

Making Philadelphia's Lead Disclosure Law Universal Will Improve the Health of the City's Babies

Key Findings

- + Too many babies are still injured by lead poisoning in Philadelphia. In five high risk zip codes, at least 1 in 15 children tested have elevated blood lead levels. Most of these children live in low-income and minority neighborhoods. And because only 43% of children receive the two blood lead tests required by the time they are three years old, there are more children injured by lead we don't know about.
- + Children are primarily poisoned by lead-based paint in their older homes – and most (62%) are poisoned in a rental property.
- + The City acknowledged the severity and need for further mitigation of this public health problem by enacting the Lead Paint Disclosure Law in 2011. Based on promising policies in other cities, the law requires landlords of properties built before 1978 with child tenants six years or younger to certify that their properties are lead-safe or lead-free upon new occupancy in order to secure a rental license.
- + The Lead Disclosure Law has fallen far short of its intended outcome. Too many landlords are not complying. As of January 2018, landlords have only submitted 4,418 certificates for an estimated 26,000 rental units subject to the law. In practice, the law has turned out to be largely unenforceable. There is no record of tenants' ages at the time of new occupancy to identify which pre-1978 rental properties have children in them, so the City does not know which landlords are out of compliance and leaving children at risk of harm.
- + Modifying the Lead Disclosure Law to make it more enforceable by requiring all pre-1978 rental properties comply with the law regardless of the age of tenants will better protect babies and children from the entirely preventable, yet life-altering injuries caused by lead poisoning and reduce significant associated financial costs.

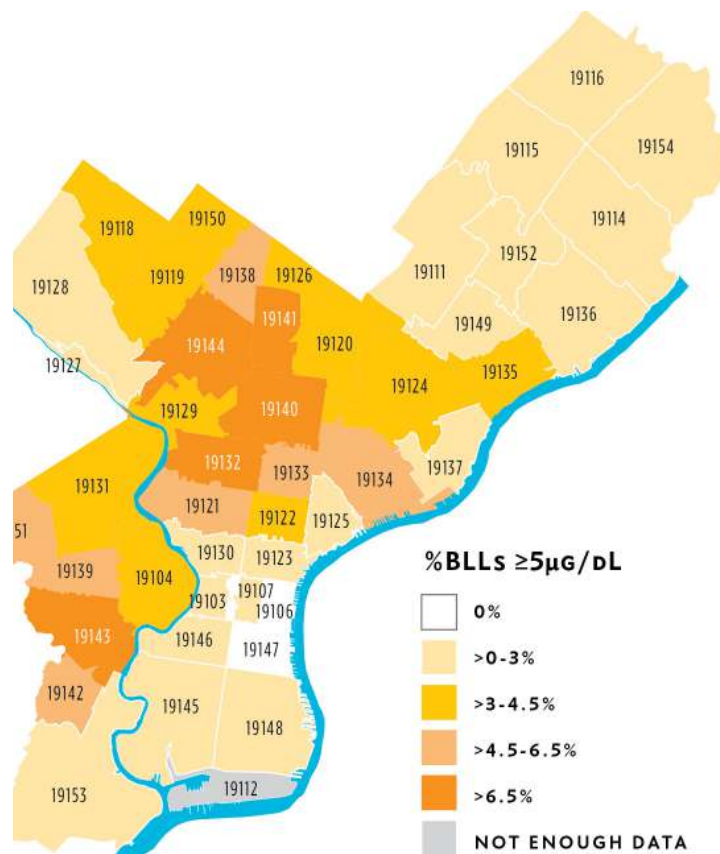
Introduction

All Philadelphia babies should have an equal opportunity to grow and develop into healthy children and productive adults no matter where they live in the City. Tragically, this isn't true when it comes to childhood lead poisoning. Most children are poisoned by lead-based paint in their older homes – and most (62%) are poisoned in a rental property.¹ For hundreds of years, lead has been known to be a neurotoxin and an environmental hazard, yet lead was not banned for residential use in the United States until 1978.² In Philadelphia, nearly 90% of the housing stock was built before 1978.³

Babies and children are poisoned when they ingest or breathe lead-based paint chips or dust that contaminate their hands or toys, for example, that they stick in their mouths as part of their natural, developmentally appropriate behavior. Deteriorated paint in properties that are not maintained is the major culprit in creating home-based lead hazards. In five high risk zip codes in North and West Philadelphia, at least 1 in 15 children tested have elevated blood lead levels (see map).⁴ Those babies at highest risk in Philadelphia are in low-income and minority neighborhoods.⁵ Across the five high risk zip codes, at least 57% of residents are African American (range is 57% – 94%).⁶

There is no safe level of lead exposure. Lead poisoning is associated with developmental and growth delays, damaged hearing and speech, behavioral and learning disabilities and difficulties paying attention – making it difficult for children to perform well in school and often causing them to require special education services.⁷ These conditions not only disrupt the lives of otherwise healthy children and families but also require increased public resources due to special education and behavioral needs. Most of these completely preventable injuries are not reversible and can cause lifelong health challenges.

