



APR 25 2005

TO: Alma L. Golden, M.D., F.A.A.P.
Deputy Assistant Secretary for Population Affairs
Office of Population Affairs

FROM: George Grob *George Grob*
Assistant Inspector General for
Evaluation and Inspections

SUBJECT: Federal Efforts to Address Applicable Child Abuse and Sexual
Abuse Reporting Requirements for Title X Grantees
(OEI-02-03-00530)

The following memorandum describes the efforts of the Office of Population Affairs (OPA) to address State requirements regarding the reporting of child abuse, child molestation, sexual abuse, rape, and incest for Title X grantees. This work originated with a congressional request in a letter dated February 28, 2003, from the Subcommittee on Criminal Justice, Drug Policy, and Human Resources within the Committee on Government Reform. This subcommittee expressed concern that organizations receiving Title X Family Planning program funds may not be fully complying with State laws requiring the reporting of potential sexual abuse, including statutory rape. In a letter to the subcommittee dated July 14, 2003, the Office of Inspector General (OIG) agreed to determine how OPA informs its grantees of their reporting requirements and monitors its grantees regarding these requirements.

In summary, we found that OPA has informed and periodically reminds Title X grantees of their responsibilities regarding State child-abuse and sexual-abuse reporting requirements. Furthermore, OPA includes State reporting requirements in its reviews and site visits of grantees.

Title X Family Planning Program

The Family Planning program is authorized under Title X of the Public Health Service Act (42 U.S.C. § 300). The implementing regulations are found at 42 CFR Part 59. The program, referred to as the Title X program in this memorandum, is designed to provide access to contraceptive supplies and information, with priority given to low-income persons.¹ The Office of Family Planning, which administers the Title X program, is part of OPA in the Office of Public Health and Science; the Office of Family Planning's budget line is located within the Health Resources and Services Administration appropriation. In each of the 10 regional offices, OPA has a regional program consultant who administers the Title X program in his or her region.

¹ <http://opa.osophs.dhhs.gov/titlex/ofp.html>, accessed 8/4/04.

Title X was funded at \$280 million in fiscal year (FY) 2004. Title X supports approximately 4,600 clinics and provides reproductive health services to roughly 5 million persons a year. The program provides for grants and contracts in the areas of service, training, research, and information/education. The service and training grants, which are most relevant to our review, are described below.

Service Grants Title X funded service delivery grants to 86 public and private organizations in FY 2004. These grantees may directly provide services or contract with subgrantees, known as delegates, or both. Services are delivered through community-based clinics that include State and local health departments, hospitals, university health centers, independent clinics, and public and nonprofit agencies.² OPA's 10 regional offices award service grants and monitor program performance. Each grantee is responsible for monitoring its delegates' performance.

Training Grants Title X training grants support 10 regional training centers and 2 clinical specialty training grantees. These organizations train personnel of Title X service grantees and delegates to carry out family planning programs, with the clinical specialty training grantees focusing primarily on clinical skills needed to provide family planning care.

State Reporting Laws and Title X

Title X does not establish a requirement for program grantees to report instances of child abuse, child molestation, sexual abuse, rape, or incest as such. Rather, State law determines reporting requirements regarding these offenses. The FY 1999 Omnibus Appropriations bill (P.L. 105-277 Section 219) first addressed State reporting laws and their relevance to Title X. Specifically, it stated that Title X grantees were not exempt from State reporting requirements:

Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification, or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

The same language has been included in appropriations laws every year since 1999. Most recently, this language is in Section 212 of Public Law 108-447, which includes the appropriations for the Departments of Labor, Health and Human Services, Education, and related agencies for FY 2005.

All States have laws mandating reporting of child abuse, but these State laws vary considerably in their definitions, scope, and procedures.³ Under the Federal Child Abuse

² <http://opa.osophs.dhhs.gov/titlex/ofp.html>, accessed 8/4/04.

³ Abigail English and Catherine Teare, "Statutory Rape Enforcement and Child Abuse Reporting: Effects on Health Care Access for Adolescents," 50 DePaul L. Rev., 827, 838-840 (2001).

