



Situational Assessment Summary May 14, 2019

This report:

- Summarizes North Carolina regulatory enforcement requirements
 - Requires certification of individuals & firms that perform renovation activities for compensation in target housing and child occupied facilities.
 - Regulations are reactive. Child must be poisoned first.
- Describes what is being done in Durham to prevent lead poisoning in children
 - Based on responses submitted in March 2019 by Durham city and county department heads, Durham lacks an effective lead prevention strategy
 - Durham city and county departments don't have authority to enforce federal regulations
- Identifies three primary areas of concern
 - Test children for lead at ages 1 and 2
 - Help families clean up lead hazards in their home
 - Get contractors to work lead safe as NC Certified Lead Renovation Firms
- Offers recommendations to begin to transition Durham City and County programs towards primary prevention policies
 - Immediate suggestions
 - Short term suggestions
 - Long term suggestions



Identification of Regulatory Gaps in Lead Poisoning Prevention and Lead Hazards in Housing in Durham, NC

Situational Assessment

May 14, 2019

This report:

- Summarizes North Carolina regulatory enforcement requirements;
- Describes what is being done in Durham to prevent lead poisoning in children;
- Identifies two primary areas of concern, and
- Offers recommendations to begin to transition Durham City and County programs towards primary prevention policies.

Opportunity

The best strategy for preventing childhood lead poisoning is Primary Prevention, which addresses the conditions that cause, and ultimately prevent children's lead exposure. In contrast, Secondary Prevention identifies and manages conditions *after* exposures have already caused elevated blood lead levels in children.

Partnership Effort for the Advancement of Children's Health (PEACH) is a Durham-based, grassroots non-profit that is certified by the State of North Carolina as a lead-abatement firm, and as a lead Renovate Repair and Paint (RRP) training provider. PEACH is working with community residents, local government, and other stakeholders to transition Durham from a reactive municipality that addresses childhood lead poisoning after it occurs, to a proactive community that protects children from lead exposures and poisoning *before* they happen.

Public Participation

In July 2016, PEACH was contacted by concerned residents who were worried about exposure to lead hazards outside their homes. An uncertified contractor used power washing on the exterior of an adjacent, 100 year-old home, thereby scattering lead-based paint chips onto the residents' yards, creating a source of exposure for both families and their young children. In trying to remediate and mitigate the exposure, the families contacted government officials, but made little progress as the State and Durham government had no jurisdiction to enforce the contractor or the property owner to undertake any remediation efforts. This lack of enforcement capability by state, county, and city agencies highlights a "gap" in ensuring that lead-based paint hazards are addressed and mitigated in a timely, effective manner.¹

PEACH collaborated with Reinvestment Partners, another local non-profit, to secure funding for a town hall meeting, "Take Action to Protect Kids from Lead," and to emphasize the need for a grassroots participation process. From October 2017 to October 2018, PEACH hosted three town hall meetings, recruiting roughly two hundred participants, including, city, county, and state

¹ Holly Dwan, owner of contaminated property



elected officials, as well as department heads, non-profit agencies, universities, and affected community residents. These meetings generated a set of recommendations to reduce lead exposure in Durham. The recommendations included addressing tenant and landlord relations, enforcing contractor compliance, increasing education and outreach, and securing funding sources.

With this set of recommendations, PEACH partnered with Durham County Department of Public Health to convene meetings with a coalition of local decision makers and public health professionals² from January to April 2019. These meetings were used to review the community-based recommendations from the town halls, gather input from state, city and county department heads, identify regulatory limitations as they pertain to enforcing lead-paint environmental laws, and generate opportunities for action moving forward. This report is based on the proceedings from the five meetings of this coalition, with input from the Durham County Health Director and residents at PAC 1 meetings.

