



SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

Report and Recommendations
April 2022

City Council of Philadelphia



SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

TABLE OF CONTENTS

Background	3
Executive Summary	6
Members	18
Approach	19
Findings and Recommendations	30
Subcommittee on Policies and Procedures	31
Subcommittee on DHS and Family Court	32
Summary and Conclusions	39
Case Studies	60
April McBride	60
Mileeda Kress	61
Lisa Moley	65
Yolanda Bryant	66
Dyeshia Lamb	68



SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

BACKGROUND

In 2019, Philadelphia removed more children for alleged abuse or neglect than any major city in the United States. According to public records, the City's Department of Human Services (DHS) removed 8,431 children (or thousands) a year, three times higher than New York City and four times higher than Chicago.¹

But there is no evidence that Philadelphia children are safer than their counterparts in other big cities. On the contrary, rates of children "traumatized by system" (living with or having other family abuse, although they are as rare as they are horrific), are a significant predictor that troubling events families at risk will trigger and that may imperil child safety. (Author: In narrative form, making it less likely researchers will find these few children in Washington). We've been vocal about that again, with resolutions about children returned to a sexually abusive father who repeat them repeatedly.²

It's important to note that most DHS assessments are conducted, using professionals, who discuss countless hours to trying to help vulnerable children. But they are caught in a system that is neither responsive, nor based in law, that situations that successful removal drives for the other problems.

The (early) statistics caught the attention of many residents and public officials, including Philadelphia City Councilmembers Esquivel and Cindy Bass.

On and Bass introduced a resolution authorizing a public hearing by City Council to further explore the issue of child welfare and reporting guidelines. The hearing, held on February 14, 2019, attracted testimony from DHS Commissioner of DHS, Cynthia Figueroa, legal experts specializing in child welfare and family rights, and impacted family members.

Following the public hearing, Councilmembers Esquivel and Bass introduced legislation to authorize a special committee in Council dedicated to exploring the root causes of the City's disproportionate, notably high rate of family separations in Philadelphia, and proffer recommendations to ensure the child welfare system properly considers and protects the rights of families. In addition to the aforementioned statistics, the resolution noted the social degradation of family separation is a major, ongoing City issue Philadelphia. "Our families, and poor families of color in particular, are entitled to the same protections against government interventions as wealthy parents and children."

Council unanimously adopted the resolution, forming the Special Committee on Child Safety. Then, on October 14, 2019, due to concerns the Special Committee did not officially form, and October 16, 2019, when Council President Cheryl Clark appointed the members to the Committee, led by Council Councilmembers Esquivel and Cindy Bass. In a letter to the newly appointed members, Council President Clark wrote, "The resolution calls upon this Special Committee to review child separation procedures in Philadelphia's child welfare system, and to

¹ National Child Welfare Information System, <https://www.childwelfare.gov/pubs/press-releases/2019/09/09-child-welfare-philadelphia/>, June 14, 2019, <https://philadelphia.courts.gov/newsroom/>

² Letter from Esquivel and Bass, "Child Welfare System: Finding the Way to a Safer, Kinder City, with an eye to the Child Welfare System." <https://www.phila.gov/media/2019-09-11-child-welfare-system-report>

SPECIAL COMMITTEE ON
CHILD SEPARATIONS IN PHILADELPHIA

Meanwhile, our communities intended to prevent the unnecessary breakdown of families. Nothing is more important than the wellbeing and safety of our children. Your Government is about to undertake a landmark and I think you'll join Government. The Special Commission Report mentions it full of detail and conclusions are made in the context of 2000.



Philadelphia City Council Chambers, January 20th, 1890

“Once families are separated, the system makes it very difficult to reunite them. In many cases, children have been harmed while in protective services.”

Downloaded from www.jstor.org **Download Date**

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

EXECUTIVE SUMMARY

This report is the result of one year of work by the Special Committee on Child Separations in Philadelphia (the Committee) who took an in-depth look at all aspects of the child removal crisis in Philadelphia. The Committee's findings confirmed the testimony of many mothers at the February 2019 hearing before the Philadelphia City Council. Mothers who testified gave personal accounts of the following experiences with CCRF:

- Children removed from the home based on false court orders, or anonymous allegations
- Taking of children from family custody for foreign adoptions
- Lack of transparency by CCRF in providing documentation for the basis for removal
- Lack of custody status as an abusive father or grandfather
- Lack of adequate representation of families in Family Court

The Committee's top priority is child safety. If enacted, the Committee's recommendations will spare children the expensive emotional trauma of needless investigation and removal. It will spare them the risk of being abused in foster care itself. And it will give CCRF workers more time to find children in real danger. In short, these recommendations are a safeguard for making all of Philadelphia's vulnerable children safer.

The February 2019 hearing in City Council raised awareness of the personal plight concerning the issues relative to the child removal crisis in Philadelphia. In particular, families with similar problems to those identified at the hearing were alerted that their local government was taking these concerns seriously, and expending days to meet and systematic problems. Therefore, in the over two years following the hearing, many constituents continued to contact Councilmember Ciri's office and provide personal accounts that were related to the child removal crisis in general, as these constituents and intermediaries continued to inform the Committee that problems continue to persist within the system. Several of these personal accounts are included in a compilation of case studies located at the end of this report.

Simply put, there are just too many ways for children to be placed into the system for investigation. And, in most instances, CCRF does not have the ability to exercise discretion to determine that an ongoing investigation is warranted. The procedures currently used to protect the rights of the families who are under investigation by CCRF, under temporary orders, in the interactions between CCRF and the Family Court.

To tackle these issues, the Committee divided its work into two subcommittees: the Subcommittee on Policy and Procedures and Subcommittee on CCRF and Family Court. Major themes emerged from their early findings to inform broad categories where findings were grouped into related recommendations.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

SUMMARY OF FINDINGS

THE SUBCOMMITTEE ON POLICY AND PROCEDURES

Early reporting often leads to unwanted removal. In almost all cases, the removal process of a child begins with the identification of an alleged problem that is entered into a reporting system by the parents/guardian, or people who are obligated by law to make such reports (mandated reporters). The systems are designed with that purpose – to open identified situations for investigation. Currently, two such reporting systems exist in Philadelphia: the General Protective Services (GPS) and Child Protective Services (CPS). The way GPS and CPS are currently configured leads to the reporting of cases for investigation that should never be placed in the system. This happens there is little or no discussion that can be constructive depending if there are extenuating circumstances that might cause the situation to go unreported.

Children who witness spousal abuse are at risk of emotional harm. When children are removed because a parent, usually the mother, “alleges” children witnessed a physical or psychological spanking hit, the emotional trauma for the child is far worse. This leads to a situation where mothers are reluctant to report abuse. The situation is exacerbated because attorneys are aware of this and take advantage of it.

Mandated reporting procedures create poor outcomes. The “mandated reporter” cannot take into consideration “common sense” when deciding whether or not to report for fear of consequences about of the law. This is a double-edged sword. The mandated reporter fears getting into trouble unless every possible issue is reported, even if it is a stretch to get the situation reported and into the “system.” Therefore, it has become a habit or habitus (instilling fear in parents that they might “say the wrong thing”) that makes them reluctant to seek help.

Child Welfare employees run fear reporters or offenders related to child abuse. Every family study case employee of the Philadelphia Department of Social Services (PDSS) has been sexually harassed, many PDSS employees were physically aware of the ongoing situation during his employment and did nothing about it. This resulted in a series of laws being passed in Philadelphia (often referred to as “the Family Law”) to remedy the situation and establish future consequences of future reports in child welfare situations. This is clearly a form of “mandated reporting” with the policies as explained in the previous section. The effect of the “Family Law” on the child welfare system has been in two ways. First, an explosion of false reports against sexual harassment. Second, CPS response to the Family Law appears to have made it harder for teachers and staff to exercise their own professional judgment as mandatory reporters.

Preserving the rights of families during interactions with CPS. If one considers the reasons for a family warning in any community, it is understandable that a similar procedure should be applied to interactions of families with CPS. A family warning is required by law to be given to alleged offenders that they do not have to say anything to law enforcement, and that anything they do say can be used against them. This warning is required by CPS to be given to families when being interviewed or questioned by CPS. A parent has a right of a reasonable opportunity of law firms relayed by the affected families, and those representing CPS workers or those making reports or allegations. Families must be informed of their fundamental rights

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

when interacting with DHS. Currently, DHS is not required to, and generally does not, offer a counterweight to this state. That right is meaningless if families do not know it exists.

Respecting a parent's capacity and fitness to care for a child – In some instances, a parent may be at risk of losing a child taken by DHS regardless of the parent's present capacity to care for the child. There have been several reported instances of children being removed at birth if a mother has a prior record with DHS for neglect or abuse of a previous child, regardless of the duration of time passed or the mother's present fitness. Decisions on a parent's capacity should be based on sound evidence concerning the parent's present capacity, and if that capacity is inadequate, so that care be done to make it adequate without confounding the question on the spot. The current conditions that allow confounding at birth need to be carefully evaluated.

Dangers of racial registries and retention of unbalanced reports – Under the current system, an individual can be listed on the racial state registry for child abuse before having any opportunity to contest the allegations. Damages on the registry can have damaging economic consequences, particularly for low-income individuals. The practice by DHS of retaining unbalanced reports that could be later used against a parent should be abolished.

Combating bias impacted communities must be at the table – In order to combat the negative outcomes and various inequities detailed through out this report – whether it be racial, racial or otherwise – the perspectives of those most impacted should be brought forward and carefully considered. While DHS does currently have a Child Welfare Oversight Board to guide the agency and its initiatives, it is dominated by people outside to the “medical model” – the idea that all parents who come to the attention of DHS may not be well, but they have some form of sickness. It is flawed to use representatives of institutions like the Children's Hospital of Philadelphia (CHOP) even though the overwhelming majority of cases involve no physical injury. This encourages making problems worse by emphasizing public health “solutions” instead of social justice solutions. This body should be diversified to include more voices – the voices of those that children appear away and people representatives that have lived experiences with the child welfare system. The membership of the Child Welfare Oversight Board should be expanded to emphasize not just racial diversity but also linguistic diversity.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

SUMMARY OF FINDINGS

THE SUBCOMMITTEE ON DHS AND FAMILY COURT

The need for high quality representation for families. Better representation of families before Family Court is needed to put the playing field. Typical families do not submit information and participate in the service of Family Court proceedings. Proper representation of families could alleviate this situation.

Children need effective advocacy. Children who have reached the age of reason need to have adequate representation before Family Court so that their wishes with regard to placement are accurately presented to the court.

The need for open courts. Currently, Family Court hearings are closed unless the conditions of a specific procedure are followed to allow the general public and the press to attend. These closed proceedings hide a number of issues not known to the general public. At times, legal representation for families is inadequate and often family representation is not adequately prepared. An overall effort to ensure accurate family views, then at times, has prominent judges who have acted improperly and eventually had to be removed from the bench. There is a strong case for Family Court hearings to be fundamentally open to the public and the press. This would shed a strong light on the consistent lack of proper representation of families, another effort of DHS to provide accurate information as possible on the cases, even to affected families. In addition, in almost all instances, DHS and the law department initially deny any rights to know (PIA) requests by affected families for records pertinent to the removal of their children.