Prevention and Treatment Act (CAPTA), each State must have a State law or a statewide program that provides for the reporting of child abuse and neglect.⁴ The CAPTA provides minimum guidelines that States must incorporate in their statutory definitions of child abuse and neglect.⁵

Based on CAPTA guidelines, each State provides its own definition of child abuse and neglect. States generally provide separate definitions for physical abuse, neglect, sexual abuse, sexual exploitation, and emotional maltreatment. Some definitions are detailed, while others are general.⁶

All States include sexual abuse as a form of child abuse, although the definition of sexual abuse varies. For example, some States include statutory rape in their definitions of sexual abuse, while others do not. The definition of statutory rape and the requirements for reporting it also vary among States.⁷

Each State designates certain individuals, typically by professional group, who are mandated by law to report child abuse and neglect. These individuals include health care workers, school personnel, social workers, childcare providers, and law enforcement officers. All States have enacted statutes specifying procedures that a mandatory reporter must follow when making a report of child abuse or neglect. Generally, the initial report may be made orally to either the child protective services agency or to a law enforcement agency.⁸

Methodology

The information presented in this memorandum is based on our review of relevant documents issued by OPA and its training grantees; a written survey of OPA regional office representatives; and structured interviews with representatives from OPA's central office, regional offices, and training grantees.

Document Review We reviewed the following documents related to Title X program requirements:

- January 12, 1999, memorandum from the Deputy Assistant Secretary for Population Affairs to the Regional Health Administrators with the subject line, "OPA Program Instructions Series, OPA 99-1: Compliance With State Reporting Laws;"

⁴ 42 U.S.C. § 5106a(b)(1)(A)(Supp. 2003); 42 U.S.C. § 5106a(b)(2)(A)(i)(Supp.2003).

⁵ 42 U.S.C. § 5106g.

⁶ <http://nccanch.acf.gov/general/legal/statutes/sag/define.cfm>, accessed 4/21/04.

⁷ English and Teare.

⁸ <http://nccanch.acf.gov/general/legal/statutes/sag/define.cfm>, accessed 4/21/04.

- Federal Register, Vol. 69, No. 129, Wednesday, July 7, 2004, which contains the announcement of anticipated availability of funds for family planning service grants for FY 2005;
- “Notice of Grant Award,” which is the official document notifying a grant applicant of funding approval and outlining the terms and conditions of the grant; the notice is issued to grantees every year they receive funding;
- “Program Guidelines for Project Grants for Family Planning Service,” developed by OPA in January 2001 for current and future grantees; it explains project management and administration, client services, and clinic management;
- “Office of Family Planning Regional Work Plan Guidance, Fiscal Year 2004,” which instructs the regional offices on how to develop their work plans;
- “Fiscal Year 2004 Regional Memorandum of Agreement,” which describes the agreement between OPA and the regional offices on the use of Title X funds and program monitoring;
- “Title X Program Review,” January 2003, which is the assessment tool used by all but one region in their comprehensive program reviews;
- “Site Visit Protocols for Conducting Program Reviews of Title X Family Planning Projects, Reviewers Manual,” June 2003, which is the assessment tool used by the remaining region in its comprehensive program reviews;
- Presentation materials from OPA’s national conferences, September 2002 and July 2003; and
- Training materials and meeting agendas from all 10 regional training centers and the 2 clinical specialty training grantees.

Survey of Regional Offices We conducted a written survey of the regional program consultants in each of the 10 regional offices. This survey included the following topics:

- The number of comprehensive program reviews conducted,
- The chart reviews conducted as part of the comprehensive program reviews, and
- The protocols followed during chart reviews.

Structured Interviews We conducted structured interviews in person and by telephone with OPA central office representatives, the 10 OPA regional program consultants, and representatives from each of the 10 regional training centers and the 2 clinical specialty training grantees.

Central Office The structured interviews with representatives from OPA’s central office included the following topics:

- The purpose of Title X grants,
- The roles of central office and regional offices in administering the Title X program,
- The central office’s understanding of grantee requirements regarding reporting of suspected child abuse and sexual abuse,

- The methods the central office uses to inform and monitor regional offices and grantees regarding State reporting requirements, and
- The role of the training grantees.