Health Effects of Lead and Primary Source of Exposure

High blood-lead levels can cause coma, convulsions, and death. Low levels, however, still cause reduced intelligence, behavior problems, impaired hearing, and reduced stature, particularly in children³. Although lead poisoning is completely preventable by managing and reducing exposure to lead-based hazards, current federal, state, county, and city lead regulations require a child to have confirmed elevated blood lead levels *before* they can access lead poisoning prevention resources. Based on responses submitted in March 2019 by Durham city and county department heads, Durham lacks an effective lead prevention strategy as recommended by the *President's Task Force on Environmental Health Risks and Safety Risks to Children* in the 2000, 2016, and 2018 reports to eliminate childhood lead poisoning.

According to President's Task Force reports, the most important remaining exposure sources for children are lead hazards in their residential environment. According to the CDC, in some communities, one-third to one-half of childhood lead poisonings have been from renovation work⁴. Common renovation activities can create hazardous lead dust and chips by disturbing lead-based paint, which can be harmful to adults and children.⁵

From January 2013 to July 2018, City of Durham code enforcement cases included 1,620 violations of deteriorated paint conditions. Of the 1,620 violation cases, 192 are Owner-occupied and 388 are multi-unit rentals. In general, code violations are most prevalent in the City's older housing stock⁶. Ineffective enforcement of lead policies allows landlords to continue to rent units with lead-based paint hazards present, thereby exposing current and future tenants to lead-based

² Appendix A is a list of community participants

³ "Eliminating Childhood Lead Poisoning: A Federal Strategy Targeting Lead Paint Hazards." (2000).: President's Task Force on Environmental Health Risks and Safety Risks to Children.

⁴ "Lead Hazard Prevention Plan." (2016). Reinvestment Partners

⁵ "Achieving Equity in Lead Poisoning Prevention Policy Making: Proceedings from a Consensus Conference." (Aug, 2018). High Impact Partners.

⁶ Proposal for HUD Grant. (2018). Durham Neighborhood Improvement Services.



paint hazards. This is especially problematic because low-income families are more likely to move relatively frequently, which results in more opportunities for more families to be exposed to lead hazards over time.

North Carolina and Durham Regulatory Landscape

The North Carolina Rules 10A NCAC 41C 0900 and North Carolina General Statutes 130A-453.24 require certification of individuals and firms that perform renovation activities for compensation in target housing⁷ or child-occupied facilities⁸.

The NC RRP certification process requires Certified Firms to pay an annual fee to the State, and requires Certified Renovators to complete an eight-hour training course and to apply to the State for certification. Certified Renovators are required to take a refresher training course within five years of their initial training course.

Durham County Department of Public Health aligns their lead poisoning prevention enforcement efforts with State regulations identified in NCGS 130A -131.7 – 131.9H. The regulations are *reactive*, and require a child to have an elevated blood lead level in order to access lead poisoning prevention resources, such as inspections, risk assessments, remediation enforcement, and monitoring inspections.

Durham City/County Building Inspections Department is self funded and relies on permit revenue to support the department. The department is restricted to activities that are explicitly stated in the building code and environmental regulations (e.g., lead hazards) are not explicitly stated in the NC Building Code, thereby limiting the Building Inspections Department's ability to address lead-based hazards and violations.

Durham Neighborhood Improvement Services is the housing code enforcement agency for the City. The 2016 version of the City Ordinance stipulates interior walls, woodwork, doors and windows shall be free of flaking, loose or peeling paint. The ordinance states loose or peeling wall paint shall be removed and the exposed surface shall be placed in a smooth and sanitary condition; and that "Paint chips or paint dust shall not be left on interior or exterior surfaces of the dwelling or on the premises." The ordinance goes on to state that lead abatement and lead renovation activities are enforced by the NC Lead-Based Paint Hazard Management Program and provides citations, NCGS 130A-453.01-453.11 and 10A NCAC .0800 for lead abatement, as well as NCGS 130A-453.22–31 and NCAC 41C .0900 for lead renovation.