This report is a call to action. We call on the City of Philadelphia to take these steps to make all children safer by restoring truthful records for children for that point where Philadelphia is most in-line with... Indeed becomes superior to... similar large cities in the United States. The findings presented in this final report are comprehensive. This is not unimportant. Comprehensive problems are rarely solved by implementing one or two corrective actions. This report identifies and focuses the need for corrective action where changes must be brought about at the State level, City Council, and Philadelphia DHS.

This report is organized so that it is easy to understand the existing problems. The issues are well visually identified in each of the subcommittee reports that form the basis of this report. Areas of concern are presented with background information, and specific examples are provided where applicable. Following each major issue, the report provides recommendations for action to be taken by the State, City, or DHS itself.

As appropriate, the recommendations are directed toward the entities that have the ability and independence to make changes in State regulations or procedures, potential actions by City Council, and changes needed to be taken by DHS to remedy ongoing problems. Very often the recommendations are interrelated and are presented as such. In many cases, action by only one entity could bring about the needed change. However, relevant actions could also be taken by other, or both, of the other entities.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

MEMBERS OF THE SPECIAL COMMITTEE

David Oh (Co-Chair)

Philadelphia City Councilmember At Large

Cindy Bass (Co-Chair)

Philadelphia City Councilmember, 18th District

Richard Wecker

Executive Director, National Coalition for Child Protection Reform

Paul Panepinto

Former Administrative Judge, Philadelphia County Court
of Common Pleas Family Court Division

Rochelle Wilf

Sheriff, City and County of Philadelphia

Nadeem Nisar

Attorney, Perkins, Kline & Spitzer PC

Vickie Suarez

Board member and Perry/Panhandle
coordinator for ParentsHigh.org

Robin Cooper

President, Teachers Local 800 of the Commonwealth
Association of School Administrators (CASA)

Yolanda Bryant

CEO of nonprofit organization, Families Are
Important To Me! (FATM) Advocacy Movement

Isabella Donahue

Student, Formerly separated from her family

Ryhae Shaw

Student, Community activist

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

APPROACH

The Special Committee began its work in the fall of 2020 and concluded in the Spring of 2022. Due to the challenges presented by COVID-19, meetings of the Special Committee were conducted virtually. In compliance with the Sunshine Act (Pennsylvania Sunshine Act, 48 Pa.C.S. §§ 501-504), all meetings in which a quorum of the committee were present and/or official action was taken have been documented and recorded using the [Zoom](#) and [Clear](#) tools.



Committee member David Oh speaks at a DHS Reform Rally outside Philadelphia City Hall (June 1, 2021) (taken by Committee member Oh using)

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

FINDINGS AND RECOMMENDATIONS

OVERVIEW

There is a dangerous myth that permeates the debate over the “child welfare” system. In short, no. Instead, it is the “Big Lie” of American child welfare: The false claim that child safety and family preservation are opposites that necessitate “balancing.” This myth equates child removal with child safety and suggests that any move to keep families together is “risky” while leaving children from their families at least means the children will be safe.

In fact, family preservation is not just the most humane option. The research is clear: For the overwhelming majority of children, family preservation is safer than foster care. And for still-alien in typical child welfare cases, the outcomes are better when they are allowed to remain in their own homes.

The headlines that make headlines are as rare as they are horrific. They are needless in a key sense: You can’t find the headline by constantly making the headline bigger. But if you get the false reports, the child cases and the cases in which poverty is conflated with “neglect” out of the system, lawmakers will have more time to find those few children in real danger.

Family preservation and child safety are not opposites. A system that understands safe, proven alternatives to oppressive surveillance and foster care makes all children safer.

This report is a blueprint for reforming the system. It is a blueprint for child safety.



SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

SUBCOMMITTEE ON POLICIES AND PROCEDURES

PART ONE

Familial reporting can lead to unwarranted removals.

The removal process that ends with removing a child often starts with the reporting of a problem referred to one of two reporting systems: *Child Protective Services (CPS)* or *Child Welfare Services (CWS)*. The rules for reporting vary slightly, however, it is important to understand how the two systems work and, how they can be flawed, and how mistakes can result in the worst, unwanted removal of a child. Changes in the reporting process and use of each system are essential if we are to limit how certain situations, if reported, could unnecessarily result in the opening of a case that could lead to the unwarranted removal of a child.

The committee examined CPS and CWS to determine what changes are needed to prevent unwarranted removals. Interviews with affected families and review of cases that resulted in unwarranted removals highlighted that if these two unwarranted changes had been in effect, the removals could have been avoided. Accordingly we examined the systems and how they interact and developed a number of recommendations for change. The way the systems are currently configured leads to CPS workers opening cases for investigation that should have never been placed in either system in the first place.

CPS and CWS: A distinction with very little difference

Discussion of family policing in Pennsylvania can sometimes become distorted by the myth, ideology in which data is collected. Pennsylvania has two forms of family police reports – *Child Protective Services (CPS)* and *Child Welfare Services (CWS)*.

CPS cases referred from Child line can be removed at the county level before deciding whether to investigate. In contrast, anything referred from Childline as a CWS case, no matter how minor, must be investigated. But does the investigation happen, there is no difference. CPS cases are investigated by the same caseworkers, sending the same paper to parent families – and the same power to remove children from their homes. Indeed, it is likely that CPS removals lead to more removals of children than CWS... because there are so many more cases submitted CPS.

Poverty, Neglect, and Abuse – CPS cases typically involve neglect, which is by far the most common allegation and often is often conflated with poverty. CPS also includes abuse but also can include neglect. Although counties receive CPS reports, real guidance from the state (being aware that must be learned in more than single spaced pages of rules) requires that at some point probably include something that every impoverished parent in Pennsylvania, and possibly any parent, has done or failed to do at some point. In short, the laws, regulations, and guidance together guarantee that in the real world of Pennsylvania child welfare, neglect is whatever CPS and its counterparts across the state want it to be.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

Pennsylvania law defining “child abuse” provides its long, long list of what constitutes abuse with the statement that the “abuse” must be the result of a parent or caregiver behaving “intentionally, knowingly or recklessly” that against who must have a child in his or her custody (as may be “intentionally” depriving a child of care or control necessary for his physical, mental, or emotional health, or more) but the problem remains poverty rather than age, racial falling.

Child abuse in Pennsylvania includes, “causing a reasonable likelihood of physical injury to a child through any report and in failure to act.” Social Services, that, with Community Legal Services of Philadelphia, that the substantiated abuse is child (not listed as a substantiated child abuse – along that ground – because she did not have a gate at the top of a flight stairs. This mother would have been listed on the state’s central registry of “child abuse” for life, and deprived of the opportunity to work in many fields. Following that mother an appeal overturning the substantiation that in this case (because, in the absence of criminal, high-quality legal representation for families, agencies such as DHS are free to ignore any supposed limits and reasons in the definition of abuse).

There is no such qualifier involving intent in the definition of general protective services or in the substantive guidance from the state for responding to CPS cases for investigation which requires the removal of poverty after another with neglect. (Domestic workers dealing with CPS reports conduct the same sorts of investigations as they do when investigating CPS reports. They can – and do – remove children just as they do when they are conducting CPS investigations.

Philadelphia Poverty and Deep Poverty Rates, 2006 to 2016



about 100,000 residents – including roughly 10 percent of the city's residents under the age of 18 – live below the federal poverty line

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

RECOMMENDATION TO THE STATE LEGISLATURE

Amend legal definitions of child abuse pertaining to neglect.

Neglect should be removed from the state law defining child abuse and should no longer be subject to CPS investigations. Rather, any allegation of neglect should automatically be considered for further investigation only as a CPS case. In both the definitions of abuse and neglect for ChildLine/CH the following clause should be added: any family condition that can be revealed through the provision of concrete help, including but not limited to, direct cash assistance, food, clothing, housing, assistance with child care, shall not constitute neglect and shall not be cause for a CPS or CH investigation. "Education as required by law" should be deleted from the neglect definition.

RECOMMENDATION TO THE PHILADELPHIA CITY COUNCIL

In the absence of state action, the Council should pass legislation with the same language. The language would apply when CHD encounters "substantiated" CPS and CPS allegations and the criteria used to "screen in" CPS allegations for investigation.

This will not in any way reduce the power of agencies such as CHD, to investigate families and take away children. It will alert community-based workers more education re screen out poverty cases and instead suggest to those making reports alternative ways to help the family. "Educational neglect" is essentially an empty term and the status granted by without authority, without involving the ultimate police power – the family police power of CHD, in an enormous case, overwhelming child labor threatened to tell CHD law on parents who couldn't afford their children's lunch money.

Children who witness parental abuse

Under so-called "failure to protect" laws and regulations, one can be held liable whether...and children can be removed...if the mother "allowed" children to witness husband or boyfriend attacking her. Taking away a child under these circumstances actually compounds the trauma of someone that child does depend on that doing this to a child's "home" and to parenting with one an open wound.

Expecting people to report directly abuse battered women away from seeking help and makes it harder for them to escape their abusers. That is why there is a clear action towards the question is legal in these trials. Battered women know the danger their children face if they seek help. Building on previous research, a study published in December 2016 found that mandatory reporting laws drive many women away from seeking help far less than their children should be taken away. * Hence, the laws were justified. According to the study:

14. Study of Mandatory Reporting Laws and the Impact of Mandatory Reporting Laws on Child Abuse Reporting Rates: A Systematic Review. Child Abuse and Neglect 61 (2017) 1–12. doi:10.1016/j.chab.2016.08.005.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

These survivors described severe consequences of [Child Protective Services] involvement, primarily the removal of their children from their care and home. One survivor explained how CPS was brought in, and my children taken away and that was almost the ending.” Another survivor illustrates the challenge of CPS involvement in cases of domestic violence, explaining that, “They removed my children from my home and charged me with allowing domestic violence to happen to me.”

As survivors know it, if a battered mother threatens to call the police, her abuser can say “Go ahead, call the cops. They’ll call CPS, and CPS will take the kids.” In short, mandatory reporting is a serious obstacle to the extent that not only are such reports discouraged in Philadelphia, current state guidance requires counties to investigate if they are received as CPS reports.

RECOMMENDATION TO THE STATE LEGISLATURE

Amend state law to prohibit ChildLine from accepting reports alleging child abuse, and prohibit counties from accepting CPS reports based on a child’s witnessing domestic violence.⁴ The definitions of abuse and neglect should specifically exclude witnessing domestic violence.

RECOMMENDATION TO THE CITY COUNCIL

In the absence of state action, the Council should prohibit CPS from receiving or CPS reports based on allegations that a child witnessed domestic violence. When CPS reports making that allegation must be investigated, CPS workers should be prohibited from substantiating the allegation on those grounds and prohibited from removing children on those grounds. CPS should challenge state guidance requiring investigation of such reports when they are forwarded to CPS as CPS reports.

