

876

SUBMITTAL TO THE BOARD OF SUPERVISORS
COUNTY OF RIVERSIDE, STATE OF CALIFORNIA



FROM: EXECUTIVE OFFICE

SUBMITTAL DATE:
September 21, 2005

SUBJECT: PREVENT CHILD ABUSE RIVERSIDE COUNTY (PCARC) ORGANIZATIONAL
STRUCTURE

RECOMMENDED MOTION: That the Board of Supervisors:

- 1) Receive and file the attached report, entitled Structuring the Local Child Abuse Prevention Effort;
- 2) Approve the recommendations listed at the conclusion of the report.

BACKGROUND: On August 23, 2005, the County Executive Office was directed to analyze the structure of the local child abuse prevention council, PCARC, and determine whether the County is adhering to the state Welfare and Institutions Code sections relating to child abuse programs and funding. The attached report concludes that the structure is sound and is the one most preferred by the state's Office of Child Abuse Prevention, and that relevant existing law is being adhered to. Furthermore, deviating from current practices could threaten local funding of child abuse prevention and treatment efforts. Recommendations for making minor changes to improve operations and perceptions are listed at the end of the report.

Departmental Concurrence

Dan Martinez

Dan Martinez
Principal Management Analyst

Kathryn Field

Kathryn Field
Principal Management Analyst

FINANCIAL DATA	Current F.Y. Total Cost:	\$ N/A	In Current Year Budget:	N/A
	Current F.Y. Net County Cost:	\$ N/A	Budget Adjustment:	N/A
	Annual Net County Cost:	\$ N/A	For Fiscal Year:	N/A

SOURCE OF FUNDS: N/A	Positions To Be Deleted Per A-30	<input type="checkbox"/>
	Requires 4/5 Vote	<input type="checkbox"/>

C.E.O. RECOMMENDATION: APPROVE

Gary M. Chitman

County Executive Office Signature

Consent
 Policy
 Consent
 Policy
 Dept't Recomm.:
 Per Exec. Ofc.:

Prev. Agn. Ref.: 3.110 of 8/23/05 | District: All | Agenda Number:

3.2

STRUCTURING THE LOCAL CHILD ABUSE PREVENTION EFFORT



*County of Riverside
Executive Office*

September, 2005

Executive Summary

After hearing concerns about the structure of the local child abuse prevention council, the Board of Supervisors directed that a study be conducted of the organization and the county's compliance with applicable codes. The four-week study concluded that although some providers and staff are unhappy with the process of making funding recommendations, there are no major areas of non-compliance with the law. Child protection programs in Riverside are evaluated regularly and appear to be making satisfactory progress toward their goals. Controls are in place to prevent the county welfare agency from allocating funds inappropriately to itself. In order to prevent the appearance of conflicts of interest, however, further steps should be taken, as detailed in the Recommendations section at the end of this report.

Background and Method

As of January 8, 2002, Prevent Child Abuse Riverside County (PCARC), a non-profit organization, was designated as the County of Riverside's lead Child Abuse Prevention Council (CAPC). Under the state Welfare and Institutions Code (WIC), the council is to promote interagency cooperation and coordination in the prevention, detection, treatment and legal processing of child abuse cases.

Since August 15, 2001, the County Department of Public Social Services (DPSS) has been designated by the Board of Supervisors as the public administrator of State Children's Trust Funds for this area. Three-quarters of PCARC funding for operational costs is provided by the Children's Trust Fund (CTF), while one-quarter is from cash and in-kind contributions.

In the past three years, PCARC has recommended the allocation of over \$7 million to local child abuse prevention providers. At present, there are a total of 27 contracts with 21 service providers.

The California Department of Social Services, Office of Child Abuse Prevention (OCAP), oversees local child abuse prevention councils. One of its primary functions is to ensure that Children's Trust Funds are being spent responsibly and supporting the community's child protection goals. County funding can be withheld by OCAP if concerns are raised about program accountability.

