaling a restaffing upon receipt of the psychosexual evaluation did take place. The case manager was instructed to follow up with Chrysalis Center to arrange therapy for Gabriel as recommended.

As a licensed caretaker, Mr. McGuigan requested respite care for Gabriel because he had a previously scheduled trip. Gabriel was placed in the home of Michael and Daver Gould for respite care from October 24, 2008 until November 15, 2008.

Questions/Comments:

1. When was the D alert level first established?

Response: The D alert was assigned when he initially came into care, approximately June 30. The D alert indicates a victim of sexual abuse, therapy would have been indicated. This is what the Comprehensive Behavioral Health Assessment identifies.

2. The Comprehensive Behavioral Health Assessment does not indicate anything about sexual abuse or about the medication. We brought this young boy into care in October, he is given a D alert, and we are seeing different flags, but no indication that he has had treatment for the D alert yet.

Response: Children who have been sexually abused will often change stories, recant, or modify. It is better to err on the side of caution even if an expert such as the Child Protection Team finds there is nothing to substantiate and enter safety contracts for an enhanced level of safety to ensure the wellbeing of that child. So at that time, action had been taken. An action that was deemed appropriate by virtue of the Child Protection Team report as well as the Comprehensive Behavioral Health Assessment which considered the Child Protection Team report as well as the TIES Assessment. We must rely on the experts for guidance on what action to take. Given what we know collectively within the system is that children, especially children this young, have a tendency to not be able to reflect consistently if something happened to them sexually or to recant. And that is why the psychosexual, when it started turning from just his identification as a victim to exhibiting behaviors that are indicative of someone that has been sexually abused, was recommended and followed through with.

3. We have an August report from his private therapist saying he needs residential treatment for sex therapy. Would that information trigger a multidisciplinary staffing so the information can be evaluated in the context of your system?

Response: The recommendation for residential treatment was made by a licensed clinical social worker who did not have specified expertise in that area. ChildNet had an evaluation completed by someone who specializes in that area, and she did not recommend residential treatment.

Within the system of care, the supervisor quarterly reviews are part of the process that is implemented to review what is happening in a case. Every 90 days the supervisor does a hard file review of the case with the child advocate. As a check and balance, if a child advocate does not identify a need, then a supervisor would identify the need at the quarterly review. In addition, although permanency staffings discuss the actual permanency goal of a child and our success of moving forward and meeting the 12 month timeframes, a multitude of issues are addressed about facilitating the wellbeing and safety of a child. Those happen at 4, 8, and 11 months at this time. In addition, there is a 30-day staffing that is done when a child first comes

into care. Unfortunately, in the particular case, it does not appear that the supervisor quarterly review was of the quality that it should have been. It is important to note that that individual was separated from employment with ChildNet prior to this incident occurring.

4. Who from ChildNet participated in the internal staffing that occurred?

Response: The Director of Service Coordination with ChildNet, the Site Director for the service center, the legal department, the individual caseworker, the child advocate, and their supervisor. Other professionals, foster parents and the Guardian Ad Litem were invited to participate as well. Gabriel's previous therapist was not in attendance.

5. Did therapy conclude with that therapist when Gabriel was removed and the aunt and uncle were doing private pay?

Response: Yes, because then Chrysalis Center picked up the therapy.

6. What is ChildNet doing about the number of changes that Gabriel is going through?

Response: It is not clear what was actually done because the notes on this particular issue are not thorough and are not sufficient. The Department cited that as one of the deficiencies with what has occurred. In the foster home's best efforts to maintain as much stability as possible during the period of respite care, there were nightly phone calls from the foster parent to the respite home to maintain connection with this child.

7. Comparatively speaking, where does Gabriel sit in the number of changes he went through and also the severity of the behaviors he was demonstrating? Is there any process at Compass or otherwise to look at a child with an accelerating number of changes or accelerating behaviors? Where does he fit in with the general population of children?

Response: Placement stability is one the primary focuses on the Child and Family Services Review federal action plan. The State of Florida has struggled with placement stability. In good faith when the home study was completed, it was hoped that the maternal aunt and uncle would be a long term placement. There was no way to know it would not be. So that was an unavoidable situation for the ChildNet agency.

All of the children coming into care have been traumatized, so many of them come in with significant mental health issues. On a scale of 1 to 10 in terms of behavior, Gabriel was probably a 7.

8. Looking at the whole picture of Gabriel, was not the charge of the Child Protection Team when they convened to look at the allegations?

Response: The Child Protection Team is an immediate response. We also then follow up with a more comprehensive response which cannot happen within the mandated 24 hour timeframe.

9. Would the Child Protection Team be aware of what has come up previously?

Response: Possibly. They have seen this child now three times. This would be the third interview.

10. Is it standard for the Child Protection Team to report on suicide ideation for every child regardless of age?

Response: Absolutely. The Child Protection Team has the same obligation any other professional would have.

11. Did the Child Protection Team have all the assessments that had been done, including the TIES?

Response: The Child Protection Team pulled up all the prior abuse reports in Florida and it is policy to make sure they have all the information. It cannot be ensured what they had or did not have in this case, but the goal is for them to have all the information. As stated earlier, the Child Resource Record, which the foster parent would take to all appointments would have all the medical information.

12. One of the Child Protection Team's roles is to facilitate multidisciplinary staffings. Did that occur in this case?

Response: It cannot be said with clarity because the documentation is insufficient to make a determination about what did or did not occur.

13. This is the theme we are seeing again that there are documentation problems throughout this whole record.

Response: The Department has written it as a deficiency. The level of documentation by this child advocate was lacking.

Slide 24: On October 28, Gabriel completed a sexual behavior specific evaluation with Dr. Munson to assess the current level of functioning, evaluate the risk for engaging in sexually inappropriate behaviors, and identify treatment needs applicable to any psychological and/or psychosexual issues. The evaluation findings were that he did not present with indicators of a mood based disturbance, and his emotional displays were stable, appropriate to the situation at hand, and consistent with topics discussed. Gabriel denied having any present or past suicidal and/or homicidal ideations, plan or intent, and no such concerns were noted in available records and/or collateral contacts.

The result of the evaluation revealed Gabriel displayed evidence of psychosexual maladaptation specific to sexual reactivity.