Mandated reporting undermines peer consultation

In essence, if anyone with a mandate to report becomes aware of something that could possibly meet the definition of child abuse, it is mandated that the individual report the incident, or they themselves could be considered in violation of child protection laws. This has resulted in an increased number of cases being reported because “reporters” are afraid of running afoul of the law. The “reporter” cannot take into consideration “common sense” when deciding whether or not to report...it has become a black and white issue, resulting in an increased level of reporting, and leading fear in parents that they might “say the wrong thing.”

Perhaps most alarming is the scholarship of Prof. Kelly Fung, now at Georgia Tech, while she was a PhD candidate in sociology and social policy at Harvard. Fung has found cases of impoverished mothers in Philadelphia, Pa. They describe how mandated reporters are “overzealous” and how that spreads fear throughout their neighborhoods...again, for good reason: “Though the mothers had not been subjected because of involvement with CPS, nearly two-thirds had been subjected to a child abuse investigation.”

⁴ See Kelly Fung, “Overzealous Mandated Reporters: Child Protection Services and the Motherhood Institution in Impoverished Neighborhoods,” *Journal of Family Issues* 34(4) (2013) 494-518, <http://jfi.sagepub.com/344944>

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

Here's one example from the study:

Linda, a Hispanic mother, asked hospital staff when her newborn twins would be discharged so she could arrange housing for them, showing that she had been sleeping at her workplace and that mother's garage apartment. "I was trying to be honest [just as I can prepare myself... [and] that beautiful voice]," as the hospital notified CCL, "after that moment I learned how to play the game."

Playing the game means sending away your children in favor of a mandated reporter... even if that means losing out on help. A mother's mother shouldn't not to seek public assistance when she found out she had to raise the fact that the family was living in her car. Some mothers refused voluntary home visiting services for their mothers... an intergenerational abuse follows. In the home/family partnership model, two could violence have. But the violence was mandated reporters and that mothers were not should the state could lead to loss of the children. And you don't have to read to a mandated reporter that you sometimes lose your temper or get depressed. As one mother explained: "I feel like I can't tell anybody anything because once I tell you anything about me, I might have a crisis on my mind, and somebody might be here to take my kids. That's one of my biggest fears."

RECOMMENDATION TO THE STATE LEGISLATURE

Mandatory reporting should be abolished.

Abolishing mandatory reporting does not mean abolishing reporting. It only means that professionals would be free to exercise their professional judgment in determining the balance of harms... that is, when harm done to a child by failing to report is likely to be greater than the harm done to a child by reporting.

Some might object on grounds that mandatory reporting is required to receive funds under one portion of the federal Child Abuse Prevention and Treatment Act. But the amount of money involved is so negligible that it would be more than offset by the savings when workers don't have to investigate so many false reports, and place fewer children needlessly in foster care.



SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

RECOMMENDATION TO THE STATE LEGISLATURE

The Legislature should order a wholesale revision of training on reporting child abuse, built around the principle of balance of harms.

A governing curriculum could:

- Acknowledge that, while sometimes these decisions should be easy, in many more cases they are hard, and a wrong decision either way can be tragic.
- Be as specific as possible about what to report, and what not to report.
- Offer a concrete definition of “reasonable cause to suspect” with examples of what does — and does not — meet that criterion.
- Warn against reporting based on “instincts” or “gut feelings” or “hunches”.



SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

PART TWO

School District employees can be reporters or offenders related to child abuse.

During the school year, teachers and school administrators have more interaction with children than their parents during the normal school day. With that level of interaction comes all manner of opportunities for child abuse allegations. The Jerry Landis created, moderated the discussion here in Philadelphia. The "Landis law" that resulted can impact teachers, administrators and support staff. This impact can be seen in two ways. First, there may seem counterintuitive but both reflect the harm done by the laws (a) response to high profile cases, such as the situation with Jerry Landis, both by the legislature and by DPH.

The first impact resulting from the Landis law was an explosion of false reports against school personnel. At a Subcommittee meeting, Jerry Jordan, president of the Philadelphia Federation of Teachers gave some examples:

One year, in June, a highly respected teacher leader from a community in a first grade classroom, she reports every special needs student out of the room to calm down. The following September she returns for the new school year only to find out she is under investigation for child abuse because the child's guardian claimed she hit the child. She was mandated to attend headquarters where she was forced to sit and wait. Month after month, friends and family held a vigil for her to help her live a longer. The principal, an spokesman, had been interviewed at the start of the investigation, but it didn't matter. Then the school system cut off her pay and proposed to fire her ... not because the allegations had been substantiated but because DPH had made no decision. Finally after six months, she was cleared. "Needless to say she has not been the same," Jordan told the Subcommittee. "That isn't anything that she is going to forget; it was something that affected her entire family."

In another case, an allegation against a teacher was initiated even though the DPH worker never interviewed the teacher or witnesses. "The decision was based solely on the woman's statements," Jordan said. The teacher was suspended without pay for more than nine months ... until DPH reversed itself and said the teacher accused the child abuse all. The principal's delays in reaching cases are even harder to understand given that school buildings often have video cameras in areas where allegations occur. Decisions that could be reached with a quick examination of a videotape should not drag on for months.

The consequences of stalling, and arbitrary substantiation can be even more devastating. Because teachers then will be listed on the state's Central Registry of alleged child abusers, it becomes difficult if not impossible for them to get another job in any field working with children.

But the consequences go beyond the effect on teachers. Endangered, needless suspensions deprive students of trained teachers. When a particularly high-profile tragedy gets hot enough, it can damage a district's entire educational program, as happened in Prince George's County, Maryland with incidents, Shaka Island.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

Children's safety also may be compromised. Many allegations arise from school staff handling up fights. DHR's past and response to the "handcuff law" risks making school staff hesitant to break up youth fights by touching a child, placing children in even more danger.

Even as school personnel are on the receiving end of a surge of needless reports, the DHR response to the handcuff law also appears to have made it harder for teachers and staff to exercise their own professional judgment as mandatory reporters. Recommendations with respect to mandated reporting in Philadelphia were previously discussed in this report and have a profound effect on school district-related cases. The need for increased common sense is clearly indicated.

Statistically, school personnel file more reports than any other category of mandated reporters. But their reports are among the most likely to be initiated or nearly 80% are ruled unfounded. In some cases, such reports grow out of no more than a student's failure to attend school.

RECOMMENDATION TO THE STATE DEPARTMENT OF HUMAN SERVICES

The state should vigorously enforce timelines requiring investigations by Philadelphia DHR and (accountants to be completed within 30 days. The one, educator or otherwise, should be kept in contact for no more than 30 days.

RECOMMENDATION TO THE PHILADELPHIA SCHOOL BOARD

The Board should enforce existing practice and insist that no school personnel be deprived of pay while a DHR investigation is pending.

RECOMMENDATION TO THE PHILADELPHIA SCHOOL BOARD

School personnel who are suspended pending the outcome of an investigation should not be required to report to their supervisors while a DHR investigation is pending. In other words, no more confinement of educators to the so-called "rainbow room." If the district refuses to allow educators to educate, they should be free to pursue other activities while suspended.

To those who might say this is giving teachers a "passivation," the committee has the following observation: If the city school board considers reporting teachers with an allegation as part of the teacher's evaluation and if this rule means an incentive for the school system to press DHR for a prompt completion of investigations,

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

PART THREE

The rights of families need to be preserved amidst interactions with CHS.

During interviews with mothers that had their children removed by CHS, there were numerous instances where the stories related by the mothers differed slightly from the facts as documented by CHS workers. These numerous reports then formed the basis for representation to the courts of individual cases and eventual removal of the child. In one instance, a grandmother's version of the events surrounding the removal of her 15-year-old granddaughter differed substantially from those documented by CHS. Interviews with other family members substantiated the grandmother's version and also revealed that CHS had also misinterpreted statements made to them by the other family members. The grandmother had spent for the now-year-old niece with the grandmother's other daughter, anticipating that time there would be clearly identified issues of abuse other than the statements of the CHS workers, and unsubstantiated allegations.

There were similar stories by other mothers who lost their children, which while not as egregious, clearly established a pattern of a wide discrepancy of facts relayed by the affected mothers and those reported by CHS workers or those making reports and allegations. In almost every instance, the CHS version of the facts of the case was accepted by the court as a true representation with little or no probing by the judge when rulings have favored them. In almost all cases, the mother had no chance to rebut the facts as represented by CHS. The problem of adequate representation of the families is addressed elsewhere in this report; however, there are ways to avoid this part of the process in the future. Just as courts and more police officers are being required to wear body cameras, Atlanta-type hearings and recording of interactions between families and CHS would go a long way to help preserve the rights of families during their interactions with CHS workers.

RECOMMENDATION TO THE STATE LEGISLATURE

All families should receive, orally with writing, the equivalent of "Miranda rights" the moment the CHS worker shows up at the door.

RECOMMENDATION TO THE CITY COUNCIL

In the absence of state action, the Council should require that CHS caseworkers provide this information.

These rights include the right to deny access to the worker unless that worker has a court order, the right to consult with a lawyer without the lawyer present for any questioning, and notice of how to obtain such legal assistance and pay, the right to remain silent and the right to know that anything they say may be used against them. Legislation to require that families know their rights was introduced in New York State. The New York bill is an excellent model. We recommend adding notification of another existing right, discussed in detail below, the right to record any and all interactions with caseworkers.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

It is important to understand that this proposal does not give families any new rights... It only informs them of fundamental rights they already have. But a right is meaningless if you do not know it exists.

Any claim that if families know the rights they already have DHS could not do its job, speaks volumes about the failure of the entire DHS approach. If a government agency cannot do its job if people know their rights, the problem isn't the rights, it's the way the government agency is doing its job.

RECOMMENDATION TO THE STATE LEGISLATURE

All interviewers conducting personnel from DHS and its counterparts in the course of investigations... not just interviewers with children... should be notified interviewers must be informed that their statements are being recorded. Information from any interview that is not recorded should be inadmissible in all court proceedings and not be summarizing with alleged interviewers should not be allowed in any DHS file.

RECOMMENDATION TO THE STATE LEGISLATURE

The legislature should write into law the existing right of a family to make its own recording of any interview with members from DHS and its counterparts.

RECOMMENDATION TO PHILADELPHIA DHS

In the absence of state action, DHS should implement these recommendations through regulation.

In an age of smartphones anything less than requiring that all interviews be taped is extremely dangerous to children. The most obvious danger is reflected in the mass incarceration hysteria of the 1980s, in which hundreds of children in cases such as the *William Bradford Huie* case, were turned into scapegoats when interviewers wanted to leave. Only the existence of tape recordings prevented even worse misadventures of justice.

But it is just as important to record interviews with everyone else. Over and over again, all over the country, one hears the same refrain from distressed families: The southern relocation. The mother wrote down only what happened but in his position and ignored the rest. And it's not just oppressed parents expressing these concerns. In the numerous interviews conducted by the Committee, we were told about similar instances of "selective reporting."

It is a troubling thought: a juvenile court judge in Connecticut bludgeoned that state's child welfare agency for "its appalling combination of arrogance and ineptitude." The Connecticut Commission only left out derogatory information in order to avoid emergency removal of a child. The judge wrote:

"There is no other purpose for this affidavit other than to mislead the court into believing that

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

[the child] was in immediate physical danger from her surroundings and only her immediate physical removal... would assure her safety. The court finds that [the Committee child welfare agency] intended to manipulate the facts to obtain an order that it knew the circumstances justify.