Last month, the County Board of Supervisors raised concerns about the structure and operations of PCARC, and asked the County Executive Office to investigate whether it is in compliance with the WIC. In response to this, two Principal Management Analysts interviewed 28 individuals (10 PCARC Board members and former members; 3 current and former PCARC employees; 7 County staff; 2 service providers; 2 state officials; and 4 representatives of other counties). They also reviewed and analyzed numerous state, county, and PCARC documents.

Adherence to WIC

County child abuse efforts are governed by WIC sections 18967, 18970, 18982, and 18983. Paraphrased, these codes state the following:

- The local Child Abuse Prevention Council (CAPC) is to establish criteria for determining which programs and providers receive funding
- Funded service providers must have recognized expertise in child welfare
- The local CAPC is to make recommendations to the Board of Supervisors on which programs should receive funding
- Local councils are to be incorporated as non-profit, independent organizations, or independent within county government, as defined by OCAP
- The Board of Supervisors is to make the final decision on funding child abuse prevention programs
- The county may use no more than 5% of the CTF on administrative costs
- Local CAPCs are to publish data on the use of CTF and the target populations benefiting from the programs
- The primary purpose of CAPCs is to coordinate the community's efforts to prevent and respond to child abuse
- Other purposes include promoting public awareness of child abuse; encouraging interagency cooperation and coordination; supporting the training of professionals in detection, treatment and prevention of child abuse; recommending improvements in programs and services; and facilitating community support for child abuse and neglect programs.
- CAPCs are to encourage participation from public child welfare agencies, the criminal justice system, prevention and treatment providers, and community volunteers, civic organizations and the religious community.
- Councils receiving child abuse prevention funding are to develop protocols for interagency coordination and provide yearly reports to the Board of Supervisors
- Councils receiving funding are to provide the equivalent of \$1 of local contributions for each \$3 received from the CTF.

OCAP is responsible for seeing that these requirements are met, and, to a large extent, PCARC is in compliance. Two areas in which improvement is needed are in the diversification of the membership, and the publishing of annual reports. PCARC was created in 2002, but with two major staff changes since then, the submission of annual reports has been delayed. Currently, the membership on the Board of Directors is at eight, and there are no participants from the educational or criminal justice systems. There are, however, community volunteers and participants from religious, civic, prevention and treatment organizations. Four of the current members are from agencies that could compete for prevention or treatment funding. This gives the appearance to some

outsiders that service providers have too much influence over funding decisions, even if these individuals excuse themselves from the direct decision-making process.

WIC 18983.5 specifically states that OCAP is charged with defining whether the local council is independent. The guidebook Promising Practices for Child Abuse Prevention Councils in California, which was published with OCAP funding, says that "successful child abuse prevention councils can differ from each other and still be in compliance with WIC...Whichever form a CAPC takes, it is important that a CAPC is independent and can function objectively to make recommendations for the prevention of child abuse." Although it has contractual and historical ties to DPSS, and has an advisory committee that includes five county department heads, PCARC is striving to maintain independence. Should it lose its independence, it might not continue to attract dynamic members.

OCAP is particularly concerned that the local councils be independent from the Boards of Supervisors, to "keep local politics out of the decision making" said OCAP's chief. If they are not, it may appear that a particular service provider has received funding as the result of its relationship to an elected official, and not as a result of its ability to provide effective service. In a recent communication from OCAP, the chief of the agency stated that "we believe that CAPCs that are incorporated as non-profit corporations whose Board of Directors are not selected by county Boards of Supervisors are examples of good practice...While all CAPCs may testify to county Boards of Supervisors we are aware of no situation where a county Board of Supervisors has the responsibility for the direct supervision and daily operations of a CAPC. We believe that would compromise the independence required in WIC 18983.5."

OCAP recognizes that disagreements over the distribution of funds can lead to concerns about the organizational structure. The current discussion "is not unique to Riverside" the OCAP Chief said.

In consulting with other counties (San Diego, Sacramento, Orange and San Bernardino), it was found that all four CAPC structures are different. For instance, Sacramento contracts with a 501(c)(3) organization that is fully staffed by non-county employees, while in San Diego, the CAPC Board is administratively supported by county social services employees. Common to all four is that recommendations are made to the Board of Supervisors through the county's social services departments and all four work closely with the social services departments in their respective counties.