<u>Questions/Comments</u>:

1. Did Dr. Munson have the background information on this child when she did the evaluation?

Response: The evaluation indicates that she did have the Comprehensive Behavioral Health Assessment, the TIES Assessment that was completed, and the psychiatric evaluation. There was telephone collateral contact with the Comprehensive Behavioral Health Assessment assessor, the caseworker who also brought him in for the assessment, the teacher at the school, the aunt, and the current caregiver, Mr. McGuigan.

Slide 25: Dr. Munson recommended that Gabriel remain in his residential placement as his behavior difficulties appeared to have decreased significantly. Mr. McGuigan received extensive

education specific to parenting children with sexually reactive behaviors. It was further recommended that Gabriel remain in individual therapy and that the treating professional should be knowledgeable about treating children with a history of sexual reactivity, the safety plan should continue to be implemented, ChildNet should receive frequent updates from all mental health professionals working with Gabriel, and ChildNet and mental health professionals working on the case should be provided a copy of the psychosexual assessment.

Gabriel was referred to treatment. He was referred to a therapist with Chrysalis Center, which serves youth that have sexually reactive disorders. That was implemented on December 8. The referral for therapy was made, and the therapy started on December 11. One of the things learned in this case that needs to be worked on is the passing of documents. When the tragedy occurred, it was discovered that there were several documents from some of the mental health professionals that had not made it to the case file. That is an area in the system of care that always presents a challenge when you have multiple providers.

Questions/Comments:

1. What kind of education was provided to Mr. McGuigan?

Response: No documentation is available.

2. At this point, who are the mental health professionals that are working with Gabriel?

Response: Dr. Punjwani was the treating psychiatrist throughout the time he was in care. Chrysalis Center is not involved until December 11.

Slide 26: On October 30, ChildNet had the respite family sign a family safety contract and advised them of the issues as well as that the foster parent or therapist was to supervise Gabriel's contacts.

3. Why was the safety contract not signed before Gabriel moved to the new home? He's in the home 6 days before the safety contract is signed.

Response: It should have been done more timely. It should be done on the day of placement.

Ms. Welles returned to the presentation and directed the work group's attention to the November 13 bullet indicating that Gabriel's school adjustment was satisfactory, again illustrating the problem with the case manager's documentation not being completely reflective of what was actually going on at that time.

On November 14, Gabriel had the recommended dental evaluation.

Questions/Comments:

1. When Gabriel leaves the respite home and returns to the McGuigan home, do we learn anything from the Goulds on how Gabriel was behaved during that respite period?

Response: Ellyn Okrent, Vice President of Operations for Kids in Distress, the licensed foster care agency, was asked to respond to this question. She stated that Mr. McGuigan made nightly phone calls to the respite home and that Gabriel did great in the placement.

Slide 27: On the 20th, the recommendation for a urology appointment was followed up on with the appointment being scheduled for November 25. Also, the foster parent received a notification of an incident at LaPetite Academy, which documents that Gabriel was showing his privates to another boy at school. As mentioned earlier, this might have been an opportunity where a report of child-on-child sexual abuse should have been called in.

Questions/Comments:

1. Was any conversation had with LaPetite as to Gabriel's alert?

Response: Sufficient documentation is not available to answer; however, normal practice would dictate that the case manager would at least have that discussion with the Academy.

Ms. Welles directed the work group back to the presentation. On November 24, the Broward County Sheriff's Office closed report 2008-491682 with no indicators of sexual abuse and some indicators of physical injury. The Department is in disagreement with and is currently having conversations with the Broward County Sheriff's Office about the closure of this case.

On the same date, the ChildNet case management supervisor sent an e-mail to the ChildNet Director of Service Coordination that contained a copy of Gabriel's psychosexual evaluation. A determination was made to add a B2 alert assigned to children with sexually reactive behaviors, and the case manager was advised to update the McGuigan family safety contract to reflect the additional alert.

Questions/Comments:

1. Help us understand your alert system.

Response: The A alert is specifically for alleged juvenile sex offenders. These are children that actually have a criminal charge for a sex offense. The B1 alert is sexually aggressive, meaning they are acting out sexually on other children. B2 is sexually reactive, displaying sexually inappropriate behaviors, but not necessarily sexually aggressive. The C alert is physically assaultive and involves children that have a chronic history of assaulting. The D alert is sexual abuse victim, and the E alert is for arson, children that have willfully and intentionally set fires.

2. Why isn't Gabriel a B1?

Response: It was based on the result of the psychosexual evaluation that was done by the expert. She placed him in a category of sexually reactive. She did not feel based upon her assessment that he fit in the sexually aggressive category. There is a fine line sometimes between being sexually aggressive and sexually reactive. At the same time, it is important to be cautious about labeling young children as sexually aggressive.

3. What, if any, barriers are there to sharing information about these children within your partnership or your communities? Are there confidentially prohibitions because you are dealing with mental health?

Response: We struggle with some of that and with the schools as well because it is very confidential information. We want to share information, but we have to be cautious about who is viewing information and the Child Resource Record.

4. Where is the multidisciplinary staffing?

Response: We contract with the Chrysalis Center to do multidisciplinary assessment team staffings for every report of child-on-child sexual abuse that goes in through the Hotline. Chrysalis Center is the local expert. Their licensed psychologist chairs that committee. Broward County Sheriff's Office, the child advocate, and any treating professional are invited.

Slide 28: On November 25, the special conditions investigation was closed. Gabriel admitted to the actions, the girls denied any touching, the case manager had a psychosexual assessment completed and Chrysalis Center recommended sexual specific counseling. The family safety contract was updated appropriately and the multidisciplinary assessment team staffing was conducted on November 25. The results were that Gabriel was to receive sexual specific treatment and follow the recommendations of the psychosexual evaluation. Under additional findings, it was stated that Gabriel was eneuretic at night and had been scheduled for an appointment with a urologist.

Slide 29: On December 2, Broward County School Board Student Accidnt/Illness Form indicated that a student put his hands around his neck and scratched the back of his neck. He first stated someone else did it, but then admitted he hurt himself. At this point, Mr. McGuigan began to send e-mails to the assigned case manager. His level of frustration is reflected with his ongoing e-mails.

Questions/Comment:

1. Is there any information in the file about an IEP?

Response: That was a deficiency. There was no IEP and you will see it was recommended.

2. On December 3, going back to the original timeline, you've got an email from the foster parent regarding his interview with the teacher and how Gabriel's grades had dropped from A to D in a short period of time. The next day there is an e-mail from the Child Advocate Supervisor expressing the need for an FSPT (Family Services Planning Team). What was done as a result of that?