Durham Community Development is guided by the Durham Strategic Plan and has recently presented the department's FY 2019-2020 Annual Action Plan Funding Chart. The department governs HUD funded programs, including CDBG, HOME, CHDO, CoC, and the Minor Repair program. The Action Plan reports on the departments' efforts to preserve 350 existing rental homes, on the rehabilitation of 50 homes owned by low-income households, and to provide

⁷ Target housing – pre1978 residential unit

⁸ Pre 1978 building visited by same child...



support to 150 low-income homeowners citywide through the minor repair program. For properties built before 1978, HUD funding adds a level of Federal regulatory compliance for contractors.

Areas of Concern

State and local lead poisoning prevention enforcement activities are reactive, and reserved for children who have already been confirmed to have elevated levels of lead in their blood, which is inherently in contrast to the regulatory goal of preventing lead poisoning in children. Since the effects of lead are irreversible, intervening *before* a child is exposed to lead is the best strategy to combat lead poisoning, and to ensure that cognitive development in Durham's most at-risk children is not diminished due to preventable lead exposure. One area of concern discussed during the coalition meetings is Durham's low screening rate for the target population- children at one and two years of age. Since 2014, the screening rate for Durham children representing this most at-risk population for lead poisoning hovered between 47% and 49% with .9% to 1.5% of children showing elevated blood-lead levels⁹. In contrast, Forsyth County, which has a similar population as Durham screened two-thirds of all one and two year olds during the same period, with 1.4% - 1.7% of the population having elevated blood lead levels. Similarly, Guilford County, with about 3,500 more kids in the target population screened up to 77% of the children who are most at risk of the negative health effects associated with lead exposure, with 1.1% - 1.7% having elevated blood lead levels. The impact of the low screening rate is more devastating because children of color, especially African American children, children living in poverty, and children living in homes built before 1978 are disproportionately exposed to lead hazards and have higher levels of lead poisoning. In 2017, Census Tract 10.01, target area for the City's poverty reduction initiative dubbed Transformation in Ten, had more than 3x the number of children with lead at the action level than in Durham County overall.¹⁰

Another area of concern for Durham centers on the North Carolina Renovator Certification requirement. The City-County Inspections Department administers and enforces the North Carolina State Building Code for both the City and County of Durham. The Department issues certificates of compliance and reviews permits for construction activity, however compliance and permitting activities related to NC lead training certification is not included as a compliance or permitting responsibility for the Department. The City Housing Code, Article VI, Sec. 10-234 (k), acknowledges the State certification requirement, however, the code references the North Carolina Lead-Based Paint Hazard Management Program as the enforcement arm for the certification.

Durham does not have the authority to enforce a federal regulation to hold contractors, who disturb paint in older housing, responsible for securing required certification and this lack of authority creates a regulatory gap that allows untrained contractors to create lead dust hazards during renovations. A 2016 Durham survey identified 1031 houses in Census Tract 10.01¹¹ with

⁹ Definitions : EBL, levels of concern

¹⁰ NC Children's Environmental Health, Kim Gaetz

¹¹ Mayor's Poverty Reduction Initiative Survey Report



751(73%)¹² of the properties built before 1978, the year lead was banned in residential paint. Further, 54 out of 100 homes in Block Group 31, and 34 out of 100 homes in Block Group 32 have some type of housing code violations. Deteriorated lead-based paint in older housing is cited as the number one source of lead exposure in young children and poor, black children are nearly 3 times more likely to suffer lead poisoning than white children¹³. The combination of an older housing stock and housing code violations carries the risk of a small number of rental units poisoning many children in a community. In Northeast Central Durham (NECD) neighborhoods, where CT 10.01 is situated and where robust renovations are being conducted, contractors freely use unsafe work practices without the threat of enforcement and the lax lead poisoning prevention culture in Durham allows poor work practices to be repeated in multiple properties in a changing neighborhood like CT 10.01.