Assessing Needs

In order to receive funding under the various programs of OCAP, each county must submit several documents, including a recent county needs assessment.

This assessment is to be based on data collected in the last three years that identifies local unmet child abuse prevention needs. OCAP specifies a minimum of 14 county demographics and indicators to be included in the needs assessment, including such things as the number of children in the county, the number of child abuse reports, and the number of families living below the poverty level.

There has been some confusion about what constitutes an acceptable needs assessment for Riverside County. CEO analysts asked an OCAP representative specifically whether the county Self-Assessment and System Improvement Plan (SIP) completed in 2004 would suffice. OCAP responded that it was entirely appropriate to use the SIP as long as it included the 14 indicators and had been developed by a multi-disciplinary team.

The last comprehensive needs assessment for Riverside County was conducted by United Way in 2001. It examined a variety of social services needs beyond those relating just to child abuse prevention. To prepare such an assessment may take one year or more and a heavy commitment of funds and community resources. The SIP, however, is a recent document that is more likely to reflect the changing needs and demographics of this growing county.

It may not be possible to have a comprehensive needs assessment completed for use in the current three-year funding cycle. It would be valuable to have one completed by the 2008-11 funding cycle, however, if resources can be identified to perform it.

PCARC Board Activities

The PCARC structure consists of an executive committee (the officers, immediate past president and a member-at-large), a board of directors of up to 21 members (including the executive board), a non-voting advisory board of community partners, and an executive staff of five. Currently, the PCARC advisory committee includes the county sheriff and district attorney, three other county department heads, two judges, a mayor, two attorneys, and an educator. PCARC is incorporated as a California nonprofit public benefit corporation with bylaws to regulate its activities.

Although not formally a part of PCARC, there are six regional collaborative councils in this county that coordinate child abuse services. Each is focused on a region within the county (e.g., southwest, Coachella valley), while PCARC coordinates these services countywide. The collaboratives submit copies of their meeting minutes to the PCARC staff.

A number of concerns relating to PCARC operations have been raised, primarily related to its ability to be independent and free from conflicts of interest. The

following provisions are in place to prevent conflicts of interest on the part of PCARC members and directors:

- Article 2.3.1 of PCARC bylaws, which states "...this Corporation shall not participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office."
- Article 2.3.2 of PCARC bylaws, which states "...No part of the net earnings, properties, or assets of the Corporation shall inure to the benefit of any private person or individual, or to any director or officer of the Corporation..."
- Article 5.4 of the PCARC bylaws, which states "No more than 49 percent of the persons serving on the Board may be 'interested persons'..." and goes on to define 'interested persons.'
- Article 5.8 of the PCARC bylaws, which states "...an individual shall not vote on any issue, motion or resolution which directly or indirectly inures to his or her benefit financially except that such individual...may participate in the discussion of such an issue, motion or resolution if he or she first discloses the nature of his or her interest..."
- Article 6.2 of the PCARC bylaws, which states "...no committee may...approve any contract or transaction to which the Corporation is a party and in which one or more of its directors has a material financial interest..."
- Article IV of the PCARC bylaws, which sets forth the notice requirements for meetings, and defines a quorum.
- PCARC Board Policy Statement and Acknowledgement titled Conflict of Interest, which summarizes and clarifies the above bylaws.
- PCARC's requirement that all new members file a conflict of interest statement with the PCARC Board of Directors.
- Section V.C., titled Conflict of Interest, of the professional services agreement between PCARC and DPSS.
- Pages 13-14 of Promising Practices for Child Abuse Prevention Councils in California, which is used by PCARC and which clarifies ethical and legal considerations of CAPCs.
- Resolution No. 2005-085, which required PCARC members to disclose certain economic interests on Fair Political Practices Commission Form 700.

- Annual audits of County contract, by DPSS Independent Review Group.

PCARC members were added as designated personnel to the County Conflict of Interest Code on May 24, 2005. Their inclusion in the Code is appropriate because, like many Board and Commission members, they make recommendations on allocations of public funds. The Code requires them to annually file Form 700, the Fair Political Practices Commission Form 700. Unfortunately, they were not notified of this in a timely, formal manner. Five of the 11 PCARC members required to file had done so as of September 13. The Clerk of the Board is currently pursuing their compliance with the Code.

