

The Importance of Gatekeeping in Social Services: A Legal and Policy Perspective

Ian Bauer and Daniel Pollack | December 17, 2021



Psychologist Kurt Lewin coined the term “gatekeeper” to describe a person who decides what information and influences enter a social system. Much like a parent deciding what a child can watch on a computer, or a newspaper editor deciding what stories will be published, a social services gatekeeper has extraordinary authority and power. Social services gatekeepers do not have simple jobs. They must be

trained to make quick, accurate decisions, often based on meager information. Nonetheless, they are expected to have exceptional decision-making and communication skills and be able to effectively multitask.

From a programmatic and legal perspective, social service gatekeeping usually involves a matter that is:

- an emergency requiring immediate attention or resolution;
- urgent, but there is no imminent safety issue;
- not particularly time sensitive, but will need to be dealt with in the future;
- a matter that can be referred elsewhere.

These gatekeeping functions include initial screening decisions involving allegations of abuse or neglect of children and vulnerable adults, what steps to take during a Child Protective Services or Adult Protective Services investigation, and the provision of related services for children and vulnerable adults at risk of harm. Unquestionably, social service gatekeepers wield tremendous influence in determining the path a particular case might take.

By way of example, is a particular allegation of child abuse screened in for investigation, or screened out as “information only?” That decision alone will send a particular case down a set, determined path within the agency’s practice models, coupled with the unpredictability inherent in any Child Protective Services intervention.

While policies and procedures are designed to guide screening decisions and other, similar gatekeeping decisions, they cannot and do not purport to account for every situation that will arise. It is therefore imperative that social service agencies: (1) hire, train and retain qualified,

competent and motivated professionals who are capable of thinking on their feet; (2) assign them a manageable caseload; and (3) provide them with knowledgeable, experienced supervisory support.

The View From the Trenches

In litigation alleging that a social services agency failed to protect a child or vulnerable adult, a number of common themes emerge in relation to these gatekeeping decisions. At the risk of stating the obvious, it is not enough to hire social workers en masse. Merely filling vacant positions doesn't work. Unlike other businesses, there is nowhere to "hide" an underperforming or problematic social service worker.

It is not unusual for social services agencies to assign social workers with performance issues and/or concerns to less high-profile roles—e.g., as intake social workers instead of a front-line, case-carrying position, or as after-hours workers. The problem with this approach is readily apparent: The screening process can be easily compromised. In practice, initial screening decisions will often establish the trajectory of a given case. A high-risk case may be inappropriately "screened out" or assigned for follow-up through an "alternate response" program that is intended to address low risk scenarios. Or, a case may be inappropriately screened out completely. The problem can also be substantive, when the first impressions of an intake worker affects the lens through which all subsequent social workers assess risk in the case.

Like a line of precariously-stacked dominoes, all it takes is one rushed decision, one incomplete or biased assessment at the outset of a case, to set off a chain reaction with potentially devastating consequences for the client and potential legal liability for the agency.

For example, in *Laura Gholston v. DSHS*, the state of Washington hired a profoundly disabled woman's nephew to be her state-paid caregiver, despite: (1) the state's concerns that he had raped her several years earlier; (2) the nephew's young age and absence of any training, education or experience in caring for disabled adults; and (3) his long criminal history and history of mental health problems, including prior involuntary psychiatric commitment. The state subsequently failed to investigate allegations that the nephew was physically abusing and neglecting Laura, and failed to monitor or oversee her care as required by statute. After seven years, law enforcement rescued Laura from the nephew's home, which they described as being in "deplorable" condition. Laura was found suffering from objective signs of extreme, prolonged abuse and neglect, including numerous burns on her arms and legs which physicians attributed to her nephew's meth pipe.

During subsequent litigation, the state callously argued that it did not owe any legal duty to Laura, and that she was "unharmful" by the abuse and neglect she suffered due to her profound disabilities. The state eventually settled Laura's claims for \$2.5 million.

While the state's negligence in *Gholston* was manifold, the entire sequence of events began with one gatekeeping decision: the decision to hire a man with no qualifications whatsoever to provide extensive in-home care for a profoundly disabled woman that he was thought to have sexually assaulted. From that point forward, the state was invested in the nephew serving as Laura's caregiver. The state gave Laura's nephew the benefit of every doubt and took his side whenever questions arose, notwithstanding the mounting, objective evidence that he was abusing and neglecting Laura.

Conclusion

Throughout their day, social workers face inflection points in the life of a case, and must make decisions with profound implications for the children, vulnerable adults, and families they serve. The upgrading of social service gatekeeping standards must be both a priority and ongoing process focused on ensuring the health, safety and well-being of these vulnerable citizens.

The initial gatekeeping assessment must make sure that—just like a hospital emergency room—people in dangerous or critical situations receive the attention they need before those with non-urgent issues. It must also ensure that the agency’s resources and staff are properly utilized. Moreover, social service agencies must recognize that it is not enough to simply establish reasonable standards and practices. They must also ask hard questions about the implementation of those standards and practices in the real world.

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