



**2023 Joint Legislative Budget Hearing on
the Status of Mandated Reporters of Child Abuse or
Maltreatment in New York State**

Thursday February 16, 2023

Bivona Child Advocacy Center's Testimony

Submitted by:

Dr. Daniele Lyman-Torres, President and CEO

Executive Summary

Thank you to Chairs Hevesi and Darling and all the members of the Legislature for allowing me to submit testimony for this important hearing, specifically as it relates to the status of mandated reporters of child abuse and maltreatment in New York State.

My name is Dr. Daniele Lyman - Torres and I am the President and CEO of Bivona Child Advocacy Center. Founded in 2006, Bivona is considered a premier Child Advocacy Center in the Northeast. Located in Rochester, New York and serving Monroe, Livingston, and Wayne counties, Bivona delivers excellence in child abuse response, healing, and prevention through collaborative service, awareness, education, and leadership. Our vision is a community where all children are safe and free from abuse. Bivona CAC serves 2,000 children each year through investigative and healing services. Our multidisciplinary team is made up of 23 partner agencies who collaboratively work together to keep children safe and help them heal from their trauma. In addition to the children who come to Bivona in the aftermath of abuse, we serve an **additional 34,000 children each year in 24 school districts** by providing **prevention education**.

System Failure:

The Rochester community has been rocked by a case demonstrating the complete failure of adults in a school to keep children safe. While we may never know the true number of victims, we do know that our CAC interviewed 70 children from Northwood Elementary School about inappropriate interactions with their principal- the now convicted Kirk Ashton. Ashton was sentenced to 63 years (of which he will only serve 20) in prison for the sexual abuse of 21 elementary school students. He devastated the lives of the many children, families and community members who have lost faith in one of our most critical institutions-the school! Every adult in Northwood Elementary from the custodian to the Assistant Principal failed to report their suspicion and in some cases, their outright knowledge of what Ashton was doing to these children. **All of these people were mandated reporters**. What was the breakdown? Why didn't they have the resources?

It was not until Bivona CAC went into the school to provide prevention education under Erin's Law that these disclosures came forward and this predator was put to justice. This cannot continue to happen.

Our Asks

- Bivona Child Advocacy Center urges the Legislature to **require an in-person component to the mandated reporter training provided by the local CAC** to ensure comprehension and allow for discussing practical application to eliminate racial and ethnic disparities in child abuse and child maltreatment reports.
- Also, mandated reporter **refresher training** should be **required on annual basis**.
- Additionally, we urge the Legislature **to add clergy as mandated reporters for suspected child abuse and neglect**, as well as revoking clergy-penitent privilege in legal proceedings for any cases of abuse or neglect.



Bivona Child Advocacy Center is accredited by the National Children's Alliance (NCA), featuring the largest network of care centers supporting child abuse victims in the country. With 939 Child Advocacy Centers in the Country, NCA is a model in outcome-driven collaboration. NCA is committed to supporting its members at every level, including legislative advocacy efforts to support the work we do and the children we serve.

NYS LEGISLATIVE NEEDS

- 1** PROVIDE BASE FUNDING TO CHILD ADVOCACY CENTERS
 - Child Safety Fees, Registration taxes, criminal penalties, use of forfeiture funds
- 2** DEPARTMENT OF HEALTH AND OFFICE OF MENTAL HEALTH
 - License programs for CACs providing mental health to children and families
- 3** STATE EDUCATION DEPARTMENT
 - Require school districts/schools to partner with CACs to provide abuse prevention training and mandated reporter training
- 4** POLICY
 - Expand Erin's Law to include private/parochial/all grade levels
 - Expand mandated reporting
 - Recruitment and retention of CPS Caseworkers

➤ **Mandated reporter training should include an in-person component to ensure comprehension and allow for discussing practical application.**

- Mandated reporters are required to report instances of suspected child abuse or maltreatment only when they are presented with reasonable cause to suspect child abuse or maltreatment in their professional roles.
- Anyone who is mandated to report suspected child abuse or maltreatment—and fails to do so—could be charged with a Class A misdemeanor and subject to criminal penalties. **There needs to be a precedent set that individuals who have been trained and fail to report are prosecuted.**

➤ **Racial and ethnic disparities in Child Abuse and Child Maltreatment reports**

- Analysis of Monroe County data by the Human Services Working Group found **children of color** made up 75% of those placed in foster care, **86% of those in protective cases**, and 77% of those placed in direct custody. This is an identified issue in the field nationally that has persisted despite studies finding that child abuse and neglect is lower in Black families than White, and a trend that has obvious negative impacts for the health of Black and other families of color.
- According to a study reported by the New England Review of Medicine in 2020, it was noted that Black families are more likely to be reported and investigated for child abuse and neglect, to have their cases substantiated, and to have their children removed from their custody or care. Further, by the time they reach 18 years old, 53% of Black children in the United States will have been subjected to at least one child protective services investigation compared with 28% of white children and 37% of all children. In 2019, according to the Office of Children and Family Services (OCFS), Black children were 3.7 times more likely to enter foster care than White children, representing 52% of children in foster care in New York.