Unfortunately, in the cases reviewed by the Committee, there were hardly any instances of strong questioning and opposition by the courts on the behalf of families facing removal. Needed transparency in Philadelphia's family court is discussed elsewhere in this report.

Clarifying the right of CCRF to enter and the associated rights of families

From the numerous interviews conducted by the Committee, it was obvious that families did not have a clear understanding of their rights with respect to involuntary entry by CCRF, absent a court order. It should be obvious if you have a right to deny access to a residence, that the mere act of asserting that right is grounds to get a court order so they can force their way in, that the right does not really exist. CCRF should be required to have objective evidence of danger to a child's serious and immediate health requires entry into the home before court order granting such entry is issued.

RECOMMENDATION TO THE STATE LEGISLATURE

State law should be amended to specify that the mere refusal to allow a researcher to enter and/or the refusal to speak to a researcher is not, in itself, grounds to issue a court order requiring such cooperation.

RECOMMENDATION TO PHILADELPHIA DHS

In the absence of state action, CCRF should, as a matter of policy, not seek court orders based solely on the above.

The more informed families are of their rights, absent immediately present legal representation, the better is the chance that families will prevail in disputes and that CCRF will not be freed from overstepping their authority.



SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

PART FOUR

Determining a parent's capacity and fitness to care for a child: What should be considered?

Timing notification at birth

In some instances, a parent may be at risk of having her child taken by DHS at birth regardless of her present capacity to care for the child. There have been several reported instances of still-born being confiscated in turn if a parent have prior contact with DHS for support or abuse of a previous child, regardless of the duration of time passed or the parent's present fitness. While some agencies express concern against children justify such action, this policy harms children in those cases where there may have been a problem many years ago, but now the parent is capable of caring for the child, or situations where the siblings never should have been taken in the first place. In other case, a newborn may be assigned to the stress of foster care, losing the chance to bond with her or his parents during the most crucial days of the child's life - therefore,

In some cases, mothers may know about the threat of confiscation at birth and therefore may avoid prenatal care or giving birth in a hospital. Conversely, when parents find out it can lead to another tragedy.

In her testimony to the Special Committee, Jaelle Harris, child support program manager in the Division of Internal Child and Family Health at the Philadelphia Department of Public Health, revealed a shocking, albeit common, policy in some cases mandated by DHS which can lead to devastating consequences.

Jaelle Harris, "It is probably not going for DHS workers to inform pregnant people who are involved in the system with previous children that they give birth to a baby; that their baby will be taken from them. But that is most definitely possible." And, rather than have to face the trauma of having still another child taken, this time at birth, Harris said, "We have had several abortions in our program. Women who are pregnant when they are referred to us, who have in their previous children involved in the system, [having been told the child they are carrying will be taken at birth] they choose to terminate the pregnancy."

Decisions on a parent's capacity should be based on several indicators concerning her present capacity and if that capacity is inadequate, on what can be done to make it adequate without confiscating the newborn at the spot.

RECOMMENDATION TO PHILADELPHIA DHS

Any policy calling for timing notification at birth, whether written or unwritten, should be abolished. DHS caseworkers should be explicitly instructed not to make mothers solely because they have previously taken another child.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

Drug use – while often times detrimental – is not in itself child abuse

The use of drugs, whether legal or illegal, can indeed reach a point where it endangers children to a degree in which intervention is required. But drug use per se is not child abuse or neglect. As with child abuse itself, much of drug abuse is illustrated by horror stories. While often, parents sometimes long about their past involving in Facebook groups, secure in the knowledge that agencies like Child Welfare are not their enemy.

Immediately reaching to investigate families and take away children because of drug use, with out evidence that the drug use is harming the child, is less than a step in which children are routinely traumatized by family policing.

And where intervention, particularly in medical drug treatment for the parent almost always is a human option that has been used for the child.

Even in cases where a pregnant mother is struggling with substance abuse, the evidence indicates it is more harmful not separate the child than it is to leave the child remain with the mother. University of Florida researchers studied two groups of children promoted separately: cocaine and crack group placed in foster care, another left with birth mothers able to care for them. After six months, the babies were tested using all the usual measures of infant development: rolling over, sitting up, reaching out. Typically, the children who remained with their birth mothers did better. For the foster infants, the separation from their mothers was more toxic than the cocaine.¹

Similarly, consider what The New York Times found when it looked at the best way to treat infants born with opioids in their systems. According to the Times “a growing body of evidence suggests that what those babies need is what has been taken away: a mother. Separating newborns in withdrawal can slow the infant recovery, studies show, and undermine an already fragile parenting relationship. When mothers are strong at home, infants in withdrawal require less medication and fewer costly days in intensive care.”²

And, pregnant mothers, particularly if they are poor or minorities, are often times drug treated without their concern. Any use of drug testing for any purpose other than treating the patient is an act of policing and should be illegal in the absence of truly informed consent. Anything less only serves to drive pregnant women underground and endanger their children by driving them away from prenatal care and hospital delivery. The hospital should be in the business of treating their patients, not investigating them.

In those cases where drug abuse does impact parenting to the point of endangering a child, our child welfare system should follow the science and keep families together through treatment and rehabilitation options whenever possible.

¹ University of Florida, “The Harrowing Truth of What Mothers Dependence has Done With Their Newborns” University of Florida, July 1, 2009, <http://www.ufl.edu/newscenter/2009/07/01/infantsbornwithdrugs/>

² Jeffrey Leffler, “Opioid-Addicted Mothers: Babies Born With Withdrawal” The New York Times, July 28, 2012, <http://www.nytimes.com/2012/07/28/us/infantsbornwithopioidwithdrawal.html>

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

RECOMMENDATION TO THE STATE LEGISLATURE

The legislature should amend state law to make explicit that drug use, whether the drug is legal or illegal, is not in itself child abuse. The legislature should make clear that it is not cause to report (or make a referral) to ChildLine or an agency like Philadelphia DHS, if a parent refuses to investigate, if it is not cause to substantiate and if it is not cause to remove a child.

RECOMMENDATION TO THE STATE LEGISLATURE

Except in medical emergencies, medical personnel should be prohibited from testing pregnant women for use of drugs without their written and verbal informed consent. From that, such testing should be permitted only when necessary to provide medical care to the patients. Similarly, testing of newborns should be prohibited unless a parent gives such consent and, again, only when necessary to treat the newborn.

RECOMMENDATION TO THE CITY COUNCIL

Absent action by the state, the City Council should enact such a law for the City of Philadelphia.



SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

PART FIVE

Problems of central registries and the retention of unshared reports.

The child abuse registry system contributes to the cycle of poverty

Community Legal Services of Philadelphia (CLS) is a legal advocacy group providing free legal education, advice, and representation to low-income individuals in Philadelphia. In November of 2006, CLS facilitated a report, "Defining the Child Abuse Registry System in Pennsylvania" which details the unintended consequences of the state's central registry of child abuse and provides recommendations for reform.¹

Under the current system, an individual can be listed on the central state registry for child abuse without having any opportunity to controvert the allegation. The registry is often cited as the employment screening tool of choice for educators and healthcare such as law officers, police officers, judges, and home healthcare aides, among others. The number of jobs lost using the registry as a screening tool has dramatically increased in the wake of the Jerry Lee, Jr. child sex abuse scandal. In turn, placement on the registry can have devastating economic consequences, particularly for low-income individuals.

As the report notes, restricting economic opportunities for low-income residents only perpetuates the cycle of poverty and leads to more cases of child endangerment. And when errors do creep on the registry and make their way upon incomplete or false information, in North Carolina and Missouri, state Supreme Courts found that putting someone on a registry first and then holding a hearing is unconstitutional. Several judges in Pennsylvania have expressed similar doubts, quashing the Missouri decision with approval.

The CLS report recommends four reforms to the system:

- Strengthen due process protections before someone can be placed on the registry and provide for a rigorous appeal.
- Restructure the registry to distinguish between serious incidents of abuse (e.g. sexual assault) from more minor incidents (e.g. missed doctor appointments) and limit how long people must stay on the registry.
- Limit the use of the registry as an employment screening tool by narrowing the category of jobs that must have child abuse clearance, and only reporting individuals whose conduct is tied to ability to perform the job safely.
- Conduct a social impact analysis of the registry and address structural racial bias at every step of the process.

These reforms are vital to ensure a system which seeks to protect children from perpetuating a cycle of poverty which, in turn, only harms children and families.

¹ See <http://www.clsphila.org/defining-the-child-abuse-registry-system-in-pennsylvania> for the full report. CLS also released a summary of the report at <http://www.clsphila.org/defining-the-child-abuse-registry-system-in-pennsylvania>.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

RECOMMENDATION TO THE STATE LEGISLATURE

Even the series of proposed reforms to the central child abuse registry published in the November 2018 report, "Reforming the Child Abuse Registry System in Pennsylvania," released by Community Legal Services of Philadelphia (CLS), make recommendations include impartial hearings before the central is fixed, the right to free legal representation for indigent accused, a taskforce on concerning how long one is on the registry, location of the verification of the offense and ensuring of the professions for which background checks of the registry are conducted.

Local counties across databases and retain unfounded reports

The State of Pennsylvania's plan in maintaining a "blacklist". Each county has a database of its own for CPS cases. These databases are not connected by employers, that they must do other damage. Increased the more presence of a person on such a list creates up suspicion if another report is received, the more information by CLS or its counterparts in their own databases, there is no appeal at all.

RECOMMENDATION TO THE STATE LEGISLATURE

The same requirement for a hearing before blacklisting another same right to counsel should apply to any reports of substantiated CPS allegations maintained by counties. Though the consequences of such a listing are not as severe as a listing in the state Central Registry, the potential harm to children of a false listing is serious enough to demand such due process.

RECOMMENDATION TO THE CITY COUNCIL

In the absence of state action, the City Council should enact such due process protections for Philadelphia families.

Additionally, counties are permitted to retain records of unfounded reports. The common rule, rule for this is the mistaken belief that there is not such thing as a false report... if there are enough of them for an area human child welfare leader in Pennsylvania put it "it's not of times, where there's smoke there's fire" in fact, multiple false reports typically mean that something is wrong going on. Keeping false reports is an open invitation for anyone with a grudge to harass a family - an outrageous act of angry neighbors, or, as most precariously, alcohol abusers that someone select family member.

RECOMMENDATION TO THE STATE LEGISLATURE

Pennsylvania law should be amended to prohibit the retention of unfounded reports.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

RECOMMENDATION TO THE CITY COUNCIL

In the absence of state action, the Council should prohibit DHS from receiving unfounded reports.

The guilty until proven innocent mentality that pervades Pennsylvania child welfare prompts agencies such as DHS to jump to conclusions based on reports so sparse they couldn't meet the incredibly low standard for declaring a report substantiated. What DHS and its counterparts really are misreading are thousands of human and innocents. That should be prohibited.



SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

PART SIX

Combating Bias Impacted communities need for a fix table.