The child protection community is relatively small, so it is common throughout the state for CAPCs to have members who also provide direct child protection services through a county agency or private organization. The current PCARC Board of Directors, for example, includes a Mental Health employee whose agency applies for child abuse prevention funding, as well as a special district employee whose organization receives such funding. OCAP recognizes that this will occur, and offers these suggestions to CAPCs for mitigating any resulting conflicts of interest, or appearances of impropriety:

- 1) adopt a conflict of interest policy;
- 2) require board members to withdraw from decisions that present a potential conflict of interest; and
- 3) establish procedures, such as competitive bids, that ensure the council is receiving fair value in the transaction.

PCARC has taken all three of these steps. Unfortunately, the most recent competitive bid process to select service providers suffered breaches of confidentiality that may have made it appear as if the selection process was unfair. A more detailed description of this follows.

Spring 2005 RFP Process

In March of 2005, the contract administration division of DPSS initiated a competitive bid process to determine which child protection providers would receive contracts to provide services in the 2005-08 funding cycle. PCARC staff (but not the Board of Directors) approved the Request for Proposals (RFP) before it was released. There were 53 proposals received; three of these were considered non-responsive.

A team of four evaluators rated the proposals, and developed preliminary recommendations on awarding contracts. PCARC staff reviewed these, and made funding recommendations to DPSS that differed. Unfortunately, the preliminary funding recommendations were also shared with providers and Board of Supervisors assistants, thereby invalidating the confidential bid process.

The RFP included the standard provision that:

“DPSS reserves the right to waive, at its discretion, any procedural irregularity, immaterial defect, or other impropriety, which DPSS deems reasonably correctable or otherwise not warranting rejection of the proposal. Any waiver will not excuse the agency/individual from full compliance if awarded a contract. Reasons for rejecting any proposal will be supplied to the proposing agency/individual upon written request...Final selection of a contractor(s) will be based on negotiation of the contract.”

Consistent with this provision, some bidders were asked to meet with county staff to refine their proposals and make a “last, best and final offer.” This is a common practice of the Purchasing Department. Some bidders were not given this opportunity because their bids were unresponsive; other bids were so complete that they needed no such refinement. This apparently differential treatment caused some to question the integrity of the RFP process.

Several other factors complicated this RFP process. Untimely guidelines from OCAP caused some people to question whether the RFP was perfectly aligned with the goals of the State. The creation, and dissolution, by PCARC, of a Community Funding Advisory Committee to make funding recommendations left some community members confused and suspicious. Rumors that evaluators had conflicts of interest, or were “puppets” of DPSS, were being spread by displeased service providers.

As a result of the above, new contracts were never sent to the Board of Supervisors for approval. The current contracts have been extended, and are likely to be extended again. Although the last RFP may not have been flawed, there is a strong perception among many that the bid process was. A new RFP may go far to counteract this perception.

DPSS & PCARC Coordination

DPSS and PCARC have a Board-approved professional services agreement that defines their relationship. The current contract went into effect on July 1, 2004, and has been amended. The 15-page contract defines the responsibilities of DPSS as:

- Assigning staff to be a liaison with PCARC
- Monitoring the performance of PCARC
- Providing warehouse space, and
- Attending PCARC Board of Directors meetings as a non-voting member.

The contract also defines 14 responsibilities of PCARC, many of which are taken directly from the WIC. It also includes funding provisions, a budget, five reporting requirements, and standard insurance language. It also clearly describes how DPSS is to be notified of budgetary changes. Section V.B. states “Each party shall act in an independent capacity and not as an agent or employer of the

other.” The contract has received approvals from the Purchasing Department and County Counsel.

The contract benefits the County in several ways. By contracting with a non-profit agency, the agency can develop private funding sources to enhance the County’s child abuse prevention efforts. It is a mechanism to ensure that responsibilities are clear and that PCARC is accountable for carrying out WIC requirements for receiving funding. It protects both agencies from being responsible for the actions of the other.

