

American Family Advocacy Center

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CPS CONGRESSIONAL INQUIRY MAR 13, 2004, San Bernadino, CA.

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Remarks for CPS CONGRESSIONAL INQUIRY MAR 13, 2004, San Bernadino, CA.

Ladies and Gentlemen, Honored Senators and Representatives:

I am representing the American Family Advocacy Center whose director, Suzanne Shell, was unable to be present today due to scheduling conflicts. AFAC provides education to families and their attorneys about legal, administrative and, yes, even moral issues associated with child protection practices. The information and strategies disseminated by AFAC represents the accumulation of 13 years of qualitative research into the laws, policies, customs and practices of child protection agencies nationwide. Ms. Shell is also the author of 3 books relating to child welfare issues.

American Family Advocacy Center was founded on the principle that ***Family Association is a Fundamental Human Right***. It should not be necessary to make such a statement in America. Indeed, our founding fathers found this principle to be so elemental that was not enumerated in our Bill of Rights. They never conceived that government would ever consider it appropriate to separate children from their parents and extended families. Today, the inconceivable happens as a matter of routine. The government is engaged in the systematic redistribution of our children for political purposes. The Nazis called it Lebensborn. Americans call it child protection (CPS).

Under the Adoption and Safe Families Act, CAPTA and other federal child welfare legislation, we have attached financial incentives to facilitate this redistribution, relegating our beloved children to the status of commodities. We have designated biological parents as nothing more than breeders for the state, often, for no greater offense than poverty. To our enduring

shame, we have created a multibillion dollar industry on the backs of our babies. History will not remember this offense kindly.

Federal legislation is ultimately responsible for the atrocities families are experiencing at the hands of CPS. In 1974, 4 - 5 children a day were dying of child abuse. It was a national tragedy. CAPTA was supposed to prevent that. 25 years of increasingly appalling Federal legislation was supposed to plug up the holes in CAPTA. Result, in 1997, 4 - 5 children a day were still dying of child abuse. The only difference was that half of them were dying in foster care. Over 40% of institutionalized persons in this country are former foster children. There are families who are now experiencing the fourth consecutive generation of their children being raised in foster care. Ladies and gentlemen, the great child protection experiment has failed.

During the CAPTA debates in 1974, legislators expressed great concern about the potential for abuse of the various provisions being considered. Thirty years later, we see current practices far exceeding the worst predictions.

REASONABLE EFFORTS

Checks and balances are supposed to be build in to the system. Court review is supposed to insure that the agencies conform to statutory mandates. That the sanctity of the family is protected under due process.

In every child protection case, federal law mandates that the court make a judicial finding that *reasonable efforts* have been made to prevent the removal of the child from the home, and that remaining in the home would be *contrary to the welfare of the child*. These two vital due process requirements are designed to protect children from unnecessary removals from the home.

They require findings based on evidence. In practice, they have become mere boxes to be checked in order to qualify for federal funding. In our research, we have ascertained that less than 10% of child welfare cases contain sufficient evidence in the record to substantiate judicial findings that reasonable efforts have been or that remaining in the home would be contrary to the welfare of the child. This is confirmed by the fact that more than 90% of children removed from homes exhibit no objectively identifiable injury or harm, much less require any medical treatment.

The informality of family courts has contributed to facilitating the agency's agenda at the expense of the rights of the children and families. Parents are routinely told by judges or their attorneys that constitutional rights don't apply in child welfare cases. Due process is non-existent if you are a parent in an American family court.

IMMUNITY

Persons reporting child abuse or neglect are granted statutory immunity for good faith reports. Caseworkers are granted immunity under state provisions and 11th amendment protections. Guardians ad litem are granted quasi-judicial immunity. County attorneys representing CPS are granted prosecutorial immunity. Service providers obtain immunity by virtue of their relationship with the CPS agency. Judges enjoy absolute judicial immunity. Immunity is the single provision that allows our judicial process to run amok. It renders any mechanism of check and balances impotent.

Immunity has protected its beneficiaries from any consequences for lying, cheating and stealing during the performance of their duties. Consequently, perjury is rampant and

unpunished. Official actions exceeding scope of authority are not only commonplace, but endorsed by the courts. Parents and children need protection FROM this kind of immunity.

Countless families have been ruthlessly destroyed since 1974 due solely to immunity protections. Tens of thousands of children are made legal orphans based on lies, perjury, official misconduct, falsified records, 'fixed' evaluations and assessments, inappropriate treatment plans, malpractice, bribery, coercion, evidence and witness tampering, fraud and wilful deprivation of rights. These activities are being expanded to include family rights activists and advocates.

We all know that power corrupts, and absolute power corrupts absolutely. Immunity is absolute power. If the corruption is to be reined in, immunity must be eliminated.

CONFIDENTIALITY

Experts would have us believe that children would be harmed if all information pertaining to their cases were publicly available. Three decades of sealed records and closed court 'star chamber' proceedings have proven that this secrecy is much more beneficial to the agency than it is for the child or the parents. Nobody really knows what is going on behind all those closed doors. Meanwhile, aggrieved parents and children are clamoring for open courts and the right to expose the abuses without facing prosecution.

AFAC has been behind those closed doors in several states. We've seen the CPS and court records. We've been in confidential agency meetings and closed court hearings. Everything we can report about the harm confidentiality causes children is shocking to the uninitiated who naively believes that CPS agencies really do protect children.

And we have uncovered information that represents the darkest, ugliest secrets of child

welfare. Information which not even many of these dedicated activists are aware of. Information which will scare the living daylights out of every parent in this room who has a child in foster care or whose parental rights have been terminated.

AFAC has received multiple, independent eyewitness reports of plane loads of CPS wards being flown overseas on, what are supposed to be, empty commercial airline ferry flights. These flights reportedly originated out of Colorado and California. This is not a vacation for these legal orphans, ladies and gentlemen. Investigators report that these children are destined to become sex slaves and involuntary organ donors. Legal orphans have nobody who will ask questions when they disappear or die, thanks to federal confidentiality laws.

We have also received information proving that foster children are being exploited through child pornography and forced child prostitution within our own borders. CPS agencies have been implicated to varying degrees, from running the operation to merely turning a blind eye. This activity is quite easy to conceal, thanks to federal confidentiality laws.

Confidentiality has been used to prevent parents from accessing their own case files and psychological records. From accessing the files and medical records of their own children. It has been used to chill free speech and freedom of the press. Parents are ordered to silence, to remove their web sites and have been jailed for speaking out. Family rights activists have been similarly affected by unlawful court orders and prosecuted by state agencies for imagined offenses. Confidentiality does not protect the children when it protects the agencies from accountability. Aggrieved families must be allowed to expose the abuses to public scrutiny.

OVERSIGHT

CPS agencies are not subject to any external or independent oversight. Their records are not audited. The U.S. Department of Health and Human Services, Agency for Children and Families does not monitor state child welfare agencies. ACF relies on self reporting to monitor state agency compliance.

Without independent oversight, familial abuse is over-reported while foster care abuse is under-reported. Without independent oversight, federal monies are obtained by fraud to the tune of billions of dollars under titles IV-E and XIX of the Social Security Act. Without independent oversight, there is no legitimate way to determine agency compliance with all state, federal and constitutional provisions that apply. Without independent oversight, there is no honest way to accurately assess outcomes for children and families. No way to insure that children are not unnecessarily removed from non-abusive homes. No way to insure that foster care is superior care or even a safe place for children. No way to insure best practice standards. No reliable quality assurance. No accurate reporting of agency activities. Without independent oversight, the fox is guarding the henhouse and reporting that all is well while he's licking his chops.

FINANCIAL INCENTIVES

For every child removed from his home, there are more than 25 service providers and public employees who derive their livelihood from that removal. Child welfare is a multibillion dollar industry, funded almost exclusively by tax dollars. The highest financial rewards are reserved for the agency's most profound failures to strengthen and preserve families: Termination of Parental Rights (TPR) and forced adoptions. The bulk of federal funding is

reserved for administering and paying licensed parents-for-pay, the next highest amount is earmarked for adoptive parents. The lowest amount, a mere fraction of the foster care budget, is to prevent the children from being removed from their homes. This provision affects the poor the hardest, whose children are removed for poverty falsely characterized as neglect. The loss of your children is a terrible penalty to pay for poverty.

SOLUTION

30 years of federal child welfare legislation has resulted in a pervasive societal oppression that has been unmatched since slavery was legal. The child welfare system cannot be fixed. It is a pathetic, self-serving patchwork of band aids and bailing wire. It must be torn down and rebuilt from the ground up with mechanisms instituted to insure that nothing like what we have now ever springs up again in its place.