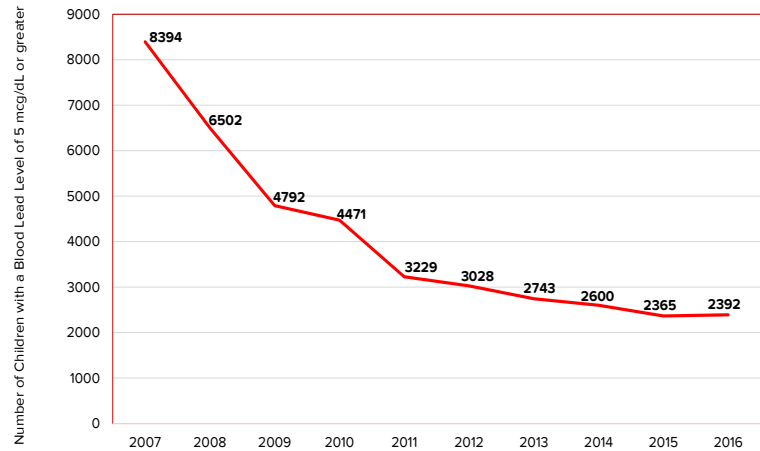
Figure 1: Incidence of Children with Elevated Blood Lead Levels ≥ 5 ug/dL, 2016



Data Source: Final Report and Recommendations, June 20, 2017, Philadelphia Childhood Lead Poisoning Prevention Advisory Group. <https://www.phila.gov/health/pdfs/Lead%20Advisory%20Group%20Report.pdf>.

Despite a decline in children with lead poisoning in the City in the last ten years, the number of children poisoned remains intransigently high with around 2,400 poisoned every year or 6% of children tested. The Flint, Michigan water crisis drew national attention because of the high rates of children lead poisoned, but the situation in Philadelphia is worse. In 2016, at the peak of testing Flint residents after the city switched to a new, corrupted water source, 2.4 percent of children tested were lead poisoned, less than half the rate in Philadelphia, for a total of 177 children.⁸ In Philadelphia, children are poisoned at almost double the rate of Chicago and triple the rate of Boston, New York and DC.⁹

Figure 2: The Number of Philadelphia Children with Elevated Blood Lead Levels Remains High and Has Essentially Plateaued in the Last Four Years



Data Source: Philadelphia Department of Public Health Environmental Health Services Lead and Healthy Homes Program. Childhood Lead Poisoning Surveillance Report 2016. Table 5.

Lead Paint Disclosure Law Requires Landlords to Certify Properties are Free of Lead Hazards

In 2011, the City of Philadelphia took a major step forward in protecting the health of young children by enacting the Lead Paint Disclosure Law. This law requires landlords of properties built before 1978 housing families with children six years or younger to test their property for lead before children move in. The landlord must secure a lead-free or lead-safe certificate, which must then be signed by the tenants and submitted to the Philadelphia Department of Public Health along with the inspection results and dust wipe samples.¹⁰ If a property is found to have lead hazards, the owner must remediate and secure the lead-safe/free certification to get a rental license. When landlords apply for a new rental license or renew their license with the Department of Licenses and Inspections, they must attest that they've submitted the certificate.

Most Landlords Required to Comply are Not Complying

There are an estimated 26,000 rental properties in the City that were built before 1978 that likely house children six years or younger.¹¹ Many landlords have complied with the law, but too many have not. As of January 2018, only 4,418 lead-free certificates have been submitted by landlords to the Philadelphia Department of Public Health, leaving many babies and children vulnerable to lead exposure.¹²

Though the City may levy fines on non-compliant landlords, these fines had largely been enforced reactively on the basis of a tenant complaint until December of 2017 when the Philadelphia Department of Public Health started issuing notices to landlords who were likely subject to the law but had not submitted the required documentation.^{13,14}

The Law is Largely Unenforceable in Practice

The Lead Paint Disclosure Law is difficult to enforce because of limited data on where young children reside. Child residence is not easily verifiable; landlords are responsible for reporting whether their properties house children six or younger upon turnover. Landlords are also only required to certify the property upon change of occupancy, before children move in, which does not apply to children who move in or are born during the lease term.