Regional Offices The regional program consultant administers the Title X program in his or her region and participates in the program reviews of the grantees. The structured interviews with the regional program consultants included the following topics:

- The content and frequency of communication between the regional office and grantees regarding State reporting requirements,
- The extent to which the region has received guidance from the central office to address the reporting issue,
- The role of the training grantees and the types of training the grantees have received, and
- The extent to which the regional office monitors grantee activities and uses assessment tools that include State reporting requirements.

Training Grantees The structured interviews with the representatives from the 10 regional training centers and the 2 clinical specialty training grantees included the following topics:

- Training conducted about State reporting requirements,
- Specific topics addressed by the training, and
- Training materials and agendas related to State reporting requirements.

Mechanisms for Informing Title X Grantees About Reporting Requirements

OPA informs its Title X service grantees about State reporting requirements for child abuse and sexual abuse through a variety of methods that include written communications, training, and discussions:

- In a memorandum dated January 12, 1999, OPA informed its regional offices about State reporting laws. This memorandum explained the language that had been added to the appropriations bill in 1999 concerning State reporting requirements. The memorandum stated that reporting and notification requirements referenced in the appropriations bill “concern State laws; the authority to enforce compliance with such laws lies with the States.” It urged Title X grantees to consult with their own attorneys for guidance, noting that States’ laws vary. OPA instructed the regional offices to share this memorandum with all Title X grantees.
- OPA informs grantees about State reporting requirements in its annual grant announcements. Most recently, the Federal Register, Vol. 69, No. 129, July 7, 2004, announced the anticipated availability of funds for family planning service

grants for 2005 and instructed Title X grant applicants to address the relevant section of the appropriations bill about State reporting requirements.

- OPA issues an annual Notice of Grant Award to each Title X grantee that includes a statement about the State reporting requirements. The notice restates the appropriations bill language and identifies it as a special condition with which the grantee must agree. The notice also identifies the reporting requirements regarding child abuse and sexual abuse as a “key issue” that impacts the delivery of family planning services.
- OPA issues a Memorandum of Agreement and Work Plan Guidance that address State reporting requirements to its regional offices every year. These documents describe the agreement between central and regional offices on how Title X funds are to be used and how the program will be monitored. They include the appropriations bill language and instruct the regional offices to address State reporting requirements in their monitoring and training of grantees.
- OPA includes State reporting requirements in the training provided to grantees. Based on our review of training agendas and presentation materials and on our interviews with training center representatives, all 10 training centers include State reporting requirements in their training. All training centers identify mandatory reporters in their training. They also all present State-specific statutes and State-specific definitions of child abuse and sexual abuse in their training. Other training topics include identifying clients who may be at risk for sexual abuse, ethical issues in working with adolescents, and confidentiality requirements. All 10 regional program consultants report that all their grantees have received training on the topic of State reporting requirements in the past year.
- Based on our discussions with representatives from the two clinical specialty training grantees and a review of their training materials, these grantees also include State reporting requirements in their training. They teach clinicians to recognize possible victims of sexual coercion or sexual violence and to follow appropriate procedures when dealing with such cases. They offer training onsite and online to service grantees in all 10 regions.
- OPA central office representatives and regional program consultants report that they discuss State reporting requirements. Central office representatives say that they discuss reporting requirements with regional staff during semiannual meetings. They also hold monthly conference calls with regional staff, often discussing the reporting issue. In addition, all regional program consultants say that they discuss State reporting requirements with their grantees at least once a year. Seven of the ten consultants say they have these discussions 3 or more

times a year. Five of the ten mention that they also use e-mail to distribute instructions or answer grantees' questions and concerns on this issue.

Reviews and Site Visits of Grantees

OPA regional offices monitor grantees through "comprehensive program reviews" and annual site visits. Three components of the comprehensive program reviews address State reporting requirements: chart reviews, policy reviews, and discussions with grantees. Discussions between regional offices and grantees during annual site visits also address State reporting requirements.