Response: The ChildNet Director of Service Coordination responded to the e-mail from the Child Advocate Supervisor indicating that an FSPT would be a good idea and to proceed, but at the same time to do referrals to enhanced foster care. Enhanced foster care is a foster home that has more intensive therapeutic services, such as a therapist, psychiatric services, and 24 hour on call support to the foster home. However, this did not occur. ChildNet recognizes this and the issue is already being reviewed internally.

Attention was returned back to the presentation. Mr. McGuigan, on December 9, took Gabriel to Dr. Punjwani for the three month follow up appointment as previously recommended. In the outpatient progress notes, Dr. Punjwani stated that Mr. McGuigan expressed concerns about Gabriel's behavior. He indicated that Gabriel's mood was irritable, affect was bright/full, psychosis was none, suicide/homicide ideations are documented as none, and a GAF score of 54. Dr. Punjwani prescribed Vyvanse and documented that the client understood risks/benefits as discussed with a follow-up appointment to occur within 4 weeks. The medication was prescribed, but neither court order nor parental consent was obtained. Policy was not followed.

Questions/Comments:

1. Do the records indicate anything more than a check box that the client understood the risks and benefits? Was any documentation provided to the foster parent that would be in the resource record?

Response: With regard to what has been provided to ChildNet by Compass, it was a checkbox. It is documented on a number of visits to the doctor that it was the caretaker that transported the child and had discussions with the doctor.

According to the Child Resource Record, the only thing that is documented is a medication guide that was given by Walgreens when the prescription was filled. There is no documentation from Compass that was given to Mr. McGuigan about any of the discussion. When the situation was discussed with Mr. McGuigan he gave no indication that he was explained anything about the medication.

2. Is there any document in the case record?

Response: There is policy and procedure for the informed consent and part of that informed consent is the affidavit consistent with the statute to be executed. The policy and procedure applies to children that are in home as well as those that are not, so it's not just licensed care as the statute provides for. In addition to that, ChildNet is looking at expanding that policy to include not only psychotropic medications, but all medications prescribed to treat psychiatric conditions as well.

3. The correct term is psychotherapeutic medications. This is a child whose use of medication has not been authorized as per statutes. What is ChildNet's role in terms of looking at the appropriate authorization of the medication that has been prescribed? Does ChildNet have a formal role, and if so, what?

Response: As part of the Child Resource Record there is a form the foster parent signs acknowledging that they are not to administer any new medication without an affidavit of consent or the order. ChildNet is responsible for ensuring that the affidavit is obtained and then contacting the parent to obtain consent. Should consent not be able to be obtained, ChildNet is responsible for working with the Office of Attorney General to ensure that timely execution of an order occurs so the child can be administered the medication. Statute does make a provision if the doctor feels the child needs it immediately.

4. When does ChildNet find out that Gabriel has been prescribed Vyvanse?

Response: December 16.

5. If the process had worked properly and the foster parent called the child advocate and said the doctor prescribed this, who at ChildNet would be responsible for obtaining the court order or consent from the parent?

Response: The child advocate would take the affidavit executed by the doctor and use that affidavit to explain to the mom what the risks and benefits are and have her sign. If the mom does not agree, they have the option to go before the court as well.

6. In terms of court authorization or someone authorizing the use, by December 16 ChildNet clearly knows that Vyvanse has been prescribed. ChildNet should also know that no one has authorized the use of the medication. What does ChildNet do with that information?

Response: What should have happened was as soon as ChildNet had information, either consent from the parent should have been obtained or a legal request should have been made to the Office of Attorney General requesting that a hearing be set.

7. Why was no one from ChildNet at that appointment? Is it unusual that ChildNet was not in attendance?

Response: The caretaker or child advocate almost always takes the child. Florida Administrative Code 65C-13 governing foster parents would suggest that it is the caregiver's responsibility.

8. Why medicate a child that is 6 or 7 years old?

Response: Dr. Punjwani responded that when Gabriel came to him for this visit, there was a 2-page note that described all the behaviors of the patient over the previous 2 to 3 weeks. He indicated that you treat the child for the symptoms they come in with and then you follow up and see how things progress.

9. What percentage of children are you medicating?

Response: Dr. Punjwani responded that the patients that he sees are the patients who are on medication. If they are not on medication they don't see the child psychiatrist. He assesses them for the evaluation for medication and for continuance of medication. They are seeing the therapist. On occasion, they will follow up like in this case, if a situation comes up.

10. The medication of a child of this age is debated. What causes us to place a youngster into medication treatment?

Response: Dr. Punjwani responded that in his field, he is trained to make that decision. A child psychiatrist uses medication for the population. But focusing on this case and working on this case as a benchmark to go forward you recommend medication for the symptomotology that you see at that time. You weigh the risks with the benefits and side effects, so you are clinically making the assessment that the benefits of the medication may be more than the side effects of the medicine. No medication is without side effects. You have to make that clinical judgment.

11. What expertise would a parent or a court need to give consent?

Response: Dr. Punjwani responded that you recommend the medication, complete the Affidavit which goes to the parent or the judge. Dr. Punjwani provides his telephone number and is available 24-7 to respond to questions.

12. As a Department, how do we wrestle with that issue on the intensity of this decision for a young person to medicate? How can this work group use the expertise of Dr. Punjwani and others to answer the questions on how to proceed with medication for children?

Response: Dr. Punjwani responded that the expertise that he is trained in is to assess and diagnose and treat. He stated that rather than this situation of a doctor who has seen the patient

for medication management, an in-house child psychiatrist that is involved in the supervision of the case may have a more beneficial impact than an outside source.

13. Help us understand why Vyvanse was selected?

Response: Dr. Punjwani responded that it was a clinical decision at that point. Vyvanse is of a little longer duration.

14. What information was shared with Mr. McGuigan about the Vyvanse?

Response: Dr. Punjwani responded that he told Mr. McGuigan that Vyvanse is an ADHD medication and that he prescribed the lowest dose, which would, hopefully, help Gabriel during school and then at home. He provided a booklet on the risks and benefits.

Ms. Welles directed the work group's attention back to the presentation and noted that it should be highlighted that Gabriel was, in fact, having phone conversations with his mom. It should also be noted that the case manager's notes indicated that Mr. McGuigan reported that Gabriel's behavior dramatically improved at home and school with the medication. Once again, it is believed that was an error.