This law may also encourage some landlords to discriminate against families with small children due to the increased cost and time required to remediate rental properties. Landlords are typically counseled not to inquire about child status because of the Fair Housing Act as this suggests discrimination on the basis of familial status. Limiting this law to landlords renting to children six years or younger not only puts families at risk of housing discrimination, but also puts landlords at risk of discrimination lawsuits.

Another challenge to enforcing this law is the limited data sharing between the Philadelphia Department of Public Health and the Department of Licenses and Inspections that allows many landlords to circumvent this law. Landlords may be out of compliance with the law without knowing about it or without the City having knowledge of children in the property. The Department of Public Health and the Department of Licenses and Inspections do not currently have a data-sharing system that would allow them to confirm in real-time if landlords have submitted lead-free certificates when renewing their rental licenses. Additionally, a single rental license can include up to 10 rental units, but the law requires each unit be inspected and certified separately.¹⁵

Ensuring all Children are Protected: A Universal Inspection Requirement

The City of Philadelphia acknowledged the challenges of enforcing this law and identifying non-compliant landlords.

In January 2017, the Mayor convened an advisory group to determine additional strategies to make the law enforceable and take further steps to reduce lead poisoning.

To address the law's shortcomings, the group recommended improving the law's enforceability by requiring all pre-1978 rental properties to comply, including Section 8 and Philadelphia Housing Authority Units - not just those with residents six or younger.¹⁶

Children who reside in pre-1978 properties are left at risk of lead poisoning because this law has proven to be largely unenforceable. Expanding the law to require all pre-1978 properties to be tested and certified as lead-free or lead-safe will better ensure that all babies and children are protected. This will also make the law more enforceable because the City has records of property ages. Landlords would be required to certify their property as lead-free or lead-safe before they can secure a rental license. This is more enforceable than the current law because officials can look at all pre-1978 rental properties, which is much easier than determining which units house children. The expansion of the law should also cover Section 8 and Philadelphia Housing Authority units, which are not currently covered under the Lead Paint Disclosure Law. This expansion would also eliminate possible discrimination against families with young children. A universal requirement is the easiest way to ensure that more children are protected from lead poisoning in the City of Philadelphia.

Impactful Ordinances in Rochester, NY and the State of Maryland

Similar to Philadelphia, the majority of properties in Rochester, New York were built before 1980, and a high share of residents with low incomes live in rental properties. Rochester's ordinance requires regular inspections of most pre-1978 rental housing for lead paint hazards in order for a landlord to secure an initial or renew a certificate of occupancy. Most single family and duplex units are inspected every six years, and properties with three or more units are inspected every three years. Since the inception of Rochester's lead ordinance in 2005, the number of poisoned children has been reduced by 75%.¹⁷

Throughout the State of Maryland, landlords are required to conduct and pass a lead dust test in all properties built before 1978 whenever a new tenant moves in. Landlords must also register these properties with the state and pay an annual \$30 fee. Since the law was enacted in 1994, the share of children with elevated blood lead levels has declined by 97%.¹⁸

Conclusion

Childhood lead poisoning disrupts the chance at a healthy and happy life for too many young children in Philadelphia – particularly minority children. Although the City of Philadelphia has made progress in reducing childhood lead poisoning rates and has recently taken steps toward increasing primary and secondary prevention measures, there are still too many children poisoned each year. To ensure that more children are protected from serious injury by lead poisoning, we must modify the Lead Paint Disclosure Law to include all pre-1978 rental units.