Recommendations

Suggested Immediate Activities

- Continue Steering Committee - PEACH will partner with NCCU Public Health Education, Durham residents, Men of Vision and City representatives to continue steering committee meetings.
- Design education & outreach campaign to educate residents and leaders to increase lead screening of children and to use a NC certified lead-based paint firm and renovator when applicable – A lead awareness & lead poisoning prevention campaign will be planned & initiated to include traditional media, brochures, social media, and other information sources.
- Integrate lead cleaning program into education & outreach activities – Develop and initiate innovative community-based cleaning program for HUD eligible residents and low-income, non-HUD eligible residents to create behavior change around reducing lead dust and creating a healthy home environment.
- Collect data describing number of permits for pre 1978 residential properties issued by inspections and of the number, how many were registered as certified renovators – Partner with City/County Inspections to collect data to quantify the number of contractors who pull permits to work on pre-1978 homes who are not certified by the State Renovate, Repair, and Paint (RRP) program.
- Collaborate with City/County housing, code, and permitting enforcement programs to distribute City Renovate Right Brochure when they see contractors working on older properties and to collect follow-up information (i.e. renovation firm and contractor contact information, address of property, type of work being done)
- Continue to refer complaints where renovation work at housing and Child Occupied Facilities (COFs) is taking place and where workers are not using lead safe work practices.

¹² Durham Neighborhood Compass

¹³ “Lead Hazard Prevention Plan.” (2018). Reinvestment Partners.



- Strengthen relationship with Durham Public Schools (DPS) – A statewide research project completed by Duke Nicholas School of the Environment found that Durham children that had a medical documentation of lead exposure scored lower on end of grade (EOG) tests than children who were not exposed to lead.

Suggested Short Term Activities

- Collaborate with Community Development and Durham Housing Authority to adapt HUD lead poisoning prevention policies to non-HUD rental properties – A recent study found that people who were living in HUD-assisted homes had lower levels of lead in their blood compared with those who were not. Create a housing program for non-HUD-assisted housing modeling HUD recommended strategies used by DHA and DCD HUD programs.
- Conduct lead dust testing in specified rental units (i.e. code violations, tenant turnover) – Partner with Neighborhood Improvement Services Housing Inspectors to implement lead dust testing for pre-1978 homes with code violations.
- Subsidize lead renovator training for low-income contractors to increase the number of certified lead renovators in Durham – Durham has ~36 certified contractors compared to Forsyth that has ~58 and Guilford with ~82.
- Have City/County field workers take lead renovator training. – City and County workers who routinely ride through residential neighborhoods and who have frequent stops as a part of their job activities should be educated about lead hazards and when feasible, workers should give Durham Renovate Right brochure to contractors working on older homes.
- Require use of NC certified firm & renovators on city/county contracts.

Suggested Long Term Activities

- Board of Health (BOH) Rule – Appeal to the BOH to adopt a more stringent rule to protect the public from lead exposure sources.
- City Ordinance(s) – Strengthen “paint” language in housing code ordinance to align with State administrative code and the Durham BOH rule.



Appendix A

List of Steering Committee Participants

City of Durham Building Inspections

- Wyatt Blalock
- Gene Bradham

City of Durham Racial Equity Task Force

- Jamal Moss

City of Durham Water Management

- Vicki Westbrook

Durham City Council

- Charlie Reece
- DeDreana Freeman, Durham City Council

Durham County Environmental Health

- Marc Meyer
- Christopher Salter
- Warren Richardson

Durham County Health Director

- Gayle Harris

Durham County Health Education

- Lakieta Sanders

Durham Housing Authority

- Christopher Jackson

Healing with Caare

- Carolyn Hinton

Liberation Station

- Carl Kenney

Mike Love Construction

NC Child

- Vikki Crouse

NC Division of Public Health

- Ed Norman

NC Health Hazards Control

- David Brown
- Jeff Dellinger

NCCU Public Health Education

- Alexxis Mitchell
- La Verne Reid

NCSU Center for Human Health & the Environment (CHHE)

- Katy May

NECD Community Residents

- Midori Brooks
- Holly Dwan
- Kristin Henry
- Vivian Mitchell
- Victor Morrison Sr
- Lenora Smith
- Jason Williams

Reinvestment Partners

- Lorisa Seibel

Southside Community Resident

- Celestine Buie

Southern Environmental Law Center

- Brooks Rainey