There has been concern that the contractual relationship makes PCARC beholden to DPSS, and that this could lead PCARC to concur with DPSS even to the detriment of the child protection community. Given the obvious commitment of the PCARC Board of Directors to the child protection cause, this seems unlikely. Board members are quite aware that they are a young organization needing some support from DPSS as they carry out their mission. However, they seem committed to growing their organization to the point at which they can carry out the work with a minimum of assistance from DPSS staff.

OCAP distributes child protection funds to county welfare agencies and requires those agencies to monitor the funds responsibly if they are to continue receiving them. The system was specifically designed so that communities make funding recommendations, local welfare agencies ensure that those recommendations comply with WIC, and Boards of Supervisors approve the recommendations with the confidence of knowing their actions had community support and legal compliance.

Child abuse prevention and treatment funds come to Riverside through several state and federal programs, each with unique requirements. They have different allocation formulas, match requirements and overhead allowances. Determining whether community proposals meet all of these conditions requires specialized knowledge that, at present, is possessed locally only by DPSS staff. ***To remove DPSS from the administrative process would be to risk Riverside County’s \$3.5 million annual allocation for child abuse prevention and treatment.***

DPSS conducts annual audits of PCARC. The most recent one, for the period ending June 30, 2004, found that PCARC “generally complied with the terms and conditions of the contract, with opportunities for improvement.” The areas noted for improvement dealt mostly with retaining documentation.

Alternative Structures

California has in place a variety of CAPC organizational structures. According to the OCAP Chief, the preferred structure is one with a non-governmental, non-profit organization to act as the child abuse prevention council, as in Riverside.

Several large counties, however, have county employees from several disciplines acting as the CAPC. The drawback to this structure is that it may be too far removed from the community to make effective decisions.

The model structure is one in which the local welfare agency and CAPC determine which providers are most qualified to serve the community in accordance with state and federal funding guidelines. After that decision is made, the Board of Supervisors decides whether to fund those providers or to approve other arrangements that might better serve the community. In this model, the roles of each entity are clearly defined.

At present, the Board of Supervisors is prevented from unduly influencing funding decisions by being the last entity to approve funding recommendations. This gives the Board "final say" and the most power in the process. It can change any of the recommendations, approve additional funding from other sources to augment the programs, or designate entirely different entities to receive the child protection funding.

An alternative structure has been proposed, which would add to PCARC's Board of Directors an appointee from each supervisorial district. As stated above, OCAP is wary of organizational structures that have CAPC members appointed directly by Boards of Supervisors. If Riverside were to adopt such a structure, it would be the county's responsibility to prove to the state that the CAPC could remain independent of local politics.

Recommendations

As a result of the above analysis, the following are recommended:

- 1) That the Board of Supervisors extend the current child abuse prevention service contracts until June 30, 2006, so that a fresh RFP process can be conducted;
- 2) That the next RFP process include minimal involvement from DPSS program staff, oversight from the County Executive Office, and include no evaluators with real or perceived conflicts of interest;
- 3) Maintain the designation of PCARC as Riverside County's designated child abuse prevention council;
- 4) That County Counsel and the Clerk of the Board provide training to PCARC Board of Directors on conflicts of interest;
- 5) That all PCARC Board members file Form 700, as required by County Conflict of Interest Code.

- 6) That, by December 31, 2005, PCARC submit to the Board of Supervisors a report covering the period since the PCARC's inception, and that annual reports be submitted regularly thereafter;
- * 7) That, by December 31, 2005, PCARC expand its membership to include at least one representative of the criminal justice system and one from the education community, and commit to filling the remaining vacancies on the Board with representatives from all geographic regions of the county;
- 8) That, in selecting a new executive director, PCARC be particularly aware of the appearance and implications of hiring a former employee of DPSS;
- 9) That the next contract between PCARC and the County delete references to projects outside the scope of child protection, and be updated to reflect the current responsibilities of both agencies;
- 10) That PCARC consider amending its bylaws to prohibit potential contract recipients on the Board of Directors from participating in the discussion of any issue which directly or indirectly may benefit their organizations financially.