1. The responsibility for child welfare must be bifurcated. The agency that investigates and prosecutes child abuse cannot be the same agency that provides services. This is a conflict of interest. Social workers, by definition, are not qualified to be investigators and prosecutors.¹
2. It is abhorrent to our most basic principles that the state should possess more rights and protections than the individual. Eleventh amendment immunity, statutory and traditional immunity must be eliminated for any protected person or state who, in the course of their official duties in a child welfare investigation or case, commits any act which violates any

¹In order to prevent the reintroduction of current abuses, the newly created agency must not employ or contract with any person who was part of this current, abusive child welfare system for ten years after the formation of the new agency.

law or rights of any individual, or which constitutes bad faith.

3. Confidentiality must attach to the parents on behalf of themselves and their children.
Parents would possess the sole prerogative to invoke or waive confidentiality until parental rights are terminated. Mandate that the Privacy Act, 5 U.S.C, 552a, shall apply to state child welfare records in order to afford parents and children a viable remedy to access and correct errors in their child welfare records.
4. Mandate independent oversight for the safety of children in foster care. CPS cannot reliably or honestly investigate itself. That foster care should be superior care and not undermine the values of the family. That parents should retain decision making rights over their child, even in foster care.²
5. Mandate meaningful and authoritative citizen oversight over agencies who investigate and prosecute and who provide services for child welfare cases. Any rule making or oversight body for child welfare must be comprised of no less than 50% consumers³ who are not service providers or employees.
6. It is not in the best interests of children that the process used to deprive them of their parents is too cheaply or easily accomplished. TPR is a death sentence for the family. It **should** be expensive to terminate parental rights. Eliminate family courts and informal hearings. Child abuse is a crime. To treat it as less than a crime is to cheapen the societal

² This is described in our manual under *When is Foster Placement More Harmful than Helpful?*

³ client parents (biological and adoptive proportional to the population) and foster and adopted children

value of our children and of the family and to invite the exploitation of children at the hands of the state. Mandate a right jury trials. That a child cannot be removed from his home absent serious injury. That parental rights must never be involuntarily terminated if the child was never actually seriously harmed by the parent.

7. Restrict discretion and eliminate discretionary and subjective standards such as *best interests of the child* and *contrary to the welfare*, and *reasonable efforts*. Caseworkers, GALs, and judges have not demonstrated responsible and fair application of their broad discretion. Our children are best protected when the law defines clear limitations on authority and power by these officials.

Time is short. This issue is complicated and massive. Please refer to our manual for more in-depth information. Thank you.

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STATEMENT OF EXPERTISE

Expert in the area of child protective services agencies and associated professionals' and service providers' practices, tactics and techniques during their interventions/investigations of child abuse/neglect cases and the effect of those actions on the validity of the case, and the effect of those actions on the family unit.

Experience:

Hands-on experience and research in this field since 1991. National Spokesperson for Parents March 98 in Washington, D.C. Has appeared on over 100 radio and television shows nationwide as a family rights expert in this field. Previous Spokesperson and Board of Directors for the Family Solidarity Coalition. Her focus is from the perspective of the family and based on the premise that family association is a fundamental human right.

- As the director of the American Family Advocacy Center, Ms. Shell provides legal research, analysis, investigation, strategical advice and advocacy services for families involved with CPS interventions nationwide for trial and advocacy purposes.
- Ms. Shell's independent qualitative research has spanned twelve years, including consultations with thousands of families who are involved with child protective services agencies, and also including direct interviews with children taken by CPS agencies, as well as evidence gathered from former family court judges, whistle blower social workers, psychologists, and other related service providers. Nationally recognized organizations such as The Pacific Justice Institute, The Home Education Network, VOCAL, The Citizen's Commission on Human Rights, P.A.R.E.N.T., Families First Partnership, Inc., The Alliance for Family Court Justice, etc., consult with Ms. Shell pertaining specifically to research, strategies and issues relevant to CPS interventions and families. Currently, between 40 and 60 hours a week are spent working and researching in this field. The American Family Advocacy Center is the only organization in the country to have compiled data regarding the nature of systemic, civil and human rights abuses under the mechanism of child protection.

Success rate relating to the implementation of tactics recommended by Ms. Shell exceeds 90%.

Success is defined as the safe reunification of the children with the parents or permanent placement with relatives as being in the best interests of the children. Stranger adoption is a clear indication that the intent of child welfare intervention has failed both the parents and the children.

Publications:

- Has written dozens of associated articles which have been published worldwide including *The Jury on Trial*, (Media Bypass); *Rights on Trial: The Verdict*, (Media Bypass); and *CASA - Court Appointed Special Advocate or Children Are Still Abused?* (multiple publications)
- *Profane Justice: A Comprehensive Guide to Asserting Your Parental Rights* 1997, 210 pp..

- *Profane Justice: A Comprehensive Guide to Asserting Your Parental Rights, Second Edition* 2001, 608 pp.
- *Knowing My Rules. Who Do I Trust?* 2002
- In production: A documentary on this subject and a series of programs for television on CPS abuses.

Training provided:

Ms. Shell provides training seminars for professionals and parents on the issue of child protection. She has provided training in the following locations:

- Phoenix, Arizona - 1998
- Cincinnati Ohio - 1998
- Louisville, Kentucky - 1998
- Anchorage, Alaska - 1998
- Fairbanks, Alaska - 1998
- Flint, Michigan - 1999
- Dayton, Ohio - 1999
- Maryland/Delaware - 1999
- St. Louis, Missouri - 2000
- St. Louis, Missouri - 2003
- Sheboygan, Wisconsin - 2003

Professional Training attended:

A Duty to Zealously Defend Your Client: An Appellate Lawyer's Perspective on common Attorney Mistakes, Rosenthal, J.D. 1999

Anal Findings of Alleged Sexual Abuse in Children, Dr. Stephen Guertin, M.D. 1999

Burns, Bites, Bruises: Intentional or Accidental Injuries to the Skin. Gaynor, Harry, Ph.D.. 1999

Cross Examination: Experts Have Limits, Too. Clifton Holmes, J.D.

Genital Findings of Alleged Sexual Abuse in Children, Dr. Stephen Guertin, M.D. 1999

How to Analyze Children's Statements and Case Facts: Discrediting Invalid Allegations of Abuse. Esplin, Phillip, Ed. D. and David Raskin, Ph.D. 1999

Interactive Exercise of Children's Interviews: A Case Analysis. Pool, Debra Ann, Ph. D. 1999

Interrogation, Coercion and Confessions. Dr. Richard Ofseh. Ph.D.

Investigative Protocols, The Wrong Way vs. the Right Way. Randy TenBrink.

Memory In & Out of Court: Practical Court Use. Loftus, Elizabeth, Ph.D. and George Castelle, J.D.

1999

NASVO/VOCAL National Conference - 1998. Included in training - Interviewing child witnesses, Investigations and False allegations.

Non-Scientific Expert, The, Dr. Melvin Guyer, JD, Ph.D. 1999

Polygraphs and Their Potential for Criminal Court. Raskin, David, Pd.D. and Sally Duncan, J.D. 1999

Predators Statutes & Hearings: Practical Strategies, Robert LeBell, J.D.

Reasonable Efforts Training Video Notebook - National Council of Juvenile and Family Court Judges.

Reliability vs.. Credibility. Dr. Phillip Esplin. 1999

Shaken Baby Syndrome; Shaken Impact Syndrome Head Trauma, Subdural Hematoma, Retinal Hemorrhaging, Dr. Robert Cantu. 1999

They Say it's "For the Children" - Child Protective Service: Reporting, Investigation and Judicial Action. Adams, Judith K. Ph.D. 1999

Victims: A Manual for Clergy and Congregations. Fourth Edition. The Spiritual Dimension in Victim Services, Delaplane, David and Anne. - 1997

Zealous Representation in Child Abuse Cases, Lyons, Bruce. J.D. 1999

Reasonable Efforts: A Check and Balance or Check the Box?

What does reasonable efforts really mean in a child welfare case? Is it really an "... important safeguard against inappropriate agency action..." or has this critical element become nothing more than "... *a mere pro forma exercise in paper shuffling to obtain Federal funding...*" (S. Rept. No. 336, 96th Cong., 2d Sess. 16 (1980)).

In order to arrive at an accurate analysis of this element, let's examine the requirements surrounding a judicial determination that *reasonable efforts* were made prior to the removal of the child from the home. We must also include the other half of this requirement, the requirement mandating a judicial determination that maintaining the child in the family home would be *contrary to the welfare of the child*. Both of these judicial determinations are required in order for the agency to qualify for federal funding under title IV-E of the social security act. Failure to fulfill either one of these safeguards renders the child ineligible for title IV-E funds for foster care. That represents a powerful incentive for child welfare agencies to operate within strict compliance with *reasonable efforts* and *contrary to the welfare* provisions⁴.

The law and the U.S. Department of Health and Human Services, Agency for Children and Families (ACF) is clear as to the application of these two requirements. First, that the first court order authorizing the removal of the child **must** include a judicial finding of contrary to the welfare of the child. If the initial removal order is issued prior to the child's actual removal, the *contrary to the welfare* of the child judicial finding must be included at that time. The failure to make this finding at the original removal order cannot be retroactively corrected by nunc pro tunc orders, or issued after the initial order authorizing the removal of the child. Furthermore, this

⁴The requirement for the State to make reasonable efforts to prevent removals is a fundamental protection under the Social Security Act and one of several criteria used in establishing title IV-E eligibility. From both a practice and an eligibility perspective, it is impossible for the State to provide efforts to prevent the removal of a child from home after the fact.