Slide 30: On January 6, Mr. McGuigan took Gabriel to Dr. Punjwani's office for a recommended 4 week follow up appointment.

Questions/Comments:

On January 6, obviously no adequate authorization for use of the medication has been obtained. When the child returns for another prescription for Vyvanse, is that something Dr. Punjwani would typically ask for?

Response: Dr. Punjwani responded that it is not a standard of practice for the doctor to demand the consent.

Slide 31: On January 9, the foster parent received notification from Lapetite that the bus driver witnessed another boy reaching toward Gabriel's privates. Gabriel reported to the staff member that he had asked the other boy to touch him. Once again, no report was made with regard to this incident. It was noted that during this time Gabriel was having individual therapy.

Questions/Comments:

1. Was the individual therapist conferring with Dr. Punjwani?

Response: No.

Ms. Welles noted that there are two local systems of care meetings. At the one at the onset of the case, which included about 35 community professionals, communication protocols were discussed. One of things that everyone came away with is the enormous challenges to communicate.

2. If you have a child in therapy and you have a treating psychiatrist, there has to be communication between the two.

Response: Dr. Punjwani responded again that they should be housed in the same building in the same department.

It was noted that ChildNet does have the ability to do that in some cases. In the majority of cases the therapy occurs in the same agency where the psychiatrist is. In this case, the relatives chose to take him to Compass.

3. What is Dr. Punjwani's role with the therapist?

Response: Dr. Punjwani responded that his role with the therapist would be if he has questions regarding the therapy or the therapist has a question regarding the medication. Outside of that, it is a very independent process.

4. It is critical that Gabriel be thought of as a whole person whose problems are interrelated and so it is an issue of providers needing to coordinate. One of the challenges always will be that the parental responsibilities are fragmented. Who is looking at Gabriel as a full person?

Response: The case worker.

The work group's attention was returned to the presentation. On January 16, once again, there is inappropriate documentation of Gabriel's school adjustment because we do know that he was not interacting well. Since it keeps coming up, it is believed this is indicative of a need to look at how sometimes we end up with boilerplate language in the child welfare system. Though we work hard to train people on individual case planning and family centered practice, it still happens. Again, the parental consent was checked yes as we previously saw several times in this case.

Slide 32: On February 3, Mr. McGuigan took Gabriel back to Dr. Punjwani again for his 4-week follow up appointment. It was documented that he was obsessed with twirling his hair, there was an incident on daycare bus on January 9, he is having more crying fits and that his medication seems to be wearing off by early evening. His mood was noted as euthymic, his affect bright, psychosis none, suicide/homicide ideations none. At that time, Dr. Punjwani continued the prescription of the Vyvanse and added Lexapro.

<u>Questions/Comments</u>:

1. Why wouldn't you just schedule the Vyvanse differently so that you aren't adding a second medication?

Response: Dr. Punjwani responded that clinically, his thinking at that time would be when you give a stimulant it can make the moodiness worse, thus the use of the SSRI which is the next step as far as decreasing the anxiety, decreasing the obsessive behavior.

2. Did you make an initial diagnosis of an anxiety disorder or a depressive disorder?

Response: Dr. Punjwani responded that it was a working diagnosis.

3. Would increasing the dose of the Vyvanse have been inappropriate?

Response: Dr. Punjwani responded that nothing is inappropriate. It is your best judgment at that time, and that he thought increasing the Vyvanse at that time would make him more moody.

4. Was the moodiness was related to the Vyvanse?

Response: Dr. Punjwani stated that he could not say.

5. If you look at Vyvanse, that is one of the side effects that is noted for Vyvanse. Was that discussed with Mr. McGuigan?

Response: Dr. Punjwani responded yes.

6. Do you contact the therapist with the fact that you have now added a black box medication?

Response: Dr. Punjwani responded that he would personally contact the therapist and inform the foster parent and the child care worker that a medication is started.

With no further questions, Ms. Welles returned to the presentation. On February 15, there is another documentation issue by the case manager with regard to Gabriel's school adjustment. The documentation also shows that Gabriel had an incident at school where he picked up a pair of scissors and threw them. His medication stayed the same, and obviously there is a documentation error on the parental consent again.

Slide 33: It is documented next that Mr. McGuigan begins to send e-mails to the case manager. On February 18 an e-mail was received from Mr. McGuigan stating that Gabriel's behavior had deteriorated over the past week. It is significant that as we approach March, which is a huge mark for a lot of activity in this case, we are seeing that Gabriel is being told that the mother is being sent back to Ohio.

Mr. McGuigan is very much in touch with ChildNet as far as communicating with them. There is an escalation of frustration.

<u>Questions/Comments</u>:

1. What is the supervision of the case worker? What is the structure in ChildNet?

Response: Kassandra Phillips, Director of the Service Center to which this case was assigned, responded that the supervisors have responsibility to review the case files at 30 days. At 3 months they have a responsibility to review the file and every quarter. Also, supervisors are charged to speak to their staff every month in regards to every case.

The initial caseworker supervisor assigned to the case went on maternity leave and then another supervisor came into play. In speaking to the latter supervisor that supervised the advocate, it was a communication issue. She laid down every instruction that she gave him regarding things that he should have completed. She followed up. If the instruction has not been completed a corrective action procedure is in place. Ms. Phillips noted that her responsibility to the supervisor is that they talk about the child advocate, difficult cases, corrective actions that need to be put in place, things that need to improve with their performance which resulted in the previous supervisor being released from the agency. Communication is the biggest key. If the advocate is not truthful in the information, and if the supervisor isn't diligent in actually

reviewing the files and reviewing the documents that they give them, the balance is not going to be there.

Slide 34: On February 24, Mr. McGuigan sent another e-mail regarding Gabriel's behavior getting worse as his mother's release approaches. There had been several incidents in school. He asked that the case manager contact him. You are seeing behavioral displays and Mr. McGuigan becoming a more deficit-based parent in the sense that he begins to take away everything. One of the things discussed in the local in house staffing is that an opportunity was missed to involve a behavioral analyst. One of the problems is the lack of behavioral analysts.

Questions/Comments:

1. Would this be a flag for the case manager to go to Gabriel's home? Is his case load so heavy that it might preclude him from doing that?

Response: His case load was 21 children, which is not considered heavy. Practice would dictate that he would go to the home as he has now received 2 e-mails in less than a week.

2. It is expected that the child would exhibit increased anxiety over the mother's release from the jail, which would obviously be contributing to these behaviors. Certainly the behavioral analyst could have helped and worked with the analyst.