Endnotes

1. Data shared by Philadelphia Department of Public Health at a Philadelphia Lead Poisoning Prevention Advisory Group Meeting.
2. US Consumer Product Safety Commission, "CPSC Announces Final Ban on Lead-Containing Paint," (September 2, 1977). Available at <https://goo.gl/hbDM2m>.
3. American Community Survey (ACS) 2011-2015. Retrieved from <https://www.phaim1.health.pa.gov/EDD/WebForms/HousingChrt.aspx>.
4. Open Data Philly, 2013-2015 Philadelphia Child Blood Lead Levels By Census Tract Map. Available at <https://www.opendataphilly.org/showcase/2013-2015-philadelphia-child-blood-lead-levels-by-census-tract-map>.
5. Philadelphia Department of Public Health Environmental Health Services Lead and Healthy Homes Program. Childhood Lead Poisoning Surveillance Report 2016. Available at <https://www.phila.gov/media/20181116115422/PDPH-Lead-Poisoning-Surveillance-Report-2016.pdf>.
6. Share of African American residents in each of the five high risk zip codes is: 19132, 94.4%; 19140, 57.3%; 19141 86.0%; 19143, 84.3% and 19144, 79.6%. 2010 US Census.
7. American Academy of Pediatrics. (July 2016). Prevention of Childhood Lead Toxicity. Available at <http://pediatrics.aappublications.org/content/pediatrics/138/1/e20161493.full.pdf>.
8. Michigan Childhood Lead Poisoning Prevention Program, Michigan Department of Health and Human Services Division of Environmental Health. (2018). 2016 Data Report on Childhood Lead Testing and Elevated Levels: Michigan. Available at https://www.michigan.gov/documents/lead/2016_CLPPP_Annual_Report_5-1-18_621989_7.pdf.
9. Big Cities Health Coalition Data, 2014.
10. Philadelphia Department of Public Health Lead and Healthy Homes Program. (December 2012). A Landlord's Guide to the Philadelphia Lead Disclosure and Certification Law. Available at https://www.phila.gov/media/20181109120607/LandlordGuidance_2018.pdf.
11. Philadelphia Childhood Lead Poisoning Prevention Advisory Group. Final Report and Recommendations. (June 20, 2017). Available at <https://www.phila.gov/health/pdfs/Lead%20Advisory%20Group%20Report.pdf>.
12. March 27, 2018. Personal Communication. Philadelphia Department of Public Health.
13. Philadelphia Childhood Lead Poisoning Prevention Advisory Group. Final Report and Recommendations. (June 20, 2017). Available at <https://www.phila.gov/health/pdfs/Lead%20Advisory%20Group%20Report.pdf>.
14. Philadelphia Department of Public Health and the Philadelphia Department of Licenses & Inspections. (December 2016). Lead-Free Kids: Preventing Lead Poisoning in Philadelphia. Available at <https://www.phila.gov/media/20181116115316/LeadFreeKidsPreventingLeadPoisoningPhiladelphia.pdf>.
15. Philadelphia Childhood Lead Poisoning Prevention Advisory Group. Final Report and Recommendations. (June 20, 2017). Available at <https://www.phila.gov/health/pdfs/Lead%20Advisory%20Group%20Report.pdf>.
16. Philadelphia Childhood Lead Poisoning Prevention Advisory Group. Final Report and Recommendations. (June 20, 2017). Available at <https://www.phila.gov/health/pdfs/Lead%20Advisory%20Group%20Report.pdf>.
17. In 2004, 900 children in Monroe County, New York had blood lead levels above the Center for Disease Control's action level at that time of 10 mcg/dL, and by 2015, the number decreased to 206 children. Robert Wood Johnson Foundation and The Pew Charitable Trusts. (August, 2017). 10 Policies to Prevent and Respond to Childhood Lead Exposure. Available at https://www.pewtrusts.org/~media/assets/2017/08/hip_childhood_lead_poisoning_report.pdf.
18. In 1993, 14,546 children under 6 had blood lead levels above the Center for Disease Control's action level at that time of 10 mcg/dL or higher, and by 2017, the number decreased to 388 children. Robert Wood Johnson Foundation and The Pew Charitable Trusts. (August, 2017). 10 Policies to Prevent and Respond to Childhood Lead Exposure. Available at https://www.pewtrusts.org/~media/assets/2017/08/hip_childhood_lead_poisoning_report.pdf. Maryland Department of the Environment, Lead Poisoning Prevention Program. (October, 2018). Maryland Childhood Blood Lead Surveillance Calendar Year 2017 Annual Report. Available at <https://mde.maryland.gov/programs/LAND/Documents/LeadReports/LeadReportsAnnualChildhoodLeadRegistry/LeadReportCLR2017.pdf>.



990 Spring Garden Street
Suite 200
Philadelphia, PA 19123
215-563-5848 / www.pccy.org

Public Citizens for Children and Youth (PCCY) serves as the leading child advocacy organization working to improve the lives and life chances of children in the region.

Through thoughtful and informed advocacy, community education, targeted service projects and budget analysis, PCCY watches out and speaks out for children and families. PCCY undertakes specific and focused projects in areas affecting the healthy growth and development of

children, including child care, public education, child health, juvenile justice and child welfare.

Founded in 1980 as Philadelphia Citizens for Children and Youth, our name was changed in 2007 to better reflect our expanded work in the counties surrounding Philadelphia. PCCY remains a committed advocate and an independent watchdog for the well-being of all our children.