From a practice perspective, the removal of a child from the home, even temporarily, makes a profound impact on a family that cannot be undone. If the child is returned after services have been delivered, or even immediately, the State has reunified the family, not prevented a removal.

The statute requires that title IV-E eligibility be established at the time of a removal. If the State does not make reasonable efforts to prevent a removal or fails to obtain a judicial determination with respect to such efforts, the child can never become eligible for title IV-E funding for that entire foster care episode because there is no opportunity to establish eligibility at a later date. (The same argument has been applied to contrary to the welfare of the child determination.)

* Source/Date: Preamble to the Final Rule (65 FR 4020) (1/25/00)

* Legal and Related References: 45 CFR 1356.21 (b)(1)

judicial determination must be supported by the evidence in the record.

Additionally, the agency must actively make *reasonable efforts* to keep the child safely in the home before seeking a removal order or before removing the child without a removal order. *Reasonable efforts* consists of services provided to the family which are intended to prevent the child's removal from the family home, and to insure his safety while he remains in the home. Such services can include: supervisory day care, respite care, daily caseworker visits to the family home, a reasonable safety plan, one-time housecleaning, grant monies for utilities or rent or to repair unsafe condition in the home, a trip to the food bank or grocery voucher, in-home counseling and education, another family member moving into the home to supervise, removing the offending parent from the home, etc. If these services failed, the agency must prove that the services were appropriate and prove how they failed. If they didn't offer services, they must prove that those services would not have prevented removal or prove why they weren't required to provide services. The court is mandated to make a judicial determination concerning *reasonable efforts* within 60 days⁵. If it is not made within this time frame, like the *contrary to the welfare* requirement, *reasonable efforts* omissions cannot be corrected.

The assessment of what qualifies as '*contrary to the welfare*' is subjective. Each party to the case has the legal right to submit their arguments in support of or against this finding. The court has the obligation to hear these challenges. Why? Because *contrary to the welfare* is not merely a box to be checked based on the unsubstantiated claim of a caseworker. It actually performs the function of satisfying due process protections associated with depriving parents and children of their liberty interests to family association. As such, to treat this as a mere formality and ignore the substance of this powerful requirement is to deny the children and parents due process. This finding can be overturned on appeal if the evidence in the record at the time of the judicial determination does not support a finding of *contrary to the welfare*. If *contrary to the welfare* determination is overturned on appeal, it raises the very real possibility that any subsequent adjudication, treatment plan and termination of parental rights ruling can also be invalidated. This would be based on the premise that the child was presumably safe and the parents were presumed fit and the agency acted without legal justification in removing the child in the first place.

Reasonable efforts is less subjective, but no less critical as a due process requirement.⁶

⁵Pursuant to 45 CFR 1356.21 (b)(1)(i), the State agency must obtain a judicial determination that it either made or was not required to make reasonable efforts to prevent a child's removal from the home no later than 60 days from the date the child was removed from the home. However, the State agency may obtain such a determination earlier than 60 days from the date of removal.

* Source/Date: Questions and Answers on the Final Rule (65 FR 4020) (1/25/00)

* Legal and Related References: Social Security Act - section 471 (a)(15); 45 CFR 1356.21 (b)

⁶ The contrary to the welfare and reasonable efforts determinations are a critical statutory protection and a criterion for establishing title IV-E eligibility. Once a child is removed from home, the State cannot go back and "fix" an inappropriate removal. If a child's removal from

Because these two requirements are so vital to pre- or post-deprivation due process for both the parents and the children, the court does not have the discretion to issue a judicial finding in favor of *contrary to the welfare* or *reasonable efforts* without first examining the evidence supporting that finding.⁷ Even if the parties are willing to stipulate to those findings, the law mandates that these findings be supported by evidence in the record. Naturally, the parents and children have the right to subject the supporting evidence to adversarial testing, to rebut the evidence and to appeal these critical due process findings. But the scope of the power of *reasonable efforts* exceeds just the initial removal of the child. *Reasonable efforts* also applies to reunification of the child with the parents, and to achieving permanency for the child.

In the context of reunification, as soon as the parents can demonstrate that the family home is safe and appropriate for the child, the child must be returned. If there are services which the family can utilize while the child is in the home which will insure the safety of the child, reunification must occur. If it doesn't, once again, the parents and children can challenge the judicial determination that *reasonable efforts to reunify* the family were made. They should demand an evidentiary hearing and once again subject the evidence supporting this *reasonable efforts* determination to adversarial testing. If there is insufficient evidence to support *reasonable efforts*, the court has the discretion to order the child returned home and the child will be ineligible for title IV-E funds for his entire stay in foster care.

In most jurisdictions, the judicial determination that *reasonable efforts* were made is a required element in order to terminate parental rights. If *reasonable efforts to reunify* have not

home is not based on a judicial determination that it was contrary to the child's welfare to remain in the home, and if there is a judicial determination that reasonable efforts were not made, the child is ineligible for title IV-E funding for the entire foster care episode subsequent to that removal because there is no opportunity to satisfy this eligibility criterion at a later date. The same does not hold true for all other eligibility criteria. For example, judicial determinations regarding reasonable efforts to finalize a permanency plan, placement in a licensed foster family home or child care institution, and State agency responsibility for placement and care are all title IV-E eligibility criteria that can be reestablished if lost or established at a later time if missing at the beginning of a foster care episode. This is not the case with the contrary to the welfare determination.

* Source/Date: Preamble to the Final Rule (65 FR 4020) (1/25/00)

* Legal and Related References: 45 CFR 1356.21 (c)

⁷The regulations, at section 1356.21 (d), requires judicial determinations to be explicit, and made on a case-by-case basis. This requirement is made to assure that the individual circumstances of each child before the court are properly considered in making judicial determinations. The court must demonstrate that such determinations are made on a case-by-case basis and documented in the record.

* Source/Date: Questions and Answers on the Final Rule (65 FR 4020) (1/25/00)

* Legal and Related References: 45 CFR 1356.21 (d)

been made, termination of parents rights cannot, as a matter of law, be granted. This makes it critical to challenge every *reasonable efforts* determination so that it can be raised as an appealable issue if parental rights are terminated.

It is in this manner, that *reasonable efforts* and *contrary to the welfare*, act as two powerful checks and balances against unnecessary removal of children from their homes and to insure the speedy reunification of the family. It also proves how utterly critical it is for parent attorneys to demand evidentiary hearings at the initial shelter hearings. This will be their singular opportunity to challenge any pro-forma judicial determinations in favor of *contrary to the welfare*.

Since the court must make *reasonable efforts to reunify* determinations at each subsequent hearing, the parents and children must make the state bear the burden of proving that *reasonable efforts* were made. Once again, the court cannot responsibly make this judicial determination if the evidence does not support that finding.

As powerful as these two elements are in protecting the liberty interests of both children and parents, it must be noted that most professionals who practice in this area of law have no clue of the significance of these two, simple determinations. ACF has confirmed this in their child welfare manual, ***“We concluded, based on our review of States' documentation of judicial determinations over the past years, that, in many instances, these important safeguards had become precisely what Congress was concerned that they not become. . .a mere pro forma exercise in paper shuffling to obtain Federal funding...”*** (S. Rept. No. 336, 96th Cong., 2d Sess. 16 (1980)). ”

Regardless of how carefully the legislature crafts the checks and balances that they determine must be employed in the laws they pass, unless the responsible actors employ those mechanisms, the system of checks and balances will utterly fail to perform their designated functions. For this reason, we are experiencing wholesale failures of the child welfare system.

The first protector of these two checks and balances is the court. Judges have abdicated their solemn duty to be impartial finders of fact and to enforce the law as it has been written and to insure full due process has been afforded to respondent parties and children. They rubber stamp these two judicial determinations as a matter of procedure in every court in our land, without ever reviewing any evidence or even asking for any evidence to support those findings. A judge must anticipate, even expect that any party in any court case will attempt to take procedural or legal shortcuts in their efforts to resolve the dispute in their favor. To validate a due process shortcut in any single case is a profound injustice to the opposing party. To institutionalize those shortcuts on a wholesale basis is abhorrent to the fair and impartial administration of justice. Is it any wonder that the public has lost complete faith in the juvenile court system?

But the judges are not solely to blame for this failure. Respondent parent attorneys are also charged with invoking all available legal remedies and protections on behalf of their clients. Instead, the accepted practice is to appear in court and acquiesce to all child welfare agency demands from the very first hearing, regardless of the parent's wishes. They will not challenge *contrary to the welfare* determinations, nor demand that the state bear the burden of proof that keeping the child in the home was *contrary to the welfare* of the child. Even in the most obvious cases, where the child exhibited no identifiable harm as a result of the parents' action or inaction, they will refuse to invoke this critical due process tool that has the potential to get over 80% of

children returned to their parents at the very first hearing.