Response: ChildNet does have an in-house behavioral analyst, but a request was never made for her involvement.

3. The last bullet requested contact with the case manager. Do we have any indication that contact was made?

Response: No indication.

4. Do we have any documentation about the school's response to Gabriel's behavior?

Response: We have some incidences of issues related to the school and therapeutic contact with the school. That is not part of today's presentation. The school was not involved in the local staffing.

Slide 35: On February 25, there is another e-mail from Mr. McGuigan documenting that Gabriel was caught stealing money from another classmate, and that he begged the school to call his Uncle Jonathan as he would punish him worse than the foster parent. Mr. McGuigan stated that he and the school were working with the therapist and psychiatrist to assist Gabriel and about his mom and her correlation to his recent behavior. They believed at that point that his acting out behavior was in direct response to the issue of the mom leaving, and essentially, he wasn't seeing the aunt and uncle.

Questions/Comment:

1. Gabriel is a child who is being abandoned again and again and feels he deserves bad things. This theme of abandonment and promises being made is happening in a recurrent manner. Is there not one person or one source that is thinking about Gabriel as a child who is experiencing all these different things?

Response: Ultimately the responsibility rests on the Department and our contracted providers, the child advocate.

Slide 36: On February 27, Mr. McGuigan sent an e-mail documenting the in home therapist's visit and their discussion regarding Gabriel and his improved behavior that day. He has already lost all his toys, his privileges, his Mohawk and for now, he cannot accompany the family on vacation to Massachusetts. Overall he was going on the vacation to see some maternal relatives living in that area. They were going to keep Gabriel for a couple of days. That was the email he sent indicating what he had done. Going back, he does say that he informed Gabriel that he could earn back his items with improved behavior. He also expressed concern regarding Gabriel's contact with his mother and the need to stabilize him. He stated that the therapist agreed that contact with the mother should be limited or eliminated, and Mr. McGuigan adamantly says he will not take him to any future jail visits. Mr. McGuigan requested the case manager to inform him if he has the ability to suspend the visits. Suspending visits would require that the court modify the case plan.

Questions/Comments:

1. At this point, how many therapists has Gabriel had?

Response: He has only had 2. He had the first one while in the relatives' home and the second was assigned by Chrysalis Center. At this point, he is seeing the Chrysalis Center therapist. That changes in March because the therapist actually left the agency and moved out of the country.

2. What was the time lapse between therapists 2 and 3?

Response: It was pretty immediate. Unfortunately, during that month everything happened. The therapist changed, the house changed, the mom went back to Ohio. There was, however, a substantial time lapse between therapists 1 and 2. The first therapist, the private therapist, ended in October and Gabriel doesn't get a new therapist until the psychosexual in December.

3. Mr. McGuigan clearly feels that any contact with the mother is problematic and needs to be curtailed. Who is responsible for assessing just that part of Gabriel's life, what is the impact, what is the relationship with the mother?

Response: Part of that has to come from the therapist who is working with Gabriel.

Slide 37: On March 3, Mr. McGuigan took Gabriel to Dr. Punjwani for his appointment. His progress note documented that the foster father was present and stated the last behavior had been bad, lying, stealing, throwing scissors, after visits started with his mom in jail.

On March 5, Kids in Distress and ChildNet received an email from Mr. McGuigan advising there had been an incident at day care when Gabriel tripped on a toy truck. He received an incident report from the day care.

Slide 38: March 8, the case manager received an e-mail from Mr. McGuigan regarding the vacation in Massachusetts. He was indicating that the vacation would include a side trip to enable Gabriel to see maternal relatives in Connecticut and requested that they be able to keep Gabriel overnight for two nights. Because things were not necessarily going well in the house Gabriel was not allowed to go on this vacation.

Slide 39: On March 10, Mr. McGuigan sent another email stating that Gabriel had the second of two incidents in which he found red dye and squirted it on the other children at the aftercare. Mr. McGuigan was not present at the incidents, but reported the aftercare informed him he was squirting it at people and telling everybody it was poison. The action taken by the aftercare was to confiscate the bottle and provide it to Mr. McGuigan when he picked up the child. There was no record of any incident report generated because he didn't hurt anybody.

Slide 40: On March 11, the case manager made a visit and again there is some inappropriately documented information regarding school adjustment. He does demonstrate that he is having difficulty following placement rules, he is exhibiting poor behaviors at school, aftercare and home, and his medication is the same. Also, the case manager documents that parental consent for medication has been obtained, which is inappropriate and inaccurate as previously recorded.

Slide 41: On March 17, Mr. McGuigan felt that mobile crisis was in order and Henderson Mental Health's YES (Youth Emergency Services) Team was sent out to respond because Gabriel had made threats to harm the younger foster child in the home. They responded from 7:45 p.m. until 8:45 p.m. He was calm and was able to be engaged. They diagnosed him with a mood disorder and documented in the YES report under clinical disposition that Gabriel denied any suicidal or homicidal thoughts at that time and reported no audio or visual hallucinations.

<u>Questions/Comments:</u>

1. When this happened, what information did the YES Team have available? Whose responsibility is it to find and access information?

Response: The YES Team's job is to come out, evaluate, assess risk, assess homicidal/suicidal ideations, Baker Act, call law enforcement, etc. They are not a treating physician. They would gather the symptoms and the behaviors that are going on, so they would not necessarily get the whole picture at that time.

2. Was the Guardian Ad Litem aware of all the negative reinforcement that Gabriel was receiving? Is the Guardian making visits regularly during period?

Response: ChildNet has nothing in the file that documents that the guardian was aware. The new guardian has been on the case since the end of October and was making regular visits. It was his understanding that Gabriel was going on the vacation because during his last visit to the foster home he was told that a court order and motion allowing him to go had been obtained. Based on this information, he did not visit, unfortunately, during a very crucial period.

3. Had the Guardian been in the house in March? Are there any red flags in the Guardian's report?

Response: The Guardian was in the home once prior to the review hearing on March 11. In the Guardian's report for the March 11 hearing, one concern was the visits with the mom. ChildNet actually went on record at that hearing, supported by the program attorney, to reflect concern about the medication.

4. Is the therapist aware of the YES Team being called?

Response: The therapist advised Mr. McGuigan to call the YES Team.