In order to combat the negative outcomes and various inequities detailed throughout this report – whether in the social, racial or otherwise – the perspectives of those most impacted should be sought forward and carefully considered.

While Philadelphia DPH does currently have a Child Welfare Oversight Board to review the agency and its initiatives, it is dominated by people related to the “medical model” – the idea that all parents who come to the attention of DPH may not be all, but they were are sick. It is skewed toward representatives of institutions like the Children’s Hospital of Philadelphia (CHOP) even though the overwhelming majority of cases involve no physical injury. These arrangements making problems worse by emphasizing public health “solutions” instead of social justice solutions. This body should be changed to include more voices – like those that have had children taken away, and youth representatives that have lived experiences with the child welfare system.

RECOMMENDATION TO PHILADELPHIA DHS

Broaden the membership of the Child Welfare Oversight Board to emphasize not just racial diversity but also cognitive diversity. Membership on the board should be enlarged to include: non-parents who have had children taken by DPH (these currently is a foster parent on the board, but not birth parent), non-youth representatives (there was one when the board was created, there are none now), and non-Philadelphia-based attorneys representing families in child welfare cases.

Additionally, Philadelphia DPH should create an additional oversight committee made up entirely of families that have lost their children, former DPH. members, and others to work with race and bias training curricula.

RECOMMENDATION TO PHILADELPHIA DHS

A committee made up of families who have lost children to DPH, family defenders, current and/or former foster youth, former DPH. members and leaders of communities of color should be charged to study and bias training curricula and recommend youth training for all DPH personnel, DPH. members and community partners – as well as making any other relevant recommendations they believe will reduce bias.

SUMMARY AND CONCLUSIONS

There are just too many easy ways a child can be needlessly harmed and too few officials and resources along the way to protect the process if it goes awry. The categories that allow entry of children into the “system” need to be critically evaluated and revised. The role of advocates that may occur related to school districts deserves a good hard look to see what changes are warranted, in order to truly protect children, the rights of families when interacting with DHS need to be bolstered. Changes are needed in how DHS determines the capacity and fitness of a parent to care for her or his child. The dangers of racial registries and the retention of unfounded reports as issues that have lasted too long, without a critical evaluation of facts and need, definitely, inherent lies in this moral problem must be examined to stop the disproportionate harm to communities of color.



(Philadelphia World Center for Social Justice at City Center, City Center Community Day Hall, November 2020, Jyoti Khanna's Office)

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

FINDINGS AND RECOMMENDATIONS SUBCOMMITTEE ON DHS AND FAMILY COURT

PART ONE

The need for high quality representation.

When children are taken from their families in Philadelphia, families are almost always without adequate legal representation. This problem arises from the point a child is removed from the home, to when the parents attend numerous mandated court appearances, and even up to the time a child may be permanently removed and placed in foster care. In Philadelphia, parents often receive offered attorneys and official court appointed lawyers. Generally, these lawyers handle representation casually and work for little pay. In other instances, parents enter the courtroom totally unrepresented and ignorant of their rights.

In its comprehensive study of Philadelphia child welfare, a study commissioned by GRF itself, the Child Welfare Policy and Practice Group wrote:

"Concerns were also raised in this evaluation about the quality and consistency of legal representation for parents in dependency proceedings. In parent focus groups, only a few parents said that they had concerns with their attorneys outside of court hearings. Nevertheless, feedback that they did not understand how the court made its decisions about what they were required to do and others expressed frustration that they had hearings nonetheless and that the next hearing dates were set three months away. This was particularly upsetting for some who had thought, prior to a scheduled hearing, that their children were going to be returned to them, only to lose the hearing, and thus the decision, post-hearing, without those months."

Attorneys and court personnel interviewed acknowledged that parent representation has not been well-served in Philadelphia. This issue appears to be particularly acute with private attorneys representing parents who lack critical supports as well as other structures of support, ability for the quality of their representation. This situation may improve somewhat given that a few, and reportedly, more adequate, fee grade has just been established for court appointed attorneys representing parents. However, given that parent representation can be an important element of permanency for children, this is an area that merits ongoing attention. This discussion, "cause damage to children who are routinely placed in foster care and whose foster care is routinely prolonged?"

A solution that is providing excellent results in other cities is "high quality intensive/follow-up family representation." The family justice defense team is being pilot as a first step and the "supplemental or institutional provided" case manager who can facilitate access to the courts and/or "hardcore pilot" imposed by GRF, and others, a parent advocate who has been through the system herself. The purpose of this approach is to make sure "bad parents" (often, in a critical foster solution, than those offending GRF,

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

This model is now used for 60 percent of cases in New York City. A large-scale study found that it is significantly reduced the time children hospitalized in foster care with no compromise of safety. The study also suggests this approach is cost-effective and may save money because of the savings achieved by reducing medical foster care.¹¹

Federal aid is available for such representation in many cases. The federal government will reimburse half the cost of lawyers for children and families, and their support staff, in any case that is eligible for reimbursement under Title IV-E. Currently, as of 2016, the most recent year for which data could be found 60 percent of Pennsylvania cases were eligible for IV-E funds. Because that formula is linked to state poverty, the percentage in Philadelphia may be higher.

RECOMMENDATION TO THE CITY COUNCIL

Provide sufficient funding to make this model of family representation available in 60 percent of dependency cases.

New York City guarantees this model of representation in 60 percent of cases, but it is done as of right only after a petition is granted a preliminary hearing filed, a hearing that means after the child already has been removed from the home. In the most serious cases identified in this review, effective representation would have been necessary much earlier in the removal process.

In contrast, legal services of New Jersey (LJNS) provides pre-petition representation. Before a petition is even filed, some cases are referred to LJNS by the state child protection services agency itself.

Philadelphia should follow New Jersey's lead. Philadelphia has the potential to leap ahead of New York and other big cities that currently are doing a better job in child welfare. Philadelphia has the potential to become the national model to which other cities aspire.

RECOMMENDATION TO THE CITY COUNCIL

Provide access to high-quality legal representation from the moment a case arises in its pursuit to investigate an allegation.

This should be done by the following means:

- CJNS should refer cases to family representation providers in the manner used in New Jersey.

¹¹ Richard L. Kratoch and his colleagues, "Measuring the bottom right: How to keep families together," *Washington Post*, the opinion. (October 16, 2016). <https://www.washingtonpost.com/news/immigration/wp/2016/10/16/measuring-the-bottom-right-how-to-keep-families-together/>

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

- The existing requirement that the prosecutor notify someone under investigation that they have a right to speak to an attorney should be strengthened. In many of the cases examined, the right to an attorney was rarely made known to the affected families. Information about the right to an attorney should be placed prominently at the top of any written material provided to the person under investigation. The written material should provide a toll-free number for a provider of interdisciplinary family representation, and should strongly encourage those under investigation to call that number.
- DPH should engage in a publicity campaign through free and paid media, traditional and social, encouraging parents and others to call a provider of interdisciplinary family representation when they are under investigation.
- DPH should provide materials to community organizations so they can urge families to contact family representation providers when DPH arrives at the door.



SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

PART TWO

Children need effective advocacy.

Nationwide, there is enormous variation among the states concerning who represents children in dependency cases... and what they are mandated to do. In some states, only a lawyer is required. In other states, including Pennsylvania, it's a judge. Even when the advocates are lawyers, in some states they are mandated to fight for what child advocates to have happen, called "expressed wishes" representation. In others, they argue for what they think is in the child's "best interests" even if the child wants the opposite.

The current situation in Philadelphia, as in Pennsylvania, is conflicting at best, at least not a non-jumper. However, it does appear that in regulations that balance is tilted strongly toward "best interests" as opposed to "expressed wishes" representation. All children are supposed to receive a lawyer who functions as guardian ad litem (GAL), mandated to advocate for what the GAL perceives to be the child's best interests. Only if the GAL declares that there is a conflict between what that child wants to do and what the child wants is the judge reconsider naming a second lawyer to argue for what the child wants.

It is unclear:

- How often such conflict is declared
- When such conflict is declared, how often a second lawyer is named.
- When a second lawyer is named, how vigorously that lawyer argues for the child's wishes.

The whole premise of our system is that justice is most likely to be done when all parties have vigorous advocates making the outcome preferred by that party. But in dependency cases often only one party, the CPS agency, has that kind of advocacy. The parents might have the power of advocacy, when they do not. Therefore, the most important party in the entire proceeding, the child, may be effectively silenced... with no one making a vigorous argument for the child's desired outcome. Of course it seems as anywhere else, children sometimes want things that are not good for them. Suggesting that children should have someone vigorously making their case does not mean they always should do.

But determining what is "best" justice the limits of the law is what judges are for. And they are less likely to get than should right if one party, in this case, the child, effectively is silenced. There is no need for, and no justice in, having another party occupy the judge's role. This view is substantiated by the American Bar Association. In 2016, the Association adopted a pertinent resolution, drafted by, among others, the Philadelphia Bar Association. This resolution would effectively require what appear to be the policies in Pennsylvania. The resolution calls for naming a lawyer who must advocate for the child's expressed wishes. It says courts should have the option of also naming someone to be a "best interests" advocate.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

From the resolution

... (j) When the child is capable of asserting the representation by expressing his or her objectives, the child's lawyer shall maintain a normal client-lawyer relationship with the child in accordance with the rules of professional conduct. In a developmentally appropriate manner, the lawyer shall elicit the child's wishes and advise the child as to his or her standards, Part 1, Section 3.12.

From the commentary relative the resolution

"The lawyer-client relationship for the child's lawyer is fundamentally indistinguishable from the lawyer-client relationship in any other situation and includes duties of client direction, confidentiality, diligence, competence, loyalty, communication, and the duty to provide independent advice. Client direction requires the lawyer to abide by the client's decision about the objectives of the representation. In order for the child to have an independent voice in abuse and neglect proceedings, the lawyer shall advocate for the child's expressed and inferred wishes, informing, guiding the child with an independent and client-oriented lawyer assumes that the child's legal rights and interests are adequately protected."

RECOMMENDATION TO THE STATE LEGISLATURE

Children in dependency hearings should be provided exclusively with "expressed wishes" representation from an age where they are old enough to express a rational preference. Harried and parental children should be provided with "legal interests" representation.

This should be accomplished through changes in state law under regulation, or by order of the court system. To the extent that individual counties may have discretion, the committee recommends that Philadelphia adopt this approach to representation, even if it is not adopted statewide.



SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

PART THREE

The benefits of opening family court to the press and public.

The Committee drew from many sources to explain why and how opening Family Court will create a more transparent process when families are confronted with the potential removal of their children. Print articles were evaluated and referenced; judges and the academic community interviewed. Also, the experiences of other courts (jurisdictions) were explored. Families affected under the jurisdiction of Family Court confirmed the findings expressed in this report. What follows is a summary of all of the sources consulted.

"Narrative is good for children." That is what the late Judith Kaye, chief judge of New York State's highest court, the Court of Appeals, said when she entered hearings in New York's family courts open to the press and the public in 1995. In the 35 years since, hardly what has not happened. The names of children were not splashed across front pages or headlines on the evening news, along with the most embarrassing, most intimate details of their lives. This is what also must flourish in tomorrow's open family courts.