Respondent parent attorneys will refuse to utilize *reasonable efforts* in a similar manner. This is especially detrimental to their clients because the legal ability of the court to terminate parental rights hinges so much on this determination.

The generally accepted legal requirement to remove a child is when a parent fails to provide the minimum amount of care, safety, food, shelter, supervision and education that a child requires. This translates into a parent with a grade of F. The agencies are removing children who are clearly receiving the minimum level of care but, alas, the parents are not perfect. Therefore, the child is at risk of future abuse. When? Who knows? What specific abuse? Not necessary to identify. These parents are probably C- parents.

In universal practice, the child is removed and not returned until the parents can demonstrate to the subjective satisfaction of the caseworker that they have become at least B parents. This translates into a failure to make *reasonable efforts*. *Reasonable efforts* to reunify arguably means that if the parents achieve a D- proficiency with regard to providing the minimum level of care, that reunification should occur with continuing services reasonably designed to increase the proficiency of the parents.

These parents' attorneys should be arguing against any *reasonable efforts* determinations which endorse the threshold for reunification higher than the legally mandated minimum level of care. This is the only way to force the child welfare agencies to comply with *reasonable efforts*.

At the same time, the agency is declaring they have made *reasonable efforts* and that maintaining the child in the home was *contrary to the welfare* of the child. They checked the *reasonable efforts* box and used the words *contrary to the welfare* of the child. If one were to examine any juvenile court record, one would be hard pressed to find anything more than that form submitted by the agency to substantiate these determinations. There would be no individualized determination on either of the elements. Procedurally, the form has been satisfied and the agency will seek and obtain federal funding for that child.

The final factor which contributes to this process devoid of substance is the character of the judicial process itself. It is not geared toward protecting the rights of children and parents. It is geared toward the hasty disposition of cases, prehearing negotiations and deals and the minimization of expenses. Hearings are conducted informally in order to facilitate these objectives. Consequently, any effort to slow the wheels of justice with examination and deliberation of the *merits* is strongly discouraged. Judges get ugly when contested hearings are demanded. Child welfare agencies use this request from the parents to characterized them as 'uncooperative' and 'focusing on the wrong issues' (e.g. their rights) to the detriment of reunification. Respondent parent attorneys petition to withdraw if demanded to invoke the legal tools available to them. The entire system is designed to impose obstacles to any attempt to make the state bear the burden of proof as mandated under law.

Reasonable efforts and *contrary to the welfare* do not represent a right in and of themselves. They are carefully crafted safeguards to protect due process. They have the power to deprive the agency of funding and to reunify families. It's way past time to invoke them.

THE DIRTY SECRET OF CHILD WELFARE FRAUD

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CHILD WELFARE FRAUD

The American Family Advocacy Center has been engaged in 13 years of qualitative research of state and federal child protection provisions and practices. As a result of this research, we have exposed two primary ways exploited by state child welfare agencies to fraudulently obtain of federal monies for child welfare operations. Exposing these methods requires that investigators be afforded full access to the agency case file, including all information pertaining to the child's eligibility for certain Federal monies and full access to the public and private portions of the related court file. The reader must remember that receipt of these monies are contingent upon the state's practices conforming strictly to Federal mandates under the Social Security Act, primarily titles IV B & E, and title XIX (medicaid).

TITLE IV-E OF THE SOCIAL SECURITY ACT

The first and most obvious method where state child welfare agencies fraudulently obtain Federal funding is under title IV-E for foster care. Title IV-E funding is provided for actual foster care expenses as well as the associated administrative costs for the local child welfare agency as long as certain criteria are met. The most prevalent fraudulent acts occur at the time the child is removed from the family home and placed in foster care.

CRITERIA REQUIRED at the time of removal of the child from the family home:

“Contrary to the welfare of the child” to remain in the family home judicial finding.

“Reasonable efforts” to prevent the removal of the child from the family home judicial finding.

HOW IS THE FRAUD PERPETRATED?

The agency and the court will insure that the requisite judicial findings are recorded as to virtually every child who comes under court jurisdiction, regardless of whether or not the substance of the requirement has been met. These findings will appear in both agency records and court files without any evidentiary or documentary support. These two critical findings have become a mere ritual of ‘filling it the blank’ and checking the box.

Since agency and court records are so secret, and since the agency is responsible for self-monitoring and self-reporting, there is no mechanism to prevent or expose fraudulent claims under title IV-E. As a result, thousands of families been deprived of the carefully crafted due process protections ostensibly afforded by these vital requirements. The states have defrauded the Federal government out of hundreds of millions, possibly billions of dollars through this mechanism. Conservative estimates based on our research indicate that over 80% of children placed in foster care over the past 7 years could have safely remained in their homes, many without any agency services required.

INVESTIGATION

The agency case file should clearly show

- What specific evidences were objectively present that indicated the child had suffered serious harm or injury as defined in the statutes⁸, or
- What specific safety issues were objectively present that indicated the child was at any identifiable, genuine imminent risk of serious harm or injury if he stayed in the family home as defined in the statutes⁹.
- Specific information as to how the conditions in the family home are contrary to the welfare of the child. Vague speculation and unsupported allegations do not satisfy this requirement.
- What specific services were considered and rejected or offered to the family before the child was removed from the home which would allow the child to remain safely in the home¹⁰. Why were services rejected by the agency?
- Were those services refused by the family? Why? If refused, was the family obtaining their own services? If so, agency monitoring should have sufficed.
- If services were provided prior to the child's removal, and the child was still removed, why did they fail?¹¹ What other options were explored? Was the child harmed during this time frame?

The court file must clearly show:

- Evidence in the form of sworn testimony or other evidentiary materials that the child had suffered serious harm or injury at the hands of his parents. This requirement is not satisfied with caseworker statements or a petition alone.
- Evidence in the form of sworn testimony or other evidentiary materials that the child was at real, imminent, identifiable risk of serious harm or injury if he stayed in the family

⁸This does not cover minor injuries, accidental injuries, teenage rebellion, caseworker disapproval of parenting practices, values, religion, family structure or culture, etc..

⁹This requirement is not satisfied by caseworker speculation into worst case scenarios or exaggerating the real risks or flights of fancy. Clearly, past history should be indicative of future risk to the child.

¹⁰Such services could include day care, respite care, daily caseworker visits to the family home, a reasonable safety plan, one-time housecleaning, grant monies for utilities or rent or to repair unsafe condition in the home, a trip to the food bank or grocery voucher, in-home counseling and education, another family member moving into the home to supervise, removing the offending parent from the home, etc.

¹¹Were they inappropriate to the family's situation or limitations? Inaccessible to the family? Unavailable? If unavailable, did the agency devise it's own services which would address the issue or just seize the children due to budgetary limitations?

home. This requirement is not satisfied with caseworker statements and speculation alone. Past history of no harm is relevant to the validity of caseworker claims of future risk.

- If a judicial finding that it would be ‘contrary to the welfare’ of the child to remain in the home is made, the court must cite the details and evidence which has been submitted which support that finding. If the findings of fact or conclusions of law are not supported by the evidence in the record, the court should **not** make a finding that remaining in the family home was contrary to the welfare of the child.
- Evidence of what specific, appropriate and relevant services were offered to satisfy reasonable efforts to prevent the removal of the child from the home. If no services were offered prior to removal, evidence proving why there were no services which could be devised which could have reasonably address the safety issues must be provided. If services were provided and the child was still removed, evidence as to why the services failed must be provided. Under reasonable efforts, the failure of the agency to provide appropriate and timely services is grounds for a judicial finding that reasonable efforts have **not** been made. If the record contains no evidence or documentation of specific services, the court should not make a finding that reasonable efforts were made.
- A judicial finding detailing what specific reasonable efforts were made - which is supported by the evidence and not based on hearsay or speculation, the parent’s participation in the services provided by the agency or obtained privately, the appropriateness and timeliness of the services offered by the agency, and the specific, identifiable reasons why those services failed to keep the child safely in the home.
- The court file must contain this required information at the time of the judicial finding regardless of whether or not the parents’ or the children’s attorneys demanded contested hearings as to any judicial findings of “reasonable efforts” and “contrary to the welfare of the child.” This documentation must also exist ***even if the parent’s attorneys stipulate*** to reasonable effort and contrary to the welfare judicial findings. If contested hearings are demanded, the court must conduct evidentiary hearings into the merits of these findings.

FINDINGS

If there is a judicial finding that reasonable efforts have **not** been made OR if there is **no** judicial finding that keeping the child in the family home is contrary to the welfare of the child, the agency cannot apply for funds under title IV-E.

If the court found that reasonable efforts were made AND that it was contrary to the welfare of the child to remain in the family home, and either the agency or the court file fail to have the required documentation and evidence to support both of those findings, the requirements to receive funding under title IV-E have **not** been satisfied.