- OPA's policy is that the regional offices conduct a comprehensive program review of a grantee every 3 years to examine financial, administrative, counseling, and clinical issues. The OPA central office does not issue specific guidance for conducting the comprehensive program reviews or the chart reviews included in them. The central office approves assessment tools developed by the regional offices to use in the reviews. The regional program consultants report that they conducted a total of 27 comprehensive program reviews in the past year.
- Based on our review of the assessment tools and on discussions with regional program consultants, all regions use an assessment tool in their comprehensive program reviews that includes State reporting requirements. Nine of the ten regions use an assessment tool entitled "Title X Program Review," which was last updated in January 2003. This assessment tool's Clinical Services Section includes a part dealing with contraceptive services entitled "Adolescent Services." It contains an element stating, "Grantee/Delegate complies with state requirements regarding notification or reporting of child abuse, child molestation, sexual abuse, rape, or incest." The assessment tool instructs the reviewer to mark a grantee "compliant" or "not compliant" with this element.

The remaining region uses an assessment tool entitled "Site Visit Protocols for Conducting Program Reviews of Title X Family Planning Projects," which was last updated in June 2003. The section on Adolescent Services in this assessment tool contains an element reading, "All clinical staff have received training on reporting sexual abuse, molestation, etc., based upon state requirements." The assessment tool instructs the reviewer to mark a grantee "acceptable" or "unacceptable" in this element.

- Based on the comprehensive program reviews in the past year, the 10 regional program consultants report that they have not marked any grantees as "not compliant" or "unacceptable" in the State reporting requirement element in the assessment tool in the past year.

- As a part of their comprehensive program reviews, all 10 regional program consultants report that their regions conduct chart reviews. The regional program consultants in nine of the regions report that they review the charts to determine whether and how the grantees are addressing State reporting requirements. The regional program consultant in the remaining region reports that her region does not review charts to specifically determine whether and how the grantee is addressing State reporting requirements. The reviewers in this region evaluate the chart for this element only if it is applicable to the particular case. According to the regional program consultants, the 10 regional offices conducted a total of 1,044 chart reviews in the past year.
- The regional program consultants report that they use different methods for reviewing charts. Eight of the regional program consultants say that their reviewers examine the medical histories and client responses contained in the charts for any indication of abuse or sexual coercion. Six regional program consultants say that the reviewers use the grantees' policies and procedures when reviewing charts for reporting activity. Six regional program consultants say that reviewers examine the chart notes on counseling. Five regional program consultants say that reviewers check if appropriate followup is documented in the charts when abuse is indicated.
- Seven of the ten regional program consultants say that the charts are selected randomly for review. The remaining three regions select purposive samples, based on a certain time period or on case characteristics such as client age, client gender, or services received. All regional program consultants say that nurses or nurse practitioners review the charts. Two regional program consultants also say that they use physicians to review charts.
- Based on the chart reviews in the past year, one regional program consultant reports finding one chart that documented an identified instance of child abuse, child molestation, sexual abuse, rape, or incest. This region also found an indication that the one identified instance of abuse was reported as required by the applicable State requirements. The regional program consultant in another region notes that grantees there found that their delegates have identified cases of abuse and reported them as required. A regional program consultant in a third region says that reviewers found some indication that one client might have been abused in the past, although it was unclear from the chart if the case should have been reported. The regional program consultant says the issue was brought to the attention of the clinic director, delegate agency staff, and grantee.
- All 10 regional program consultants also report that they conduct policy reviews and have discussions with grantees about State reporting activities as part of their comprehensive program reviews. They say that the regional representatives determine whether grantees have policies and procedures in place that describe

when and how to report suspected abuse. All the regional program consultants say that they also speak with grantee directors and staff to gain a better understanding of grantees' knowledge of their requirements. These discussions sometimes involve regional representatives presenting scenarios to clinic personnel to find out how a possible case of sexual abuse would be handled.

- All regional program consultants report that they address Title X grantees' reporting activities during annual site visits. They say that they conduct a site visit with each grantee every year that the grantee is not undergoing a comprehensive program review. During these annual visits, regional program consultants say they hold discussions with grantee directors and staff about their knowledge of reporting requirements and what policies and procedures they have to meet these requirements.