Hardly what still happened: The physical facilities of the family court... once the courts in the judiciary... were significantly improved. So was the hearing. There are many reasons for New York's high-quality family representation model (and its excellent results for children). But one of the most important is that the press and the public saw how badly the old model was working.

Four years after the New York courts were open, one time opponent had become a convert. As former Pittsburgh Post-Gazette reporter Barbara Whitte-Stein reported in her 2000 article "Open Justice" "the public got a sense, and that has prompted improvements in the courts. At the same time, Kaye says, the hearings had one allegation that a child was hurt by open hearings. "Everyone complains about everything in New York, is there anything they are not all up in arms about?" But what had no complaints about this? Kaye says."¹²

Shortly before Kaye's story was published, she reports, a family court judge actually pleased with reporters and editors, an up and column for The New York Times, to come to court to see the child... convinced by a letter by poorly understood lawyers.

That judge wrote:

"...the lack of lawyers for poor children and parents is no abstraction; it has daily impact in the lives of many of New York City's children. Unlike members of the legislature, leaders of the bar, academics, advocates for children and child welfare attorneys, corporate lawyers in the courtroom, no one has the human consequences of this inequity."¹³

¹² Barbara Whitte-Stein "Open Justice: How the Courts Got Along" New York Times, New York, New York, September 24, 2000.

¹³ Judith Kaye "Judging for the Children" The New York Times, January 16, 2003; <http://www.nytimes.com/2003/01/16/nyregion/16kaye.html>

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

Those who attended the 2018 Philadelphia City Council hearing that ultimately led to the creation of this committee will recall that one Councilmember, prominent Republican, the then head of the New York City Administration for Children's Services, an agency involved in response to a high profile child abuse fatality, Koopmans was running afoul when the courts were opened and, as Mark points out, had the potential to, he almost certainly would have closed the courts by violating the separation system in each individual case. Instead, he supported openness.

Kath Koopmans

"Ultimately, in trying to reform a system like the child welfare system, which has been terribly dysfunctional for so many years, openness and attention to education that system are extremely important." – In the years since, six men and women have run ACS. None has sought to restore Judge Magie's order.

Not only New York has banished from opening family courts. Over 1800 at least 15 states opened their juvenile/family court hearings in child welfare cases to the press another public-private blunder, that made has had access to those hearings since their juvenile court was created... in 1899.)

Because these states include some of the largest, such as New York, Texas, Florida and Illinois, today almost all portions of America's foster children live in states where all or most court hearings are open. Millions of children have been the subject of court hearings in cases of alleged abuse or neglect that were open to the public. Yet in none of these states has there been a claim that these hearings open. Not by child welfare agencies, not by lawyers for parents, and not by lawyers for children.

When Pennsylvania residents don't know what also goes on behind closed doors. An example, a representative from Commonwealth Office of the attorney attended a recent custody hearing in Family Court on September 4, 2018. Alleging problems were obvious: the same lawyer represented both and the mother; the judge had nothing to question the equity of this situation. At the conclusion of the hearing, the first representative attempted to withhold relevant case information related to the case and hearing from the mother. This is but one example of the lack of transparency.

Advocates of open court believe the public should know, arguing that admitting the public to hearings is the only way to expose improper practices and reveal the consequences of inadequate funding for both the court and the child welfare system.

In 2016, former Superior Court Judge Rose, now a Justice of the Pennsylvania Supreme Court, told the legal intelligence that in some cases, when the system in Allegheny County was closed during and strongly work in courtrooms led to disastrous results for children, including being left in foster care for up to 18 years as their cases unfolded through the system.

In New York, opening courts in Allegheny County has the strong support of the head of the county's ACS, Mark Andrea. He told the legal intelligence, "What if I open the door, when

¹ William H. Hark, "Transparency Open the court to the public" *Allegheny Post-Gazette* September 10, 2018.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

my children were separated, you'll read about it, you'll better come prepared if a judge would inappropriately throw it in the paper?

Perhaps the most egregious situation is one instance where summary in Philadelphia Family Court allowed one judge to run amok. There was widespread knowledge that the situation existed, and that the many violations should have been brought to light and corrected. Although the situation was well known, it languished on for months. During her time in the Family Court, Judge Rita E. Young announced a record of rights violations for which she has been consistently chastised by appeals court panels.

Young, by the accounts of many of those who have appeared before her, treated her courtroom as her personal domain. On several occasions she denied parents the opportunity to speak in cases where their children were being taken from them. Additionally, she made Rapsodia-Garcia come down on Young for wrongly jailing a grandmother, holding a child in foster care to force a confession of alleged abuse from her parents, and including a child mother as a party in the subsequent adoption proceedings. Judge Young was removed from the Family Court shortly after the publication of an April 2018 *Capital Intelligence* article exposing the history of this process violations. She has since been reassigned to civil court and is currently the subject of an ongoing Judicial Conduct Board investigation. That Family Court been open, as we all know, the press could have brought this situation to light immediately and the problem would never have persisted.

However, there is nothing that problem judges are most often not the root cause of the problem that plagues Family Court. According to a longtime family lawyer who spoke to the Committee on conditions of anonymity, delays caused by incompetence, tardiness and lack of preparation on behalf of some lawyers and social workers are more common—and a bigger problem—in Philadelphia family court than incompetent judges. The experience of many families supports this notion. These internal problems lead to continuous being filed in cases effectively extending the amount of time a child spends separated from family in foster care. Is that longtime family lawyer right -- or is everything just fine in Philadelphia Family Court? We don't know. That's the point. In a democracy, the accounts of people with real power, such as judges, are often not good enough to ensure that people without power, such as poor families of color, are getting justice without closed doors.

Indeed, some of the most pernicious, albeit inadvertent, violations against summary in Philadelphia may come from those who sought no defaults. In a letter to the legal intelligence law judges defending closed courts:

- Claim that family preservation and child safety are objectives that need to be balanced -- a false and prejudicial premise that can lead to needless removal of children to foster care. In fact, family preservation almost always is the safer option.
- Refer to the Black-and-white human beings who come before them, children and parents alike, as "transient humanity"

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

There is no evidence that the fears of openness have made them so unworkable that some, or even all, press work. Therefore, it is urgent that Philadelphia Family Court hearings be open to the general public. As Justice Bear noted, there already is a presumption that those hearings are open. But whenever courts are open, there must protect the court, case by case, well in advance. There is no record of how often this happens in Philadelphia, so it is not known the extent to which the existing presumption is respected. But the existing presumption is inadequate. Justice Bear means that people who may usually sit a machine job have time to, in effect, put on a show.

Justice Bear told the Legal Intelligence:

"Assume that the press appears and the courtroom is open; nothing prohibits one of the other parties—the parent, the child advocate, the county solicitor—from sitting to view the court, even if that's in the child's best interest."

RECOMMENDATION TO THE CITY

The rebuttable presumption of openness of Philadelphia Family Court should be strengthened by allowing immediate access by the media and the public to all family court hearings, subject to the following conditions:

- Observers shall be required to identify themselves on the record at the start of the hearing and state on the record that they understand the rules and agree that they are not to disclose the names of children/family parties to the proceeding.
- If any party objects to the presence of the media or the public for all or part of the hearing, the judge shall consider whether the objection to opening the hearing violates the presumption by clear and convincing evidence; and rule accordingly.

This recommendation does not include how the above changes can be implemented at Philadelphia's Family Court. Additional research is needed to determine how to achieve the needed openness. There are many factors that are possibly in play: the power of individual judges, county administrative judges, and the procedural rules of the Pennsylvania judiciary.



SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

SUMMARY AND CONCLUSIONS

If witness statements were allowed to alter the entire proceedings in Family Court, a number of things would be readily apparent. There is a critical need for high-quality representation for families who are about to lose custody of their children. Additionally, the children themselves need effective representation, especially with respect to ensuring that the desires of children who have reached the age of reason are adequately presented. Finally, the Court itself needs to be open to the general public and the press. For too long both DRC and the Court have operated in relative secrecy, where it is often not apparent what information is being presented, and what is the basis for decisions rendered. An open environment would quickly focus the various inequities of how the Court and DRC interact.

The facts and analysis presented by both subcommittee reports substantiate the many concerns outlined. The recommendations presented provide DRC, Philadelphia City Council and the Commonwealth of Pennsylvania with realistic remedies that deserve critical evaluation on all levels.



DRC Deputy Commissioner Kimberly Ali (from left) and DRC Commissioner Cynthia Figueroa (fourth from right) testify before City Council hearing on February 12, 2019 (via the Philadelphia Inquirer)

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

CASE STUDIES

April McBride

This case involves a single incident of a child being disciplined by her mother. The mother involved had been a mother for 26 years with no prior incidents of abuse or any alleged improper parenting behavior. The mother had no history of being investigated. She had 4 children, one child who lived young, and three children who lived in the home (ages approx. 10, 8, 6 and 3 years old, 8 and 10).

The incident in question occurred on October 5, 2018 when the mother heard child physical discipline to her daughter for being disrespectful at school on the day in question and because the child had been verbally disrespectful to a teacher in school and a general discipline problem before. The mother admitted giving the child a mild spanking on her legs and hands. As will be discussed later, as a result of the child complaining to her gym teacher of a painful bump, and as requested by DPH, the child was sent to DPH for evaluation the same day. The mother was informed of the moral discipline approximately 12 hrs. as a result of the incident, DPH told the mother they would come by the residence between 1:00 and 1:30 to conduct a further investigation. DPH did not show up as indicated and for the next several days there was a series of miscommunication. DPH did call the mother Sunday night the 7th and that she was due to court the next day (Monday October 8). At the hearing the mother stated that the daughter would be taken into foster care.

Subsequent to the DPH investigation the case ended in Family Court for a disposition hearing, and the daughter was confirmed to be placed in foster care on October 8, 2018. Certain aspects of the proceedings at Family Court will also be discussed later. During the daughter's time in foster care, the mother alleged improper actions by the foster family and complained to DPH. Apparently, DPH did not do the mother's complaints about improper care, and later the mother learned she was the subject of retaliation by DPH.

The consequences of DPH and Family Court's actions go beyond just the removal of the child from the mother's care and being placed in foster care. As a result of the false and incomplete testimony provided by DPH in Family Court, and the decisions handed down by the court, the mother was placed on the "registry" and tagged as an abuser. The impact of this was to potentially limit employment opportunities for the mother subsequent to her being placed on the registry.

Let's examine the facts surrounding a single incident that got the mother listed on the "Registry" of abusers because she administered corporal discipline to a misbehaving child on morning before school. The mother admits using a mild spanking to the child's hands and legs because she was disrespectful and verbally abusive to the child's teachers. Since the child got to school things spiraled downward. The child complained to the gym teacher she could feel an alien sensation of pain that resulted from a bottom spanking that night before. The gym teacher reported the child's complaint and the allegation of child abuse to DPH. As is normal, DPH had the child sent to the Children's Hospital of Philadelphia (CHOP) for evaluation.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

The results of the evaluation indicated no tension issues and no obvious indications of abuse. There is no indication that the child had indicated any pain or being unable to breathe in earlier times that same day... otherwise those teachers about these reports to DCF are required. Given this did not happen, it appears to be a case of inappropriate interpretation of evidence in an attempt to resolve case.