If the agency record reflects that they applied for and/or received title IV-E funding for this child, when the requirements for title IV-E funds have NOT been met, that funding was obtained by fraud and deception.

TITLE XIX OF THE SOCIAL SECURITY ACT - MEDICAID FOR CHILDREN IN FOSTER CARE

The second documented method that state child welfare agencies use to defraud the federal government is in applying for and obtaining medicaid funding for children in foster care¹². This practice directly relates to the prior discussion on reasonable efforts and contrary to the welfare of the child judicial determinations.

CRITERIA REQUIRED

The child must not have any other health care insurance through his parents or other provider. The child cannot be safely kept in his home.

HOW IS THE FRAUD PERPETRATED

In applying for a foster child to receive medicaid coverage for health care and other relevant services, the agency must certify that the child could not be safely kept in his family home. This is a box to be checked on the medicaid enrollment form. If the court has not made the requisite findings (above) OR if the court's findings are not supported by evidence in the record, this requirement is not materially satisfied and the child's enrollment is based on a fraudulent claim.

The other form of medicaid fraud involves instances where the parents have their own health insurance coverage on the child and the agency practice of artificially escalating the health care needs of children in foster care.

AFAC has received many reports of parents who have attempted to provide the caseworker with their health insurance information at the time the child was removed from the family home. The caseworker usually declines to accept that information. If the caseworker were to accept the child's existing health insurance, she would be required to take the child to providers within that insurance network. The resultant examination and evaluation findings and recommendations would be less likely to conform with the diagnoses and recommendations that the caseworker needs to justify the child's removal.

Consequently, the caseworker will enroll the child in medicaid and take the child to the agency's preferred providers. Many times, these providers never obtain the child's past medical records. The caseworker routinely provides her version of the child's medical and mental health history based on her biases, and misdiagnoses are common. Consequently, the resultant treatment is frequently unnecessary, inappropriate and excessive. It rarely address the source of the problem, but simply masks or blocks the symptoms.

Many times, children in foster care are being treated for issues that did not exist in the family home, but which are the direct result of the child's removal from the family home. These

¹² Federal medical payments on behalf of title IV-E eligible children in foster care are provided under the State's title XIX, Medicaid program, in accordance with title XIX, Medicaid Program, and with section 472 (h) of the Act. 42 U.S.C. Sec. 1396a.(a)(10)(A)(i)(I)

children become classified as ‘special needs’ and qualify for more intensive services at taxpayers’ expense. An extremely high percentage of children in foster care are placed on chemical restraints. These are often cocktails of mind and mood altering drugs to control separation anxiety, anger, depression, and behavior problems which never existed in the family home but which the ‘highly trained’ foster care providers are unable to cope with. If the child had been taken to his primary care physician, this practice would most likely be stopped dead in its tracks.

When medicaid is billed for the medical or mental health services rendered to the child, medicaid will not be advised that a primary insurance exists. Medicaid unwittingly pays the bill when it is not permitted to do so under its own regulations. This practice is prevalent regardless of the state. This is fraud.

We have advised clients that if their child is placed in foster care, that they should immediately call medicaid and advise them that their child has other health insurance. Medicaid will then refuse payment for that child’s treatment until the primary insurance pays first. Since the treatment services for these children are routinely provided by out-of-service providers, the primary insurance also refuses to pay. Few parents are even aware of this fraud since they lose all control over their child’s medical and psychological treatment while he is in foster care.

DISCUSSION AND FEDERAL REQUIREMENTS

REASONABLE EFFORTS

A child welfare agency can receive title IV-E funds for administrative duties related to a child who has not been removed from the home, provided the child is a candidate for foster care under one of the following criteria:

1. A candidate for foster care is a child who is at serious risk of removal from home as evidenced by the State agency making reasonable efforts to prevent such removal. In order to qualify for title IV-E funds the agency must devise a defined case plan, with the input of the parents, which clearly indicates that, absent effective preventive services, foster care is the planned arrangement for the child.¹³ The recommended formula? A case plan that sets foster care as the goal for the child absent effective preventive services is an indication that the child is at serious risk of removal from his/her home because the State agency believes that a plan of action is needed to prevent that removal.
2. An eligibility determination form which has been completed to establish the child's eligibility under title IV-E.

¹³ Child Welfare Policy Manual March 05, 2004 - Federal financial participation for *administrative costs* listed at 45 CFR 1356.60 (c) may be claimed regardless of whether the child is actually placed in foster care and becomes a recipient of title IV-E foster care benefits. However, reimbursement is limited to those individuals the State reasonably views as candidates for foster care maintenance payments. Legal and Related References: Social Security Act - sections 471 (a)(15) and (16); DHHS Grant Appeals Board Decision No. 844

3. Evidence of court proceedings in relation to the removal of the child from the home, in the form of a petition to the court, a court order or a transcript of the court's proceedings.

In order to qualify for title IV-E funding after a child is removed, the statute requires that the "removal" from the home must occur as the result of a judicial determination to the effect that continuation therein would be **contrary to the child's welfare**.¹⁴ The contrary to the welfare determination is a critical statutory protection and a criterion for establishing title IV-E eligibility. Once a child is removed from home, the State cannot go back and "fix" an inappropriate removal. If a child's removal from home is not based on a judicial determination that it was contrary to the child's welfare to remain in the home, the child is ineligible for title IV-E funding for the entire foster care episode subsequent to that removal because there is no opportunity to satisfy this eligibility criterion at a later date.

Child Welfare Policy Manual March 05, 2004 reports, "The basis for this policy can be found in the legislative history of the Federal foster care program. The Senate report on the bill that became Public Law 96-272 characterized the required judicial determinations as "... important safeguard[s] against inappropriate agency action..." and made clear that such requirements were not to become "... *a mere pro forma exercise in paper shuffling to obtain Federal funding...*" (S. Rept. No. 336, 96th Cong., 2d Sess. 16 (1980)). **We concluded, based on our review of States' documentation of judicial determinations over the past years, that, in many instances, these important safeguards had become precisely what Congress was concerned that they not become.**"

If the child was removed involuntarily from the family home, the eligibility criterion requires a judicial determination that the State made reasonable efforts of the type described in section 471 (a)(15) of the Act. Section 471 (a)(15) of the Act requires the State agency to make reasonable efforts to prevent the child's removal from his/her home, to reunify the child and family, and to make and finalize an alternate permanent placement when the child and family cannot be reunited. The requirements for judicial determinations regarding reasonable efforts are title IV-E eligibility criteria. If the eligibility criteria are not satisfied, the child is not eligible for title IV-E funding. The regulations, at 45 CFR 1356.21 (d), requires judicial determinations to be explicit, and made on a case-by-case basis. This requirement is made to assure that the individual circumstances of each child before the court are properly considered in making judicial determinations.

Child Welfare Policy Manual March 05, 2004 "The requirement for the State to make reasonable efforts to prevent removals is a fundamental protection under the Social Security Act and one of several criteria used in establishing title IV-E eligibility. From both a practice and an eligibility perspective, it is impossible for the State to provide efforts to prevent the removal of a child from home after the fact.

"From a practice perspective, the removal of a child from the home, even temporarily, makes a profound impact on a family that cannot be undone. If the child is returned after services

¹⁴Social Security Act - section 472 (a)(1)

have been delivered, or even immediately, the State has reunified the family, not prevented a removal.

“The statute requires that title IV-E eligibility be established at the time of a removal. If the State does not make reasonable efforts to prevent a removal or fails to obtain a judicial determination with respect to such efforts, the child can never become eligible for title IV-E funding for that entire foster care episode because there is no opportunity to establish eligibility at a later date.”

CONTRARY TO THE WELFARE OF THE CHILD

To fulfill the eligibility criteria in section 473 (a)(2)(A)(i) of the Social Security Act when a child's removal from the home is the result of court action, there must be a judicial determination to the effect that to remain in the home would be contrary to the child's welfare. Since a child's removal from the home must occur as a result of such a judicial determination, the determination must be made in the first court ruling that sanctions (even temporarily) the removal of a child from the home. If the determination is not made in the first court ruling pertaining to removal from the home, the child is not eligible for title IV-E adoption assistance. The contrary to the welfare finding must be explicit and made on a case-by-case basis. Items such as nunc pro tunc orders, affidavits, and bench notes are not acceptable substitutes for a court order. Only an official transcript is sufficient evidence of the judicial determination.¹⁵

Such a determination is necessary at any time (or every time) that a child is removed from his home, because each situation involves different circumstances and reasons for placement.