Summary

In summary, we found that OPA has informed and periodically reminds Title X grantees of their responsibilities regarding State child-abuse and sexual-abuse reporting requirements. Furthermore, OPA includes State reporting requirements in its reviews and site visits of grantees.

Agency Comments

OPA provided comments on the draft memorandum. OPA concurred with our findings and included additional information regarding its efforts to inform, train, and monitor grantees on this issue. The full text of its comments is attached.

Attachment



DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

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OFFICE OF INSPECTOR
GENERAL

Assistant Secretary for Health
Office of Public Health and Science
Office of Population Affairs
Washington, D.C. 20201

22 MAR 2005

TO: Assistant Inspector General for Evaluation and Inspections

FROM: Deputy Assistant Secretary for Population Affairs

SUBJECT: Federal Efforts to Address Applicable Child Abuse and Sexual Abuse Reporting Requirements for Title X Grantees OEI-02-03-00530 – OPA COMMENTS

This is in response to the Office of the Inspector General's (OIG) draft memorandum entitled, "*Federal Efforts to Address Applicable Child Abuse and Sexual Abuse Reporting Requirements for Title X Grantees.*" We appreciate the OIG's efforts in conducting an objective, independent and thorough review of how the Office of Population Affairs (OPA) informs family planning grantees of their obligations to address State requirements regarding reporting of child abuse, child molestation, sexual abuse, rape and incest, as well as how OPA monitors its grantees regarding these requirements.

OPA continues to maximize opportunities to inform grantees about their obligations, provide appropriate training, and monitor grantee activities. Although we recognize that enforcement and management of these reporting requirements is dependent upon State and local authorities, OPA continues to be very proactive in this area in order to ensure grantee awareness of and sensitivity to the issue of state requirements regarding the reporting of child abuse, child molestation, sexual abuse, rape and incest. Awareness of and compliance with state reporting requirements continues to be a national training priority for the family planning program. This year's family planning general training program announcement will request detailed information from prospective applicants as to how they will provide training in this area.

Awareness of and compliance with relevant State reporting laws also continues as a priority in our relationships with the ten Public Health Service (PHS) Regional Offices. The Fiscal Year 2005 Memorandum of Agreement between OPA and the Regional Offices, places a special emphasis on monitoring grantee adherence to the requirements contained in legislative mandates that have been part of the Title X appropriation for each of the last several years. One of these mandates states, "Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring the notification or reporting of child abuse, child molestation, sexual abuse, rape, or incest." As part of our ongoing monitoring efforts, the FY 2005 Agreement with the Regional Offices states:

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Monitoring activities should include documentation by the Regional Office that each grantee has appropriate state or jurisdiction-specific policies and procedures/protocols in place that address these issues. In addition, the Regional Office should document that grantees are appropriately monitoring sub-recipients for the existence of appropriate state or jurisdiction-specific policies and procedures/protocols at the sub-recipient level, and that those policies and procedures/protocols are being followed. In addition, training plans in FY 2005 for each Regional Training Center should include activities that address each of these mandates.

As you are aware, OPA has also been instrumental in leading an HHS inter-agency workgroup examining issues of teen sexual exploitation. As part of that effort, on March 23-24, 2005, the Federal Departments of Health and Human Services, Education and Justice will co-host a national conference on the issue of sexual exploitation of adolescents. The conference is intended to focus national attention on the legal, social and health issues regarding sexual relationships between adolescents and adults. The conference will also provide an opportunity for invited participants to explore coalition building, prevention strategies and services for both victims and perpetrators. Invited participants will include select Members of Congress; Federal staff from relevant programs; representatives from national associations, foundations and organizations that advocate on behalf of adolescents; as well as representatives from key state offices including governors' offices, offices of attorneys general and state departments of education, maternal and child health and welfare. The Regional Health Administrators (RHAs), Regional Program Consultants (RPCs) for family planning and the family planning Regional Training Centers (RTCs) are among the invited participants.

OPA remains committed to ensuring that the family planning program operates consistent with relevant laws, policies and practices, with the ultimate goal of providing effective and efficient health care services to low-income individuals. Thank you for the opportunity to review the draft report and provide comments.



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for Population Affairs