5. Does the therapist raise any flag?

Response: Mr. McGuigan was in contact with the therapist. The therapist and Mr. McGuigan did pick up red flags, resulting in the call to the YES Team. Red flags were there, escalating behaviors, case management was advised by Mr. McGuigan, ultimately resulting in mobile crisis being called after some severe acting out. The therapist was in the home and dialogue was occurring on a routine basis between Mr. McGuigan and the therapist.

6. Where should the therapist go if he or she is in a situation that is spiraling out of control and the family is unable to fix it?

Response: They should come to the child advocate. They should ask for a treatment team for a multidisciplinary staffing. We should reevaluate placement, look at wraparound services, and look at alternatives if the behavior of the client is spiraling.

7. Do our players have the wherewithal to raise the red flag and say there is a need to reevaluate what we are doing? Does that capability exist?

Response: That capability does exist. It was not exercised at this point in time. Looking further ahead, the therapist actually engaged the school, the foster parent, and the child advocate for an intervention team to engage everyone around this child and facilitate that communication.

8. Is there a licensing case worker that works with the case manager and do they do visits? Were they getting feedback that the foster parent needed help?

Response: Yes, Kids in Distress is contracted to go out once per quarter. Unfortunately, their last visits to the foster home were December 29 and February 11. From February to mid-March when the behavior spiraled, all the correspondence was going directly to one person, the child advocate. Nobody else was copied. Kids in Distress internally would have taken a number of steps if they had known of the increase in behavior. The first major e-mail from Mr. McGuigan was on February 18. Kids in Distress was not aware until being notified of the 30-day notice on March 19 that things had been out of control that period.

Slide 42: Note: A decision was made to postpone additional discussion on issues regarding medication because two of the work group members had departed the meeting due to travel arrangements.

Slide 43: On March 19 the ChildNet intake placement counselor received an email asking that Gabriel be removed from Mr. McGuigan's home on March 20. Typically, we have a 30-day notice policy.

Comments/Questions:

1. A Kids In Distress Representative offered that the move was made strictly because of Gabriel's escalated behavior and the fact that there is a responsibility to keep the other child safe. Gabriel very clearly said, "I am going to hurt him. I don't know how I am going to hurt him, but I am going to hurt him." Gabriel moved to a home he had already known and who had already

cared for him in the past. Mr. McGuigan maintained contact and visits until the time of Gabriel's death.

Ms. Welles noted that in the meantime, the maternal grandparents had come into the picture and were in the process of doing an ICPC.

2. Gabriel did not meet Baker Act criteria, yet months before we had a statement where he said he was going to kill somebody. Why have we not hit the point that he is now a threat to himself or someone else? Why is he being placed in another home?

Response: Because it is a threat of future harm, not a threat of immediate harm. The law requires least restrictive environment.

3. What was the context of the threat, was it "I want to do this" or "I am afraid I'm going to do this"?

Response: According to the therapist's documents, he/she was told by the foster parent that the Henderson Crisis Unit assessed the client, and despite the threats reported by client's foster parent, decided that he did not hold a specific plan. Therefore, the client was not removed from the placement.

It was noted that when Gabriel was placed with Mr. and Mrs. Gould it was under the thought process that we would be having an ICPC completed and that he would be moving to the maternal grandparents in Ohio.

Slide 44: On March 20 Gabriel does move to the home of the Goulds. On that date the family safety contract was signed. There are specific individuals noted that were able to supervise contact with the child. They were the case manager or ChildNet designee, the foster parent, and the therapist.

On March 23, Gabriel's after care was changed. On March 25 an FSPT (Family Services Planning Team) was initiated and the recommendation was for Gabriel to be placed in an enhanced foster home and to receive sexual-specific therapy. The committee did not recommend residential placement. This is the overall venue to discuss mental health issues and the only way to proceed in the levels of care with regard to increasing them is to have permission of that team.

<u>Questions/Comments:</u>

1. One thing that might be worth noting is that the use of the FSPT is a local custom in Broward County and in some other circuits around the state. It is not a policy or procedure. Consideration should be given to making it more substantial than it is currently.

2. The work group asked for a couple of paragraphs on how the FSPT is configured and their role.

3. The FSPT recommended that Gabriel be placed in an enhanced foster home, which neither McGuigan nor Gould were classified as, correct? But, Mr. McGuigan was compensated as an enhanced foster parent, correct?

Response: That is correct. There are several different levels of foster care. The homes that the child was in with Kids in Distress were traditional foster homes. ChildNet also subcontracts for

a level of care that is called enhanced foster care, which requires more training and more supports. Above that is specialized therapeutic foster care which is funded by Medicaid and is a treatment therapeutic alternative placement that is intended to be short term and provide therapeutic intervention for a child who is in or on the verge of a crisis. The confusion is that ChildNet has and does provide foster parents in traditional foster homes with a higher board rate sometimes depending on the children they serve.

4. Is there a mechanism to convert a home to an enhanced home?

Response: Yes, at any time, with additional trainings focusing on the population of children served.

5. Where were we in implementing the recommendation at the time of Gabriel's death?

Response: Ms. Welles responded that she did not see where that was implemented, probably because they were waiting for the ICPC. There was an anticipation that they were not going to be moving ahead and kind of gauged that pending the fact that he might be going to the grandparents

Slide 45: On March 27, there was another incident report where Gabriel kept on going after another student when the other student hit him in the face and scratched him on the right eye.

On March 30, Gabriel's in-home therapy is transferred to a new therapist because the current therapist had a family emergency out of the country. Gabriel's routine of twice weekly visits was maintained without interruption.

Slide 46: On March 31, there was another event where Henderson Mobile Crisis was called out to the school. The case manager contacted Henderson and they would not come out and suggested that the police be called. The case manager then called the police who sent an officer to the school. The case manager also called the maternal grandfather in Ohio and asked him to speak to Gabriel and calm him. The case manager spoke with foster mother who was on her way to pick Gabriel up and take him to the psychiatrist to evaluate him for a possible change in medication. The case manager communicated this event with the Kids in Distress foster care program.

<u>Questions/Comments:</u>

1. Is it standard protocol for YES to not respond to the school?

Response: There seems to be some conflicting information. ChildNet addressed the issue with Henderson. They have reviewed all their records and all their phone logs, and they do not have a record of receiving a phone call. The case worker was asked about it, and it seems that maybe the school was going to call Henderson, but did not.

2. The same case manager?

Response: Yes, the same case manager.