Subsequently, DCF questioned the girls' teachers about the use of physical discipline in the home. DCF's version of the incident was that the older boy stated the mother was guilty of abuse in the home and that the younger boy refused to be questioned. The mother questioned the boys about this accusation, and the boys stated they later corroborated the DCF view of improper parental actions regarding discipline in the home. Yet, it can be assumed that DCF used these interviews as part of the justification given to Family Court for a ruling of abuse against the mother. It is interesting to note that neither the mother, nor any witnesses were permitted to testify in Family Court on behalf of the mother, as no parenting style or otherwise.

The mother's mother had traveled from Florida but was not permitted to make a statement. The survey and limited investigation actions by DCF surrounding this case are difficult to understand. However, the survey of both DCF and Family Court is consistent with what other mothers who presented their cases before Council in February 2019. Apparently, those who testified gave repeated and consistent stories of never being alone with their side of the story.

In summary, it appears that the actions by DCF were improper because of the filing, incomplete and conflicting evidence presented. There was no reason for the mother to call for an expedited investigation or to appeal the case. The entire action by the court and DCF may have been illegal because of the lack of due process, and because DCF did not classify this case as one of a lying, nonabused child where DCFD noted that there was no indication of physical abuse. It is not clear if an extensive interview of the child was performed by DCFD to find out the true nature of the incident, or how discipline was routinely administered in the household. It is not clear the type of DCFD's determination of no abuse. Apparently, these matters were never explained in Family Court.

The consequences of this case for the mother are extreme, since her being placed on the Registry was based on one single incident. Being labeled an abuser should be based on much more than the event described in this case. The entire system failed a self-sufficient mother who had her livelihood threatened as a result of improper actions by DCF and Family Court.

Mildreda Kwan

This case study involves a mother (her thirteen-year-old daughter, and the mother's partner that lived with the family) in 2019, the ages of the girls were 15, 13 and 11. These ages will be continuously be used to identify the children, since this case predates any other calendar years. Previously, based on an anonymous allegation of abuse and neglect in 2016, DCF conducted a home inspection and evaluated the home conditions. No irregularities were noted. In fact, upon leaving the DCF worker complimented the mother positively on the home conditions. However, again in 2017 DCF received additional anonymous allegations of neglect and abuse.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

Accordingly, GRT sent a worker to evaluate the situation.

The mother stated in her appearance before City Council in February of 2016 that the GRT worker who came to her door on Sept. the 18, GRT displayed aggression and unprofessional behavior. However, with nothing to risk, the mother admitted the GRT worker to her home after answering the worker's knock in a calm and unprofessional manner to both the mother, her grandson, and two of her daughters. The GRT worker directly addressed the mother's personal unprofessionalism and said things that indicated the worker disapproved of him and his presence in the home.

Continuing in a calm voice the GRT worker stated that the disapproval of the household's "wildwest style of parenting," meaning the child's opinion that girls being grounded when they put their mobile or taking away their cell phones, social media and other personal electronics. The GRT worker also stated that the child's opinion of assigning the girls specific chores to be done around the house. Then the spokeswoman of the GRT worker to the mother, in reference to her two daughters, were, "What you need to do more, is you need to love them, but don't love them!" so the GRT worker left the home on the 18th, she told both the mother and the family that she saw no signs of abuse or neglect. This opinion was to change.

On September 19, 2015, the mother received a call while she was at work during which the GRT worker informed the mother that she was removing her children from the home. The stated basis was that the GRT worker claimed that the 16-year-old daughter had made sexual abuse claims regarding the mother's husband. Also, the GRT worker stated that she went to 11-year-old daughter's school that morning spoke to the daughter, and the daughter was alleged to have stated she was "justified" of the mother's abuse. This was despite the fact that GRT worker had spoken to the eleven-year-old alone at the home the night before. The mother seriously doubted the truth of statements. However, the mother felt threatened by the GRT worker and if she didn't sign the proposed safety plan the police would be called and she wouldn't be allowed for non-compliance with GRT's orders. In a conversation with GRT, the mother reported that the standard made were based on the agency view of the case, and what was best for the child. However, the mother walked out to the GRT worker's supervisor about her unprofessional manner and the unfairness of the entire case. The supervisor's response was, "It's your word against mine."

At the hearing that followed, GRT testified to the allegations made by the children based on the information that GRT complained. Although calling by the so, the children were not permitted to testify to the veracity of the allegations, supposedly based on statements made by them to GRT. The Public Defender's association had also interviewed the children and supported the GRT story and indicated that the grandson could be a polygraph. Additionally, the judge asked it would be good for the children to meet with someone from the Philadelphia Special Victims Unit (SVU). The GRT worker stated that she didn't think it would be necessary.

In summary, the mother was not allowed to testify, the children were denied their right to testify, and the mother had no contact with her children. The mother did not meet the assigned counsel until immediately before the hearing began. The only testimony allowed at the hearing was that which supported GRT's position. It should be noted here that the judge that presided was eventually removed from Family Court. At the conclusion of the hearing, the mother lost

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

custody of all three children and the mother and parents were assigned a number of assignments and classes to be completed prior to a future August 14, 2018 hearing. If these could not be completed, the children would be returned to the mother.

This case impasse led to nonconsequential hearings for 18 months. During this time there were questions of standing regarding the parents and additional, non-changing requirements being assigned to both the mother and her parents. Courses were completed, some not assigned by the DRL and additional requirements were assigned. The plan, and requirements for re-certification, were constantly in adjustment. Nothing was satisfactorily resolved until the assigned Child worker that the requirements for re-certification were met. During this entire time, the children were never in the custody of the mother, yet DRL and the Child worker continued to facilitate with the performance of the mother. The entire leadership team continued to be the opinion of the Child/DRL worker, and the questionable statements made by the children in September 2017 that were never fully verbal. The apparent DRL issue shifted from actual conditions in the home to the acceptability of the mother to have custody.

On Jan. 24, 2018, the mother again appeared in Family Court regarding whether her children would be returned to her. Offering testimony on behalf of DRL was the Child worker currently assigned to her case. The Child worker was less than forthright in her testimony before the court. Truthfully, the Child worker did state on several occasions that the mother was 100% compliant and that safety risks no longer exist. When asked what safety risks had been evaluated, the Child worker testified that there were no issues on the home premises. However, during a home visit, the Child worker saw that the stairs were in place. The Child worker also testified that the children were not being allowed out phrases (safety risk) and that the general house rules were a safety risk. When cross examined by the child advocate and the mother's attorney as to what "house rules" were considered to be a safety risk, the Child worker testified that there was to be no further discussion concerning house rules and any associated safety risk. At the conclusion of the hearing, the children were not returned to the custody of the mother.

At this point it is worth explaining where the children were during the 18 months that this case dragged on. One consideration they were each assigned to living alone, or sharing one, but this was not the case. It is also worthy to note that during this entire time, the children repeatedly requested their requests to be returned to the custody of their mother. DRL and the Child worker did determine a way to make this happen. Physical abuse and neglect were never substantiated, yet the children remained away from the mother. The committee presided before occurred in February, 2018.

Once the 18-year old was removed, she was placed in several different homes where she suffered physical, emotional and emotional abuse and neglect which she reported. At one point, she was placed in a group home at Laurel Valley Children's Hill. She is currently out of Laurel Valley, temporarily staying with the mother's aunt, attending a charter school and doing very well academically. However, reportedly, the daughter is in the school's social worker's office very often, crying saying that she would not be returned to her mother's household and the father/ her mother.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

The 16-year-old daughter was placed with the mother's brother and his girlfriend who actively overdoses. According to the mother, both of these individuals have been in and out of jail and drug rehabilitation programs. In addition, both had custody of their grandchildren in the past. At the time this daughter was placed with the mother's brother he had an active warrant. The mother's girlfriend was known for defrauding the housing authority and the welfare system for many years, including the time the daughter was in the brother's care. At the hearing on January 31st, 2019 the father testified and was laughed at by the City Solicitor. She said the court that after the hearing she was running away, and would refuse to tell anyone where she was until she could be persuasive for mother's care. As of the mother's testimony before City Council in February 2019, the whereabouts of the daughter was unknown.

The 16-year-old daughter was placed with her paternal grandmother and boyfriend, who drink heavily. She has a criminal record because of an incident a few years ago when she walked into a store where 2 police officers were doing drug tests and she attacked a young girl that was working behind the counter. She was arrested and charged with aggravated assault, and pled to a lesser charge of simple assault. She was assigned a pretrial probation that has been completed. According to the mother, the paternal grandmother physically attacked the mother at the Housing Court for Children visitation office on October 16, when a supervisor did back in her. Still, apparently the maternal grandmother threatened the attack and was confused as to why the mother was attacked. As a result of the attack, nothing was done.

The facts of this case are not in dispute unless he persists. There may be a difference of opinion between DfL, the City workers and the mother, but the facts are the facts. This case stretched over 16 months with no clear resolution. Requirements for reunification were constantly changing. No proof of abuse or neglect were ever presented to the court, nor verified by the children in court. During the 16-month period, the children were housed around and placed in environments that were clearly less stable than the mother's home. The action by DfL in this case was improper if only looking at the situation of "what was best for the children?" The children repeatedly remain with the mother, they had insufficient counsel representing them and their status was never presented properly to family court.

The mother alleges lying on the part of DfL and the City workers in that they misrepresented certain facts presented to the court over the 16-month period. Lying to the court is illegal. One simple question is revealing. If one would take a giant step back from the events of the 16-month ordeal, "What was the bottom line basis for removal of the three children?" answer -- an anonymous allegation, and the initial opinion of a City worker that the parenting skills of the household was not to be living. It may be true the children themselves may not have been model citizens, but it is true the mother was doing her best to manage a difficult situation. The actions of DfL made matters worse. DfL did not agree with the mother's style, and took a case where they "knew better" and pursued their vision of protection before the court. The inefficiency of the mother and her parents to "complete the necessary requirements" became the real issue that prolonged resolution. Clearly, the children were not better off being in the situations where they were placed by DfL. This is a case of an improper violation to a program that probably never existed in the first place.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

Lisa Hoffer

This case study involves a mother who tested positive for opioids while in the hospital giving birth. The mother also tested positive. This is a situation where notification reporting is required and that DPH was notified. The provider believed that the mother had an add-on and if verified, the mother could be taken from the birth mother. In this case, the mother had a verifiable condition and was under the care of a pain management doctor in addition to her obstetric physician. Proper records to substantiate this were available to the hospital and if a proper record had been maintained, reporting this case to DPH might have been avoided. Almost always when patients are admitted to the hospital their medical history is made available which would also include all prescription medication being taken.

A DPH case worker visited the mother in the hospital as a result of being notified. During the visit, the mother explained the situation and made available to the DPH worker her pertinent medical records. Apparently, the worker told the case worker that she would be followed with a case following the case if the information were substantiated and that taking opioids was part of the mother's proper medication. Sometime later, the DPH worker contacted the mother and told her that her supervisor told the case worker not to visit since the hospital stated that the mother did not receive a medical holding upon discharge and, in addition, the hospital stated the mother had not been under proper prenatal care.