The following points are references from the Children’s Bureau (2021) Bulletin on Child Welfare Practice to Address Racial Disproportionality and Disparity.

- Most families first encounter the child welfare system due to a report of suspected maltreatment. Therefore, ensuring that racial and ethnic biases are eliminated from a reporter's decision-making process may help reduce racial disproportionality and disparity in the system (Children’s Bureau, 2021).
 - Racial bias and discrimination exhibited by individuals (e.g., caseworkers, mandated reporters) Child welfare system factors (e.g., lack of resources for families of diverse racial and ethnic backgrounds, caseworker characteristics)
 - At the national level, children of diverse racial and ethnic backgrounds are overrepresented in reports of suspected maltreatment by all groups of reporters, as categorized in the National Child Abuse and Neglect Data System (Krase, 2013).
 - Mandatory reporters—those in designated professions who are mandated by law to report child maltreatment—would benefit from detailed guidelines that expand upon the brief checklist that often outlines criteria for reporting child abuse and neglect. **They may also need enhanced training, including instruction on the distinctions between poverty and neglect, guidance on racial bias and cultural responsiveness, and information on any cultural practices specific to their region that may be misconstrued as maltreatment.** At the agency level, States should evaluate whether legislation and policies related to mandated reporting promote equity. They should also consider how these mandatory reporters can connect families to services and supports, where appropriate, rather than to CPS (Children’s Bureau, 2021).
 - Screening and assessment - Families of diverse racial and ethnic backgrounds are significantly more likely than White families to be subjected to a CPS investigation (Kim et al., 2017) and substantiated for child abuse or neglect following a child maltreatment assessment (Yi et al., 2020).
- **The need to expand legislation to add clergy as mandated reporters for suspected child abuse and neglect, as well as revoking clergy-penitent privilege in legal proceedings for any cases of abuse or neglect.**
- Every child deserves to be safe – it is dangerous to children to not include clergy amongst the 40-some professional titles of mandated reporters.
 - On January 31st of this year, Jason Clark, principal of the St. Paul Lutheran parochial school in Batavia, NY was indicted on acts of sexual misconduct with a child under 11 while a teacher at the very same school. Who in that institution was required to tell? Who was required to be trained? Erin’s law does not currently require private or parochial schools to provide prevention education.

The following points are references from the NYS OAG's Press Release Dated November 23, 2020.

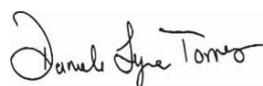
- In November 2020, following a two-year investigation, NYS Attorney General James filed a lawsuit against the Buffalo Diocese, Bishop Emeritus Malone, and former Auxiliary Bishop Grosz for mishandling child sexual abuse claims and failing to uphold their responsibilities to victims of abuse, parishioners, and the public. In the complaint, OAG alleged that the defendants violated their legal and fiduciary obligations by failing to conduct proper investigations into child sexual abuse accusations and not monitoring numerous credibly accused priests. The complaint detailed conduct that, as alleged, directly defied the procedures and protections outlined in the Charter for the Protection of Children and Young People (Charter) adopted by the United States Conference of Catholic Bishops (USCCB) in 2002, following media reports of widespread clergy sexual abuse.
- The OAG investigation found that allegations of sexual misconduct against diocesan priests were concealed and inadequately investigated, if at all, for years. The OAG also found that the Buffalo Diocese failed to refer more than two dozen accused priests for adjudication as required by the Charter. Instead, the Diocese shielded accused priests from the consequences of public disclosure by removing them from ministry with false claims of medical leaves or voluntary retirements.
- It is worth noting that the investigations into the Archdiocese of New York and the Dioceses of Albany, Brooklyn, Ogdensburg, Rochester, Rockville Centre and Syracuse remain ongoing.

Conclusion

Honorable Legislators, our ask is simple. **Keep children safe.** We can do that best when adults understand their responsibility to all children, and how to exercise that responsibility. There cannot be exceptions, and this must be taken seriously. Our children deserve a chance to grow up without the trauma of abuse. Our world needs them to, but yet, we have not closed the loop holes, nor provided the resources required to make a difference. You have the power to impact that in many ways- but **Policy and Funding** are your greatest strengths.

Thank you to Chairs Hevesi and Darling for this opportunity to testify today. I would like to thank all members of the legislature for the impact you have made on the lives of New Yorkers. I know you care about the safety of children in New York and on behalf of Bivona Child Advocacy Center and our partner agencies working on cases of child abuse, I appreciate your consideration of our requests. If there are any questions I can answer for you, my contact information is below.

Sincerely,



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