

Informal Child Care Providers and Criminal Background Checks: Administrative Data and the Legislative Process, A Case Study

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Ideally, research and advocacy should be partners. What better way to advocate than to rely on solid research as a window into what could, or should, be? That holy grail of every policy analyst's discourse, evidence-based policy, would naturally follow.

Naturally, human psychology, politics and the rifts of the body politic being what they are, evidence-based policy can be an elusive goal. Every once in a while, though, a combination of circumstances works on a small scale to allow research and law making to go hand in hand, and those victories, though small, are nonetheless satisfying. This is the story of one such victory.

The location: Annapolis, Maryland, a charming former colonial port town on the Chesapeake Bay. The issue: Subsidized Child Care's search for criminal background checks on informal child care providers, a largely unregulated group sometimes referred to as "family, friends and neighbors." The participants: State legislators, Maryland's Child Care Subsidy Program managers, Maryland Family Network advocates, and Towson University researchers working for the Child Care Subsidy Program.

Informal providers have been protected by the federal Child Care and Development Fund (CCDF) regulations' principle of parental choice among different types of providers.¹ They are often described as grandmothers caring for grandchildren, which has a sentimental ring to it, and much of that picture seems to be true. Any governmental unit charged with protecting children has to look beyond the stereotypes, though. It seemed logical to argue that a simple background check of criminal records should be a requirement for anyone paid with taxpayers' money.

Yet, the issue proved to be a frustrating one, with a number of initiatives failing to gain traction.

The 1998 CCDF regulations do not require states to conduct criminal background checks on anyone receiving subsidy payments. Maryland's law requiring all licensed family child care providers and the adult residents of their homes to have criminal background checks predates the CCDF, but the CCDF parental choice provisions have been consistently interpreted in Maryland to allow informal providers to receive subsidy payments without a criminal background check. The rationale given for the exemption was that there was no need to fingerprint a child's grandmother, especially if the cost of fingerprinting might be a barrier to her receiving a subsidy payment to care for her grandchild, thus denying eligible parents the provider of their choice. As an alternative, informal providers were asked to self-certify that neither they nor any adult resident of their home had a criminal record that would pose a danger to children.

After the CCDF regulations had been in place for more than a decade, questions arose in Washington about the safety of children in subsidized child care and the need for mandatory

¹ 45 CFR 98.30, Parental choice. See page 39986 at <http://www.gpo.gov/fdsys/pkg/FR-1998-07-24/pdf/98-19418.pdf> (page 51 of 63).

criminal background checks. In August 2011 the General Accountability Office (GAO) released a report on sex offenders with criminal records in child care programs.² The GAO report was followed in September 2011 by an Information Memorandum with a recommendation from the federal Office of Child Care that all child care providers serving children receiving child care subsidies undergo comprehensive criminal background checks, as a part of the minimum health and safety requirements under CCDF.³

Perhaps the cost of fingerprinting was not the only deterrent for informal providers. Could it be possible that some of the criminal record self-certifications of the informal providers were not completely accurate? In February 2012 House Bill 1330, a departmental bill from the Maryland State Department of Education (MSDE), was introduced to require background checks for informal providers. The bill had a hearing in the House Judiciary Committee, at which Committee members raised concerns about the cost of the background checks for a grandmother and members of her household. No data had been presented to help weigh the costs against the benefits of the bill. A week later the bill received an unfavorable report.

The bill's supporters knew that it would take a strong demonstration of the evidence of the need for the bill and its cost effectiveness to get it passed the following year. Advocates from Maryland Family Network (MFN) would need to partner with the Child Care Subsidy Program managers and the Towson University researchers to persuade the Maryland General Assembly to pass the bill.

Research on Informal Providers by the State

Towson University has provided research support for the Child Care Subsidy Program for many years, and maintains a store of procedures and program knowledge to aid in extracting and analyzing subsidy data from the State's automated systems. Basic data is extracted monthly, and includes such metrics as enrollments in informal care, both families and children, the number of providers paid, payment amounts, etc. Additional data is extracted as requested. Thus, when Maryland Family Network advocates and policy analysts exceeded their own extensive resources, they could ask the State for assistance and Towson staff could respond with this more detailed administrative data, including:

- geographical distributions of care usage,
- the age distribution of relative care takers,
- proportions of various relatives in the provider population, and
- associations between informal care and other care types, especially public Pre-K.

² CHILD CARE: Overview of Relevant Employment Laws and Cases of Sex Offenders at Child Care Facilities <http://www.gao.gov/assets/330/322722.pdf>

³ Background Checks, Health and Safety Requirements, CCDF Plan Information Memorandum: CCDF-ACF-IM-2011-05, http://www.acf.hhs.gov/sites/default/files/occ/im2011_05.pdf

The more sophisticated data analysis was not always necessary, however. Sometimes, the most basic descriptive data can be the most powerful.

One of the most important pieces of data requested in this case, from the point of view of advocacy, was the proportion of grandmothers in the provider population. A potentially sentimental view of the providers needed some verification and depth.

Table I
Informal Providers by Some Relative/Non-Relative Types

Status	Frequency
Relatives- total	84%
Grandparent	46%
Aunt	18%
Cousin	8%
Non-Relatives- total	16%

Based on 19,106 informal providers paid, Sept 2009 through Sept 2010

Not quite half of all informal providers in Maryland are grandparents. Aunts and cousins are also represented, along with a few great-grandparents. To give some impression of the size of the grandparent population, that 46% represented 8,856 individuals.

And what age are these grandparents?

Table II
Informal Providers by Relative Status and Age

Status	Average Age	Max/Min Age
Grandparent	56	33/82
Aunt	38	18/76
Cousin	31	18/58

Based on 19,106 informal providers paid, Sept 2009 through Sept 2010

The answer was, many different ages, from middle aged to octogenarian.

Another question that arose directly from the criminal background check issue was the number of other adults in the household. Fortunately, this is additional information available in the administrative data, and these "associated parties" number, on average, 1.7 per household.

Of course, the researchers were not fully occupied with such straight forward demographics. Somewhat more complex analysis produced findings that could figure into management consideration of the value of informal care in the Child Care Subsidy system, such as the graph