Child Welfare Policy Manual March 05, 2004, “We have made no distinction about the type of order in which the contrary to the welfare determination is required. Such a determination must be made in the very first court order pertaining to the child's removal from home. If the emergency order is the first order pertaining to a child's removal from home, then the contrary to the welfare determination must be made in that order to establish title IV-E eligibility.¹⁶

“The contrary to the welfare determination is a critical statutory protection and a criterion for establishing title IV-E eligibility. Once a child is removed from home, the State cannot go back and “fix” an inappropriate removal. If a child's removal from home is not based on a judicial determination that it was contrary to the child's welfare to remain in the home, the child is ineligible for title IV-E funding for the entire foster care episode subsequent to that removal because there is no opportunity to satisfy this eligibility criterion at a later date. The same does not hold true for all other eligibility criteria. For example, judicial determinations regarding reasonable efforts to finalize a permanency plan, placement in a licensed foster family home or child care institution, and State agency responsibility for placement and care are all title IV-E

¹⁵ Social Security Act - section 473 (a)(2); 45 CFR 1356.21(c) and (d)

¹⁶ Preamble to the Final Rule (65 FR 4020) (1/25/00): 45 CFR 1356.21 (c)

eligibility criteria that can be reestablished if lost or established at a later time if missing at the beginning of a foster care episode. This is not the case with the contrary to the welfare determination.¹⁷”

“ The basis for this policy can be found in the legislative history of the Federal foster care program. The Senate report on the bill that became Public Law 96-272 characterized the required judicial determinations as "... important safeguard[s] against inappropriate agency action..." and made clear that such requirements were not to become "... *a mere pro forma exercise in paper shuffling to obtain Federal funding...*" (S. Rept. No. 336, 96th Cong., 2d Sess. 16 (1980)). We concluded, based on our review of States' documentation of judicial determinations over the past years, that, in many instances, these important safeguards had become precisely what Congress was concerned that they not become.”

¹⁷ Preamble to the Final Rule (65 FR 4020) (1/25/00): 45 CFR 1356.21 (c)

The Colorado Interim Committee on Foster Care - July 10, 2000**Submitted by: The American Family Advocacy Center, Colorado Springs, CO.**

When is foster placement more harmful than helpful?**INDICATORS OF PROBLEMS WITH FOSTER CARE**

4. Percentage of children without pre-existing mental health/emotional problems who require therapy or treatment once they are placed in foster care compared to general population.
5. Percentage of children whose pre-existing emotional/mental health problems escalate while in foster care compared to general population.
6. Percentage of reports of abuse/neglect/deaths which occur in foster/adoptive homes compared to biological homes.
7. Percentage of reports of abuse/neglect/deaths which occur in group homes compared to biological homes.
8. Percentage of reports of abuse/neglect/deaths which occur in institutions compared to biological homes.
9. Percentage of runaways from foster/group homes & institutions compared to biological homes.
10. Percentage of available foster placement facilities that have violations that would result in children being removed if that same incident had occurred in a family home, yet the foster home is still licensed.
11. Percentage of foster placement facilities whose conditions are worse than the family home conditions. (Based on unannounced, random inspections).
12. Percentage of children in foster care whose behavior, socialization, school performance, etc. deteriorates compared to when the child was in the family home.
13. Multiple placements of a child due to reports of abuse/neglect in foster placement.
14. Multiple placement of children due to inability of foster care giver to cope with behaviors.
15. Percentage of children in foster care who must be placed on prescription drugs to control acting out or other behaviors compared to the general population.
16. Percentage of siblings who are separated when in foster placement compared to general population.
17. High rate of turnover of foster care providers
18. Not enough foster care providers for the children who require safe placement

RECOMMENDED FOSTER CARE REFORMS

1. **Institute a process whereby complaints of child abuse or neglect in foster care are all reported to, investigated by, and reports are compiled by an agency independent of DHS.¹⁸**
2. **We have the reasonable expectation that a child removed from his home will be placed in an environment that is superior in safety, nurturing and guidance and have adequate facilities for the needs of the child being placed. To assess the risk of abuse in alternative placement, the removal of a child from his home must be based on a structured risk assessment tool that compares the risk of abuse in the proposed placement¹⁹ with the risk of remaining in his own home. If the risk in alternative**

¹⁸We recommend this be handled by a special department under the Attorney General's office, with the budget for this office coming out of the DHS budget. It is a serious conflict of interest that the agency responsible for the certification of foster homes/CPAs and for the safe placement of children is also responsible for investigating complaints of abuse/neglect related to the child's placement in those homes/CPAs. Parents and children shall be informed of a toll-free contact number that will take these reports. There shall be no retaliation for complaints made. And Caseworker, GAL, CASA or other service provider who has participated in covering up abuse or neglect in alternative care shall be criminally prosecuted.

¹⁹This assessment tool applies to kinship care homes, foster homes, group homes and institutions and will help insure the child is actually placed in the least restrictive, most home-like setting.

ALTERNATIVE PLACEMENT RISK ASSESSMENT:

1. Total Number of children in alternative placement including this child
 - a. 1 - 2 = 1 point
 - b. 3 or 4 = 2 points
 - c. More than 5 = 4 points
2. Number of foster children in alternative placement including this child
 - a. 1 = 0
 - b. 2 children or 1 sibling group = 1
 - c. More than three unrelated foster children = 2
3. Number of infants under 2 years old in foster home
 - a. 0 - 1 = 0
 - b. 2 = 1
 - c. 3 or more = 2
4. Total number of children living in alternative placement location who are special needs
 - a. Emotional problems or physical disability = 1 point for each child with this problem
 - b. Mental illness or developmental disability or are on psychotropic medications = 2

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- points for each child with this problem
 - c. History of child committing violence or child out of control = 2 points for each child with this problem
 - d. History of committing sexual abuse or sexualized behaviors = 3 points for each with this problem
5. Ratio of adults (over 21) to children in alternative placement
- a. 1 adult per child = 0 points
 - b. 1 adult per 2-3 children = 1 point
 - c. 1 adult per 4 children = 2 points
 - d. 1 adult per 5 or more children = 3 points
6. Age relationships of all children living in alternative placement home where child is to be placed
- a. More than two children are more than two years older than the child to be placed = 3 points
 - b. One child more than two years older than child to be placed = 2 points
 - c. All children the same age or younger than child to be placed = 1 point
 - d. No other children in home = 0 points
7. Characteristics of child to be placed - count all that apply
- a. Child resisted removal and/or crying when removed from home = 1 point
 - b. Child denied abuse or neglect = 1 point
 - c. Child recanted abuse or neglect = 2 points
 - d. Infant less than twelve months old at time of removal or breast-fed infant = 3 points
 - e. Child has history of emotional problems, acting out, physical disability, mental disability while in home = 2 points
8. Type of alternative placement
- a. Kinship care (blood relatives only) = 1
 - b. Foster home = 2
 - c. Therapeutic, foster-adopt, emergency or respite foster care home = 3
 - d. Group home or institution = 4
9. Number of complaints of abuse/neglect against alternative placement from any source
- a. None = 0
 - b. One = 1
 - c. Two = 2
 - d. Three or more = 4
10. Number of substantiated reports of abuse/neglect against alternative placement
- a. 0 = 0
 - b. 1 = 1
 - c. 2 = 2
 - d. 3 or more = 4
11. Number of incident reports filed against alternative placement

placement is greater, the child must remain in the safer placement at home and in-home services be provided. This placement assessment tool must also be used each time a child is moved and each time new children are placed in the alternative placement.

3. **Measure whether the child's placement in foster care has been more harmful than helpful. Perform Baseline Assessment of child behavioral indicators based on history provided by respondent parent; and child shall be re-assessed on a bimonthly schedule and reassessed for every child whose placement is changed to provide a structured assessment tool to measure positive or negative effects of alternative**

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- a. 0 - 2 = 1
 - b. 3 - 5 = 3
 - c. 6 or more = 5
 12. History of safety in alternative placement
 - a. Foster child injured accidentally = 1 point for each incident
 - b. Foster child died = 3 points for each incident
 13. Facilities in alternative placement - choose all that apply
 - a. Less than 1 bed per child = 1
 - b. Children more than two years older than child have free access to child to be placed = 1
 - c. Three or more children sharing a bedroom = 2
 - d. Children with greater than two years age difference or of different sexes sharing a bedroom = 5
 14. Reasons child is being removed from original family home - choose all that apply
 - a. Related to poverty such as lack of food, lack of appropriate housing, etc. without remedial in-home services offered first = 2
 - b. Related to non-injurious cultural or religious practices or parenting practices and prerogatives = 2
 - c. Related to child's or parent's disability without providing in-home services to compensate for disability = 2
 - d. Parents were not given opportunity to cure non-injurious child safety issues in the home before child was removed = 2
 - e. Decision to remove child was based on risk assessment without identifiable harm or injury as defined in statutes = 3
 15. For subsequent alternative placement - choose all that apply
 - a. Child's emotional well-being deteriorated in alternative placement (see Child's Baseline Assessment) = 2
 - b. Child's mental health deteriorated in alternative placement (see Child's Baseline Assessment) = 2
 - c. Child has suffered abuse or neglect in alternative placement = 3

placement on child.²⁰ Subsequent assessments after placement shall be completed with

²⁰**CHILD'S BASELINE ASSESSMENT** of behavioral indicators prior to removal from family home