3. Do we know what happened with the police?

Response: What was reported to ChildNet is that the school personnel were able to deescalate Gabriel at the school and the police were not called. There is a school resource officer assigned to the school. That officer would have been involved. If he thought there was a need for additional resources, he would have definitely contacted them. Margate Police Department is verifying with the school resource officer if that is what happened and they are looking for supporting paperwork.

Slide 47: On March 31, Gabriel returned to Dr. Punjwani. The foster parents were presenting that he has anger problems.

On April 6, the case manager conducted a home visit. His documentation again indicates that Gabriel's school adjustment is satisfactory and that there is parental consent for medication. At this point, we have gone to court. We do have a judicial review. For overall purposes, the court was notified in the judicial review that medication was prescribed.

The case manager had been advised that the maternal grandparents had taken parenting classes. Case manager observed bruises on Gabriel but wrote he does bruise easily, is quite clumsy, falls, and has gotten in minor fights, which is being addressed at the day care center. No abuse call was necessary and the home was free of hazardous conditions.

Slide 48: On April 14, the progress note from Kids In Distress indicates a telephone call was received from Mr. Gould and that Gabriel had a disruption in the morning. Mr. Gould told the guidance counselor to isolate him and let him calm down. It was reported that Gabriel calmed down and took the bus to the aftercare program. It was further documented that Krystal Gould, the foster sister, picked him up at aftercare. She was given the complaint of him disrupting and having to be isolated.

The Kids in Distress counselor informed Mr. Gould about "maintaining him as opposed to doing a behavioral management as this would take longer and the grandparents would have to start all over again after he went to Ohio.

Slide 49: On April 15, Chrysalis Center's licensed mental health counselor went to Gabriel's school for a crisis meeting with the principal. She reviewed his record and documented in the progress note that Gabriel had had a second episode the previous day. He had destroyed property, was non-responsive to verbal intervention and had to be restrained. The school states he will be suspended without intervention. The therapist and principal brainstormed ideas to assure he could avoid suspension. The client does not appear to meet Baker Act requirements but would be at severe risk for further deterioration if suspended. The ESE team strongly feels he needs to be considered for EH (emotional handicapped) school placement as does this therapist. Guardian (case manager) and foster parent are to be contacted by the school and therapist to consider such proposal. Therapist is to contact both parties about the client's need for a medication management session with the psychiatrist.

She met with Gabriel for therapeutic intervention and documented in her notes that he was appearing lethargic at school. He was saying his tummy hurt and he wanted to go home. He was asked to direct the way to the medical clinic and he did so without any confusion. When asked if anything else was hurting, he said no. He was asked if he felt like hurting himself, he said no.

The therapist did engage Gabriel in discussion of his coping skills and noted that his level of disruptive behavior in the last month has been escalating since his last placement change. Despite the high level of involvement and observed level of structure and attention and care

client is given in his foster home, his adjustment is poor. School, ChildNet, and this therapist have taken steps to alleviate client's stress load which are further delineated in the report. Specifically, the therapist contacted the guardian (the case worker, not the Guardian Ad Litem) and the foster parent alerting them for the need to refer Gabriel for psychiatric medication management update.

The client was given a brief mental status and demonstrated no active psychotic features or suicidal/homicidal ideation or plan.

Slide 50: On April 15 after her meeting with Gabriel, the licensed mental health counselor followed up with the case manager and foster father. The therapist spoke with the ChildNet case manager and foster father by phone regarding the school session and meeting with school staff and discussed the school's desire to consider him for EH placement. The case manager was asked to have the client seen by his psychiatrist with Compass for medication management. His acting out behavior is becoming more severe and includes destruction of property and the need to restrain him. Therapist stated if appointment should be considered urgent as client was not a risk of school suspension and expulsion from aftercare. ChildNet case manager was notified that client was deteriorating (swearing, destroying school property without being able to be redirected, fights at aftercare with other child and need to be restrained, need for restraint at school). She indicated intervention was necessary but to date he has not met Baker Act requirements. Client to date has not presented as suicidal or homicidal when assessed at school. He does meet requirements to be picked up by a guardian and taken home for the day.

Slide 51: No one was available to come get the child.

The therapist indicated there was an urgent need for the emotionally handicapped school placement and medication management and encouraged all parties' participation with such a plan within the coming week. An overview of Gabriel's recent sessions was given, and she noted that over the last few weeks he had consistently been fully oriented to person, place, time, and situation. There were no reports of self harm or suicidal threat to the therapist by the guardian or foster parent. The therapist reported that the client never speaks of self harm or hurts himself but does make threats when angry of hurting others. The therapist noted providing Gabriel reinforcements for his positive behaviors that morning and stated to "guardian and foster parent, although child not feeling well he engaged with therapist and principal and expressed excitement for next session."

Slide 52 and 53: It was decided that because an investigation is pending, the work group would not discuss the events of April 16, the day of Gabriel's death.

Slide 54: Ms. Welles advised the work group that as of May 14, the Broward County Medical Examiner's report is pending, awaiting toxicology results. The child protective investigation is pending. Interviews and access to some individuals and records was initially prohibited because of an on going criminal investigation. Detective Suarez has advised that he will be consulting with the Broward County State Attorney's Office on the case.

Ms. Welles noted that as with all child welfare reviews, the Department of Children and Families definitely notes all their deficiencies, but there were strengths in the particular case as well. She added that the Department and its partners will work on system of reform issues and personal responsibilities.

Ms. Welles advised that all agencies involved met, identified action items and developed a quality improvement plan. It is a community plan with each agency having responsibility. It is certainly a work in progress.