The mother tried to explain the situation to the case worker, and felt harassed by the DPH worker. There were several additional visits by DPH to the house, and apparently no discrepancies were found. Finally, the mother told DPH she would not ascertain any additional DPH visits unless the mother's lawyer was present. At one point, DPH then petitioned the court that the mother be removed from the mother's custody for medical neglect. DPH had no idea what the case was telling the hospital, and it failed to properly research, or accept the medical records that were provided by the mother. As a result, the judge ruled that the petition be removed from the mother's custody. In addition, DPH acknowledged that the other four children had not been maintained or received proper medical care, which was not true, but throughout DPH's case for medical neglect of all the children.

At one point, the mother and Florida were arrested, strip searched, handcuffed and spent 8 hours in jail (mother being released). With the possibility of losing the other four children, the couple retained proper legal representation. In the custody hearing, the judge would maintain any testimony or substantiation of records that could have clarified the situation and ruled that the other four children be removed from the mother's custody. The couple's lawyer repeatedly petitioned the court for reconsideration but the petitions were denied. It is important to note at this point, the judge's decision was based on the DPH testimony that was either flawed false or a combination of both. The situation of all children being removed from custody of the mother persisted for a period of almost 8 months. During this time, the mother was almost kept from visits only. Within a month and was thereafter being monitored but not allowed. These conditions imposed by the court did not appear to be warranted based on the facts of the case.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

Judge Young had been assigned this case from the outset and consistently voted against the parents. However, Judge Young was eventually removed from the bench and when this occurred a new judge was assigned to this case. The couple's legal representation successfully filed for a rehearing of this case before the new judge. At the first hearing for reconsideration, the judge immediately returned custody of the children to the mother the very same day.

The lessons learned from this case are many. If the hospital had been less inquisitive, this situation would never have been a case worth investigating. More importantly, the mother is not, despite the fact that she lost the case, about what the hospital had told GRL. GRL's entire case of medical neglect relied on facts in order supposedly provided by the hospital that were misrepresenting GRL in testimony before the court. Since GRL had been given the mother's medical records at the outset, it is not clear why GRL could then fabricate a case of medical neglect when clearly better evidence was available.

One possible explanation is that when the officials were directly by the GRL worker and supervisor created a case that different ways to support removal of the children that was supposedly supported by information from the hospital. This is clearly illegal. One would have to assume the judge never asked if proper medical records related to corroborate the claim of medical neglect. The joint actions of GRL and the Judge were an issue of significant regulatory and judicial concerns. The failure of the judge to hear from the mother was improper, and a violation of due process. This entire case takes on an air of hypocrisy from start to finish as the GRL workers impeding had and misrepresented the facts of the case. This conclusion is supported by the court action by the second judge to immediately return to the entire case when the true facts were known.

Yolanda Bryant

This is a complicated case study that involves a maternal grandmother (MGM) and her three grandchildren. Daughter #1 had a daughter (G1 #1) aged approximately 4. Daughter #2 had two children, a son (C1) aged approximately 16 and a daughter (G2 #2) aged approximately 16. The above ages are as they related at the time of the events described here.

Daughter #1 had willingly surrendered care and custody of G1 #1 at the time of the child's birth to the MGM. During the two years that MGM cared for G1 #1, there were no contentious issues between MGM and Daughter #1. Additionally, there were no documented issues of concern by GRL related to any aspects of care-rendering MGM for the two years she cared for G1 #1.

At the start of the events described here, Daughter #2 – who lived with a boyfriend – also had custody of C1 and G2 #2. (Unknown to MGM for a period of approximately five months these children were not in contact and had been taken to an adult mental health facility by Daughter #2 who did not reside at the facility but visited the children periodically. At one point in appeal, namely October 2018, the C1 provided a cell phone and made a phone call where he was located and asked MGM to come and get him and his sister and take them away from where they were on Ogden Avenue.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

With the assistance of another family member, tMGM went to the eighth Avenue location, removed both children and took them to tMGM's residence. During the approximately three days the two children were with tMGM, they read her about the conditions at eighth Avenue they were in the home, used a bucket for toileting, and were improperly fed during the entire time they were there. Also, both children relayed stories of alleged sexual abuse by Daughner tM's boyfriend. In addition, due to the traumatic situation, tMGM had lost control of her house, a situation that persisted for approximately the three days the children were with tMGM.

tMGM was concerned about the physical condition of both children since the problems with tMGM's financial control persisted. Therefore, tMGM took both children to St. Christopher's Hospital for evaluation one evening. The hospital staff, including a physician and a health care worker examined both children. Written reports were prepared that substantiated the stories told by both children to tMGM. Since the stories involved alleged sexual abuse and neglect, the social worker contacted DPH and recommended that children be released to tMGM. Since the tMGM had childhood proper custody care for tMGM for ten years, it was typical to assume that the other two children would receive proper living care in a familiar family environment. The DPH worker who took the intake call told St. Christopher's staff not to release the children to tMGM as they needed to evaluate the situation. At approximately 1:00p, DPH told St. Christopher's that tMGM was determined to be unfit for temporary custody and that the children were to be given over to DPH. Therefore, the children were removed from custody of tMGM and given over to DPH.

Common sense would dictate that the children should have been given back to tMGM, until a proper determination of tMGM's fitness could have been made that would normally have involved a home visit and interview of tMGM to determine her fitness. Instead, DPH further increased the trauma experienced by the children by placing them in an unfamiliar setting, namely the middle of the night after what they had just endured for the past several months. The proper action for a caring, sympathetic agency would have been to temporarily release the children to tMGM. This is based on the fact that St. Christopher's recommended release to tMGM, and staff had determined the situation that Daughner tM's boyfriend was the alleged sexual abuser, not tMGM, and that tMGM had a history of providing a loving environment for tMGM all. It is noteworthy the agency of DPH facilitated the middle of the night to transfer tMGM's custody, and that it is implicit that in, just two hours, in the middle of the night, DPH determined that a better situation for the children was to be in DPH care until potentially the sexual abuse allegations were investigated. Not absolutely illegal, but certainly highly questionable.

Procedures cannot be written to cover every situation, and in all probability a procedure does not cover the specific situation described here. So it is unlikely the initial decision by DPH to remove the children in the middle of the night could be determined to be illegal, and a violation of procedures, if investigated. However, it certainly would be considered improper when making a hard look at the facts surrounding this situation since "what is best for the child" would certainly apply here. tMGM that a right to fitness (DIF) be determined to determine if the what facts was the determination by unfit for temporary care at the time the decision was made and if) what was the ultimate disposition of the alleged sexual abuse against Daughner tM's boyfriend. Initially, the DIF was denied, and it is not clear if DPH ever responded to these reports of the second DIF requests submitted related to tMGM's case.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

It is interesting to note that several months later GJ's 18 was removed from MCHC's care with a false injury claim, presented at the time the child was taken from her residence. To this day, the status of GJ's 18 remains unresolved. Additionally, for GJL to make the decision it did earlier, it was inconsistent, at best, and so quickly it did would have indicated some form of prior threat, urged by GJL of Daughter 18, the boyfriend and the two children involved. On its face, an improper internal decision may have been made, and it was known that the boyfriend had relations with several for GJL. This situation could have created a conflict of interest on the part of GJL that could be worth investigating. The several months later finding this case study is not different from other forms of alleged retaliation practices and helping to set, in the best interest of the child, we was notified to by other mothers at the February 2018 hearing.

Kyesha Lamb

This case study involved a mother who took her son, aged 4 months, to the hospital on January 4, 2018. The child had been hurt and injured and the mother was not making progress. At the hospital, an x-ray confirmed that that arm was broken. As a precaution, the hospital supported abuse and ordered a full body x-ray that revealed the boy apparently had a broken femur (leg bone). Hospital staff said that the broken leg was inconsistent with the story that he fell and was hurt and that they suspected abuse and that GJL would have to be notified.

A GJL case worker met with the mother and allegedly told her: "In your case, you are guilty until proven innocent" or words to that effect. The GJL worker told the mother to bring her other son, aged 16 months, to the hospital to be x-rayed. When the mother refused complying, the GJL worker said they would have the police detain the child's father to bring the boy in. The mother complied and the child was brought in and x-rayed. No broken bones were found. Hospital personnel told the mother to bring the younger son back in 2 weeks to have a follow-up x-ray done on his leg.

At this point GJL wanted to remove the children from the mother's care and the mother set about finding a family member who could temporarily care for the two boys. Apparently, a sat. infirmary visitation could not be conducted with the boy's grandmother, or the mother's brother. The case worker told the mother that she was out of time and had been working on the placement too long and that her hands were tied. At 11pm on January 10, the children were removed from the home and placed in foster care. Three alleged foster GJL's wife by foster care for the children was 3 days. The mother received some instructions to the GJL worker for care of her children, but the GJL worker said, "I don't have to listen to you, because you are under investigation for abuse or neglect."

GJL told the mother to appear in court the next morning, January 11. At the hearing, the court ruled that both parents were under a protective order, issued on GJL's written report. The mother was not allowed to speak at the hearing, nor was she given a copy of the report. Very little information was provided to the mother about the disposition of her sons, and GJL's made self-referenced but no useful information as she could. Her was also notified but her name was not, her GJL worker's current information, and on her own initiative signed up for parenting classes to separate the sons of her children. She visited her children when allowed and brought things for them.

SPECIAL COMMITTEE ON CHILD SEPARATIONS IN PHILADELPHIA

Before the mother was told that she was about to get her children back, because the allegation of abuse or neglect was unfounded, apparently, the problem with the foster care was an ongoing, non-prosecuted case of abuse. At this point, DCF's involvement and what that role problem was really demands violence between the mother and the father. This was based on false information that the parents of the children's father had provided. The mother never determined who that DCF or the father's parents, but the allegations were again found to be unsubstantiated. It was very difficult for the mother to gain information from either the DCF worker or her supervisor regarding return of her children.

The decision to place the children in foster care in just three days was clearly premature. Required medical personnel should have provided DCF to delay the removal of the children to foster care until further evaluation was needed to determine what was really going on with the child's leg. What appears to have happened is that DCF across the report for the court that two foster homes clearly indicated child abuse – case closed. The extensive examination of the case could have possibly been conducted in just those short days.

There appears to be no explanation as to why the judge would not allow the mother to tell her side of the story. The attitude of the DCF case worker and the difficulty for the mother to gain any information on her case is further understood. "What is best for the children," took a back seat in that they ended up in foster care in just 3 short days. The way this case was handled was clearly improper – the proof being the placing of the children in foster care was never warranted, and as the children have now been returned to the mother. What is even more outrageous was the attempt by DCF to substantiate continued placement in foster care based on fabricated reports of domestic violence. Somebody was lying, and this is clearly illegal behavior since the impact of the law would have been to sustain improper removal of the children to foster care.



Monique Byars, member of the Special Committee on Child Separations, sits through letters completed from DCF, Family Court and others in her years-long battle to reunite custody of her two children, preoccupied Monique Byars.