1. Child suffers nightmares
 - a. More than once a week
 - b. Once a week
 - c. Once a month
 - d. Once every two - three months
 - e. 1 - 3 times a year
2. Child wets the bed
 - a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily
3. Child destroys property
 - a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily
4. Child exhibits self-abusive behavior
 - a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
5. Child has temper tantrums
 - a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily
6. Child urinates/defecates in inappropriate places
 - a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week

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- e. More than once a week
 - f. Daily
7. Child cries without physical injury or obvious fatigue
- a. More than once a day
 - b. Every day
 - c. Almost every day
 - d. Several times a month
 - e. Rarely
8. Child exhibits sexualized behaviors
- a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily
 - g. Multiple times during the day
9. Child uses profanity or yells at adults
- a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily
10. Child expresses desire to die or kill himself
- a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily
11. Child expresses desire to harm or kill others
- a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily
12. Child's medications to control behavior
- a. None
 - b. One med per day
 - c. Two different meds per day

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- d. Three different meds per day
 - e. Four different meds per day
 - f. More than four different meds per day
13. Child exhibits out-of-control behaviors
- a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily
14. Child harms others (non-accidental)
- a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily
15. Child's ability to concentrate or focus on a task
- a. Has no problem or rarely has problem
 - b. Occasionally has problem
 - c. Frequently has problem
 - d. Almost always has a problem
16. Child's level of cooperation in household
- a. Very cooperative
 - b. Mostly cooperative
 - c. Cooperative about half the time
 - d. Mostly uncooperative
 - e. Very uncooperative
17. Child's self-esteem
- a. Exaggerated for his age/development
 - b. Normal for his age/development
 - c. Below normal for his age/development
 - d. Has no self-esteem
18. Child's school performance is mostly
- a. A's
 - b. B's
 - c. C's
 - d. D's
 - e. Failing
19. Child is disciplined in school
- a. Never

-
- b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
20. Child's sleeping habits - select all that apply
- a. Sleeps at normal times
 - b. Has trouble falling asleep
 - c. Wakes up in middle of night
 - d. Requires more than normal number of hours of sleep for his age
 - e. Requires less than normal number of hours of sleep for his age
 - f. Wakes up too early
 - g. Requires medication to sleep
 - h. Has few nightmares
 - i. Has moderate nightmares
 - j. Has frequent nightmares
 - k. Sleepwalks
21. Child's overall demeanor is generally - select all that apply
- a. Extremes of highs and lows
 - b. Exuberant
 - c. Cheerful
 - d. Neutral
 - e. Sad
 - f. Depressed
 - g. Sullen
 - h. Angry
 - i. Superficial

Additional questions for subsequent assessments

22. Child cries for parents
- a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily
23. Child cries for siblings
- a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily

input of parents as well as alternate caregivers and shall be made available to respondent parents. Assessment to be provided to foster caregivers to aid them in providing appropriate care for the child. Compile into publicly available statistical reports.

4. **Require annual reporting of statistical information pertaining to child abuse or neglect and child deaths in foster care** that specifically pertains to the safety of alternative placements compared to children in biological homes.²¹ These statistics would

-
24. Child acts out after visits with parents
 - a. Always
 - b. Most times
 - c. Half the time
 - d. Occasionally
 - e. Never
 25. Child expresses anger, hate for parents
 - a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily
 26. Child expresses distrust, dislike, anger for caseworker, GAL or CASA
 - a. Never
 - b. Less than 3 times a year
 - c. Once a month
 - d. Once a week
 - e. More than once a week
 - f. Daily

²¹**This would be compiled by the agency who receives the reports of child abuse/neglect in foster care. Statistical information would be reported for the following categories:**

- a. Number of children in foster care.
- b. Number of reports of abuse in each of foster care, adoptive homes, kinship homes, and biological parent homes and types of complaints.
- c. Number of substantiated/founded reports of abuse in each of foster care, adoptive homes, kinship homes, and biological parent homes and types of complaints.
- d. Number of reports of neglect in each of foster care, adoptive homes, kinship homes, and biological parent homes and types of complaints.
- e. Number of substantiated/founded reports of neglect in each of foster care, adoptive homes, kinship homes, and biological parent homes and types of complaints.
- f. Number of child deaths in each of foster care, adoptive homes, kinship homes,

be available to the public through the State DHS website.

5. **Require random, unannounced visits to all alternative placement facilities by independent assessment agency established in #1.**²² They would have the authority to shut down a home if it is found to be unsuitable during any visit.
6. **Require foster parents to undergo annual psychological evaluations through a provider who is not contracted through DHS.**²³ They shall be evaluated for fitness to be caregivers according to the same standards applied to respondent parents. (i.e. if a respondent parent is found to be unfit due to a borderline personality disorder, any foster caregivers who exhibit borderline personality disorder be declared unfit.)

and biological parent homes.

- g. Number of child deaths in each of foster care, adoptive homes, kinship homes, and biological parent homes attributed to abuse.
- h. Number of child deaths in each of foster care, adoptive homes, kinship homes, and biological parent homes attributed to neglect.
- i. Number of child deaths in each of foster care, adoptive homes, kinship homes, and biological parent homes attributed to other causes.
- j. Number of foster homes.
- k. Number of foster homes with complaints filed against them and types of complaints.
- l. Number of foster homes with substantiated/founded complaints and types of complaints.

²²Respondent parents are subjected to random, unannounced visits and it is only fair that foster caregivers also be held to the same or higher standards as respondent parents.

²³DHS routinely requires biological parents to submit to psychological evaluations as a condition of getting their children back. It is only fair that the alternative caregivers also be required to prove their suitability to care for our children. We cannot presume that foster caregivers are automatically more mentally or emotionally stable than biological parents are. We have the reasonable expectation that the persons who care for our children be superior to the biological parents in emotional and mental stability, and this is DHS's preferred method of establishing that stability.

BARRIERS AND GAPS TO REUNIFICATION OF FAMILIES IN COLORADO

1. Inadequate and improper investigations of reported abuse or neglect
 - a. Intake caseworkers frequently act to validate a report of abuse or neglect rather than conduct a bona fide investigation. They routinely disregard and even refuse to examine evidence that would refute the allegation such as medical reports, witnesses affidavits and statements, child's propensity to lie or be manipulated, etc.
 - b. Intake caseworkers employ threats, intimidation, deceit in order to gain access to children over parental objections.
 - c. Intake caseworkers employ improper interview techniques with children such as using props, asking leading questions, coercing young children, and refusing to video record (or at the very least - audio record) the interviews in order to prevent being caught or having their techniques impeached in court.
 - d. Refusal to correct inaccurate family history reports to the court. These reports become part of the court record and are used to deny reunification.
 - e. Pressure, threat and coercion is used to obtain parent signatures, sometimes before parents have legal representation.
2. Caseworker practices are not in compliance with statutes and written/stated DHS policies
 - a. If parents want to record or have an advocate, the meeting is immediately terminated, denying parents legally protected access to the administrative review process.
 - b. Parents are denied legally protected access to their files.
 - c. Staff practices retaliation against parents who exercise their rights by making falsified reports to the court, denying visitation, reporting lack of parent's cooperation and failure to comply with treatment plans to the court, and dragging out the cases beyond what is necessary to insure the safe return of the child.
 - d. Children are removed without proof of abuse or neglect. This is often based on a non-scientifically based risk assessment which is supposed to predict the child's risk of future abuse or neglect. In the absence of any evidence of abuse or neglect, this assessment tool is the sole reason used to remove the child from the home. The parents are then pressured to sign an admission that their child was abused/neglected through 'no fault of their own' and a treatment plan is put into place. This admission becomes the sole requirement for termination of parental rights.
3. Different standards exist for removal vs. return of children to the home
 - a. According to El Paso Co. DHS, 75% of children removed will not be returned home
 - b. According to El Paso Co. DHS, they 'set the bar much higher' before a child will be returned home. This practice is in violation of the law and contradicts the philosophy of family preservation. Parents should not be required to meet an unrealistically higher standard of care and safety before having their children returned. If a home would be safe enough to prevent the removal of the children, it is safe enough to permit the return of the children. Any requirements in excess of