Strengths and deficiencies identified at this point are:

Strengths

- The Broward County Sheriff's Office appropriately involved the Child Protection Team for medical examination and/or forensic interview on two separate occasions.
- ChildNet completed a Temporary Intervention Emergency Services (TIES) Assessment on Gabriel upon his removal on June 29, 2008.
- ChildNet placed Gabriel in a Kids in Distress licensed foster home on June 29, 2008, and when the placement with his uncle and aunt broke down, they returned Gabriel to this same foster home.
- Gabriel received the Child Health Checkup (EPSDT) within the required 72 hours and medical/dental follow up was obtained.
- The Broward County Sheriff's Office identified a potential relative placement with Gabriel's uncle and aunt; completed a preliminary home study, and recommended placement with the family.
- Gabriel was placed with fit and willing relatives.
- The ChildNet case manager completed a supplemental reunification/caregiver home study and concurred with relative placement.
- Smith Community Mental Health Center completed a comprehensive behavior health assessment for Gabriel within the required 30 days.
- Gabriel's uncle and aunt obtained mental health treatment for Gabriel from a private licensed mental health counselor and enrolled him in private school.
- The foster parents (McGuigan and Gould) took Gabriel to psychiatric appointments as required and provided information regarding his behaviors.
- Chrysalis Center completed a psychosexual evaluation of Gabriel and provided weekly, sometimes twice weekly, in home therapy with a licensed mental health counselor.
- The ChildNet case manager went to the foster home to meet with Gabriel and his foster parents and entered into signed family safety contracts with each placement.
- The ChildNet case manager took Gabriel to visit his mother in jail.
- ChildNet appropriately placed alerts on Gabriel as his sexual behaviors were known.
- A multidisciplinary team staffing was held to discuss Gabriel's needs.
- Mr. McGuigan and the case manager appropriately contacted the Henderson Mental Health Center's Youth Emergency Services Team when Gabriel's behavior was out of control.

Deficiencies

- None of the mental health professionals involved with Gabriel found he met the criteria for involuntary inpatient commitment, Chapter 394.467, F.S., despite several occasions where he threatened, through word or action, to kill himself and/or others.
- A Family Services Planning Team (FSPT) meeting was not held until March 25, 2009 even though the private clinician hired by the uncle recommended residential placement of Gabriel on August 21, 2008.
- Case work practice and documentation indicate there was insufficient supervisory oversight from the ChildNet case management supervisor.
- Overall the ChildNet case manager's documentation was poor and the visitation forms contained boilerplate and inconsistent information.

- There was insufficient communication/coordination between the professionals involved with Gabriel.
- The ChildNet case manager and Kids in Distress took no documented action to preserve Gabriel's placement when Mr. McGuigan's e-mails clearly signaled the placement was in jeopardy.
- The ChildNet case manager did not obtain informed parental consent or court order for Gabriel's medication as required by Chapters 39.407(3)(b)3, 394.455(9), and 394.459(3)(a), F.S. and ChildNet Operating Procedures CN 003.052 and CN 003.054.
- The Broward Sheriff's protective investigator had the mother sign a consent form for medical treatment on which the line to document the specific nature of the treatment was left blank and the mother's capacity to sign was questionable given her extensive drug use. This practice was not consistent with requirements in Chapters 394.445(9) and 394.459(3)(a), F.S.
- The Office of the Attorney General did not pursue with the ChildNet case manager the need to obtain informed consent or a court order for the medication (as required by Chapters 39.407(3)(b)(e), 394.455(9), 394.459(3)(a), F.S.), even though the judicial review and social study reports indicated Gabriel was taking psychotropic medication.
- There is no documentation Mr. McGuigan's actions in removing toys, Mohawk haircut, etc., from Gabriel and using the vacation to Massachusetts and Connecticut as leverage to get him to improve his behavior was discussed with or approved by the child's therapist prior to the action.
- The ChildNet case manager did not make the school aware of the Temporary Intervention Emergency Services June 2008 recommendation that Gabriel would benefit from an Individual Education Plan (IEP).
- Neither the Broward Sheriff's Office protective investigator nor Child Protection Team case coordinator generated an abuse report to Ohio after Gabriel said he had seen movies with nude "boys and girls" while with his maternal grandfather. This is required by Chapter 39.201, F.S. and Chapter 65C-29.002, FAC.
- The Broward Sheriff's Office protective investigator did not advise Ohio law enforcement after Gabriel stated he had a sexual encounter with a 12-year-old boy in Ohio. Ohio did not investigate this allegation until March 2009 when they were notified of the incident by the maternal grandfather. The allegation was substantiated.
- Neither the Broward Sheriff's Office protective investigator nor ChildNet case manager obtained a copy of Gabriel's Ohio child welfare history until after his death.
- The Gould foster parents did not comport with requirements under Chapter 65C-13, FAC or the Bilateral Service Agreement.

OVERVIEW OF STATEWIDE USE OF PSYCHOTHERAPEUTIC MEDICATIONS

Dr. Sewell introduced John Cooper, the Department of Children and Families' Acting Assistant Secretary of Operations, to provide an overview of the exercise currently being completed by the Department and its community based care partners to review the use of psychotherapeutic medications statewide.

Mr. Cooper advised that this exercise is not an analytical exercise, but rather a validation exercise. The Department of Children and Families through its data system, Florida Safe Families Network, collects data about children that are prescribed psychotherapeutic medications. That data include such items as child demographic information, placement type, medication, prescribing physician, dosage, prescription begin and end dates, quantity, refills, was there parental consent or court order, and date of court order.

Data collection is not part of the validation exercise. The issue is data integrity. Mr. Cooper noted that the Gabriel Myers case is a great example of that integrity. The review of the case revealed there was no court order for the 3 different medications he was taking and there was no parental consent.

Mr. Cooper added that it was for this reason that Secretary Sheldon asked that information on all children in out of home care, from birth to 17 years of age, that might be taking psychotropic medications be reviewed. As this review was initiated, instructions were sent to the Department's regional directors across the state to begin, with their community based care partners, without relying on FSFN because the data integrity was in question based on the Gabriel Myers case, to poll workers, self report the case managers, and do file reviews of the children in out of home care. Once the children in out of home care that were taking psychotherapeutic medications were identified, they were to check the data in FSFN, enter and/or update the information as appropriate, and make sure there were court orders or parental consent for medication.

Mr. Cooper noted that the Department is working on rolling out some of the data, but thinks the results of the exercise will confirm Secretary Sheldon's concern that the number of children in out of home care taking psychotherapeutic medication has probably been underreported.

He also stated that as this project is continued, the Department will be looking at existing statutes, administrative code, policy, and training. He noted that it has been found that Florida Administrative Code requires the Department and/or its providers to have a policy on administering psychotherapeutic medications to children 17 and under. The Department has not developed that policy. Only 11 of the 20 lead agencies across the state have a policy.

Mr. Cooper closed by advising that a report with the results of the exercise will be forthcoming to the work group within the next 2 – 3 weeks.

ADJOURNMENT

Dr. Sewell advised those in attendance that at the next meetings, dates to be determined, the performance improvement plan will be reviewed, conversations will occur regarding psychotherapeutic medications with subject matter experts, and the workgroups will begin looking at child-on-child sexual abuse.

The meeting adjourned at 5:00 p.m.