

Central Registry Reform

The Issue

Central registries are a federally mandated, state-run database of child abuse and neglect records. These registries were required by the Child Abuse Prevention and Treatment Act in 1974 and expanded in scope throughout the 1980s and 1990s. Central registries now function as a way to assist child protective agencies in investigation and prevention of child maltreatment cases, facilitate statistical analysis of child welfare data, help diagnose suspicious injuries, systematically track and respond to maltreatment allegations, and aid case monitoring and planning. They are also commonly used to perform background checks on those entrusted with the care of children such as prospective foster or adoptive families as well as for individuals seeking a volunteer or employed position that involves contact with children.

While the intent to track maltreatment and protect children is noble and necessary, the implementation of central registries has caused undue harm to many individuals. One of the main issues with the central registry is the denial of due process to parents. In Texas, an individual is added to the registry when a Child Protective Services (CPS) investigation results in a disposition of “reason to believe.” A “reason to believe” finding is not the same as a legal finding made by a court, as is the case with criminal history and sex offender registries. Rather, it is an administrative finding made by the investigating caseworker before the case goes before a judge. The North Carolina Court of Appeals issued a decision in a 2010 case, *In the Matter of W.B.M.*, holding that listing an individual in the central registry prior to a court hearing violates an individual’s constitutionally protected due process rights.

Aggravating the constitutional concerns with the central registry is the lack of neutral arbitration, efficiency, and transparency in the appeal process. In Texas, if an individual is listed on the central registry for any maltreatment, their name will remain in the registry indefinitely unless they successfully appeal the investigation outcome. Texas is one of roughly 17 states, a small minority, that allow names to be entered into the central registry while an appeal is still pending. The state requires the alleged perpetrator to appeal twice to the very department that deemed them guilty before seeking a hearing in front of the State Office of Administrative Hearings. This process can take years to complete.

With the lack of due process and difficulty of appeal, the last major issue with central registries lies in maltreatment reporting. In line with national statistics, Texas has a 22% confirmation rate of maltreatment reports. These statistics suggest that reports are often incorrect and can easily tangle an innocent family into CPS involvement. The high rate of unsubstantiated reporting in conjunction with insufficient parental protections puts Texas families at risk.

Elevating the risk of overreporting are Texas statutes that allow anonymous reporting to CPS hotlines. Studies that have looked at anonymous reporting show dangerously low rates of substantiated reports. Sixteen percent of calls come from anonymous sources, but only 1.5% of those allegations go on to indicate abuse or neglect. While reporting is some degrees of separation away from entry into the central registry, it has direct effects. All open investigations list the alleged perpetrator on the registry before a conclusion is even made. With the large numbers of reports that are unfounded, due process is again jeopardized.

Central registries can affect a parent’s financial and social prospects, limiting employment and volunteer opportunities if listed in the registry. This burden often falls heavily on low-income families, families of color, and women, who are disproportionately referred to CPS and whose children are overrepresented in foster care. According to a study on the unintended consequences of central registries, jobs that require background checks are predominately held by women, particularly women of color. Statistics show that women make up 97.7% of preschool and kindergarten teachers, 93.7% of child care workers, 88.5% of teaching assistants, 83.7% of personal care aids, and 82.5% of social workers, all jobs that require passage of a central registry background check prior to employment.

With the severity of outcomes tied to the central registry, it is critical for states to have robust due process protections in place to prevent wrongful or premature listing. The current central registry system is unconstitutional and unjust at every juncture. Before the state can ensure that both parent and child are protected by the registry, various policy changes must be made.

The Facts

- Most courts that have previously deliberated on the central registry have found at least one part of the central registry to undermine due process protections.
- Under current practice, the review and appeal process of a central registry entry is also housed within the department that initially alleged maltreatment.
- More than 1 out of every 3 CPS cases challenged by the alleged perpetrators are ultimately overturned. Yet only 3% of “reason to believe” cases are appealed each year.
- Texas has a 22% confirmation rate of maltreatment reports. This suggests that reports are often incorrect and can easily tangle an innocent family into CPS involvement.
- Women, low-income families, and children of color are disproportionately referred to CPS, overrepresented in foster care, and overrepresented in the central registry.

- Women make up 97.7% of preschool and kindergarten teachers, 93.7% of child care workers, 88.5% of teaching assistants, 83.7% of personal care aids, 82.5% of social workers, and almost 40% of child-care jobs are held by women of color.

Recommendations

- Prohibit the listing of alleged perpetrators in the registry prior to notice and a hearing before a judge.
- Require a minimum of a preponderance of the evidence standard for central registry placement.
- Create a third-party, accessible, and clear appeal process.
- End the practice of anonymous reporting and shift to confidential reporting.

Resources

“[Overturned child abuse rulings point to problems, advocates say](#)” by Andrea Ball, *Austin American-Statesman* (May 24, 2014).

“[Abolish Anonymous Reporting to Child Abuse Hotlines](#)” by Dale Margolin Cecka, *Catholic University Law Review*, 64(1): 51-98 (2014).

[Child Maltreatment 2018](#). Children’s Bureau, U.S. Department of Health & Human Services (2020).

“[2281.2 Reason to Believe. Child Protective Services Handbook](#),” Department of Family and Protective Services (2019).

“[The Collateral Consequences of State Central Registries: Child Protection and Barriers to Employment for Low-Income Women and Women of Color](#)” by Colleen Henry, Laina Sonterblum, and Vicki Lens, *Social Work*, 64(4): 373-375 (2019).

[The Blacklist: How Central Registry Reform Can Protect Kids and Promote Prosperity](#) by Charissa Huntzinger, Texas Public Policy Foundation (May 2020).

In Re W.B.M., 690 S.E.2d 41 (N.C. Ct. App. 2010).

[Assessing the Feasibility of Creating and Maintaining a National Registry of Child Maltreatment Perpetrators: Research Report](#) by Walter R. McDonald, Office of the Assistant Secretary for Planning and Evaluation (2012).