- the minimum standards of care and safety are punitive - not rehabilitative.
- c. Foster care providers are permitted conduct with children that parents are punished for. Foster care should be superior care. If DHS cannot insure that the children are safer in foster care than in their own home, the children should be in their own home.
4. Poverty and neglect issues precipitate over 55% of all removals
- a. Lack of adequate housing, homelessness, living in a motel are used to take children instead of services being offered to provide appropriate housing. Even houses that have passed inspection by the Housing Authority have been deemed to be inadequate by DHS staff. DHS makes unreasonable demands regarding number of bedrooms and living arrangements when dealing with poor families.
 - b. Lack of food, especially at the end of the month, is used to take children instead of providing donated food or emergency funds to tide the family over.
 - c. Lack of employment is used to take children rather than assisting the parent with finding a job or providing education/training to increase the parent's earning capacity. If the parent does not become employed and make enough to support the family during the course of the treatment plan, parental rights are terminated.
 - d. Parents on welfare who do not become employed lose their children do to their inability to support them to the satisfaction of DHS. If the parent does not become employed and make enough to support the family during the course of the treatment plan, parental rights are terminated.
 - e. Inability to pay for medical treatment is used to take children rather than providing medical coverage for the child's health problems. If the parent's circumstances do not improve during the course of the treatment plan, parental rights are terminated because the foster/adopt home is a better home than the biological family home.
 - f. Parents who refuse to vaccinate for health or religious reasons have their children taken for medical neglect. (Vaccinations are NOT mandated by law). While in foster care, vaccinations are administered against the parent's wishes. If the parent refuses to admit they neglected their child, parental rights will often be terminated.
 - g. Disabled children or parents are targeted rather than helped.
 - h. Parents who request assistance such as housing, food, or drug/alcohol rehabilitation find their children taken, being punished for wanting to improve and asking for help.
 - i. Truancy is used to take children out of the home rather than finding ways to keep the child in the home and insure his attendance in school. In some cases, if a child is expelled, DHS disregards that fact and accuses the parent of educational neglect. DHS also attempts to use legal homeschooling as an educational neglect issue.
5. Non-offending parents are not seen as safe caregivers
- a. This is especially prevalent in with sexual abuse allegations. When a child discloses sexual abuse, the child is removed from both parents, even if the offending parent has left the family home or the non-offending parent reported it to the authorities.
 - b. In cases where there is no clear evidence of abuse by either parent, DHS will target

- one parent, usually the father, as the offending parent, and require the other parent to obtain restraining orders or even divorce as a condition of getting their children back. This practice is unethical and destructive to the family.
- c. If the father is a non-offending parent, DHS, along with GALs will not approve the children to be placed with the father, especially if the children are girls.
 - d. If a parent or sibling dies, DHS has been known to swoop in and snatch the children from the surviving parent. This exposes the children to further grief and trauma and denies them healing with remaining family members.
6. Financial disincentives and other barriers to placing children with extended family
- a. There is inadequate funding for kinship placement
 - b. DHS asserts kinship placement endangers the children because the family will allow the parents access to the children.
 - c. Kinship caregivers are subjected to invasive, offensive and humiliating conditions in order to keep the children. DHS strips extended families of dignity and denies the presumption that they can care for the children.
7. Inappropriate and unnecessary treatment plans imposed
- a. Assessments and services are punitive rather than strength-based. This has the effect of delaying reunification.
 - b. Statute and policy requires parental participation in the formation of the treatment plan - this doesn't happen. This failure results in the parents feeling punished rather than helped, since these treatment plans are imposed based on false information or erroneous assessments rather than fair evaluation of parental needs. The relationship becomes adversarial which is counterproductive to reunification.
 - c. Statute and policy requires treatment plans be individual. Treatment plans are often the same from family to family.
 - d. Statute and policy requires treatment plan to be relevant and appropriate. Boilerplate treatment plans are arguably irrelevant and inappropriate. Additionally, they are often used as a fishing expedition to obtain additional evidence to use against the parents. This function of treatment plans delays or prevents reunification.
 - e. Treatment plans are supposed to rehabilitate a parent. In practice, services that the parents needs are often not offered, such as job training, schooling, etc. Additionally, if a parents needs services that are not offered, they are not made available and the parent is set up to fail resulting in termination of parental rights.
 - f. No provisions are made for parents or children with disabilities to protect their family. These families cannot possibly be reunified if the treatment plan does not address the parenting issues related to the disabilities.
 - g. Parental alienation and other manipulative techniques designed to make respondent parents fail are practiced. Some foster care providers, caseworkers, and service providers actively subvert familial bonds, undermine parental authority and impede their successful completion of the treatment plan.
 - h. Treatment plans are vague, without the required specific, measurable, agreed-upon, time limited objectives. In fact, they never have an objective measure of success

- and parents end up shooting blind at a moving target.
8. Failure to make reasonable efforts
 - a. Children are snatched without a proper investigation. DHS will build the case after the children have been removed.
 - b. DHS fails to put services into place to prevent the removal of the children but will state to the court that reasonable efforts were made.
 - c. DHS fails to state why those services failed to insure the safety of the children.
 - d. DHS fails to state specifically why no services could be provided to insure the safety of the children in the home.
 9. Inadequate legal representation allows these practices to continue unchallenged.

APPEALABLE ISSUES**These Failures in Agency and Court Practices Are in Practice Nationwide.**

1. Ineffective assistance of counsel, if the following issues are not raised during the trial court hearings. It is exceptionally rare that a court appointed attorney will do more than show up in court and acquiesce to agency demands over the objections of the parent.
2. Reasonable efforts not made by CPS to prevent removal - due process violation
3. Reasonable efforts not made to place with relatives
4. Reasonable efforts not made to return children home
5. Finding of reasonable efforts not supported by evidence in the record - due process violation
6. Finding that remaining in the family home is 'contrary to the welfare of the child' not supported by the evidence in the record - due process violation.
7. Treatment plan is inappropriate - must be challenged and objected to.
 - a. Boilerplate treatment plan submitted, not individualized for the family's needs.
 - b. Treatment plan which did not include provisions to compensate for real or perceived disability, is a violation of the American with Disabilities Act
 - c. Treatment plan designed for failure
 - d. CPS failed to facilitate the parent's success of the treatment plan or actively thwarted the parents successful compliance.
 - e. CPS refused to allow parent to participate in formation of treatment plan
 - f. Treatment plan was, in substance, punitive rather than remedial and appropriate.
 - g. Failure to provide facilitative services such as transportation or to schedule services so as not to conflict with work schedules.
 - h. CPS failed to provide timely or appropriate services.
 - i. CPS failed to pay treatment provides who withheld services.
 - j. CPS demanded services that the parents did not qualify for.
 - k. CPS scheduled services to conflict with parent's employment, visitation, court hearings.
 - l. CPS scheduled excessive services.
 - m. CPS failed to provide identifiable, measurable, objective measures of success or compliance.
8. Laws/policies violated during process of case
9. Laws applied are unconstitutional or applied unconstitutionally (see your state statutes)
 - a. Considering the liberal provisions of the ASFA, whether the standard of preponderance of the evidence for adjudication is constitutionally adequate [clearing convincing is constitutionally adequate to protect the rights of the parent for termination of parental rights] under the Fourth, Fifth, Ninth, and Fourteenth amendments.
 - b. Whether the admission that the children were dependent and neglected, obtained under threat, duress, coercion, without full disclosure, and on the

- advice of ineffective council, violated the constitutional protections of the parent, and can be considered a valid admission for the purposes of imposing a treatment planned and the subsequent termination of parental rights.
- c. Whether the court erred in terminating parental rights absent the state's submission of any evidence to substantiate abuse or neglect as defined in the statutes, and whether termination under the circumstances violates the parents constitutional rights.
 - d. Whether the parents' being compelled to provide information that had the potential to be incriminating or used against them to deprive them of a liberty interest, by the subterfuge of psychological evaluations and/or treatment, under court order, violates the fifth amendment protections against self incrimination.
10. Whether the process and practices surrounding this dependency and neglect case contained adequate to provisions to protect the parents' or the child's constitutionally protected rights to prevent adjudication or termination of parental rights - Many jurisdictions practice "procedure by presumption" and this must be challenged.
11. (1) Constitutional rights were violated; and (2) the violations were caused by Department custom or practice.
- a. *City of Canton v. Harris*, 489 U.S. 378, 385 (1989); *Chew v. Gates*, 27 F.3d 1432, 1444, 1456 (9th Cir. 1994) (holding that city may properly be held liable where policy is moving force behind constitutional violation); *Jackson v. Gates*, 975 F.2d 648, 654 (9th Cir. 1992) (holding that city's policy need not be unconstitutional per se, but need only cause a constitutional violation). Constitutional deprivations were caused by a "practice or custom which constitutes . . . standard operating procedure." *Trevino v. Gates*, 99 F.3d 911, 918 (9th Cir. 1996)
 - b. **Parents and children have a well elaborated constitutional right to live together without governmental interference.** *Santosky v. Kramer*, 455 U.S. 745, 753 (1982); *Stanley v. Illinois*, 405 U.S. 645 (1972); *Pierce v. Soc'y of Sisters*, 268 U.S. 510, 534-35 (1925); *Meyer v. Nebraska*, 262 U.S. 390 (1923).
 - c. **That right is an essential liberty interest protected by the Fourteenth Amendment's guarantee that parents and children will not be separated by the state without due process of law except in an emergency.** *Stanley*, 405 U.S. at 651; *Campbell v. Burt*, 141 F.3d 927 (9th Cir. 1998); *Ram v. Rubin*, 118 F.3d 1306, 1310 (9th Cir. 1996); *Caldwell v. LeFaver*, 928 F.2d 331, 333 (9th Cir. 1991); *Baker v. Racansky*, 887 F.2d 183, 186 (9th Cir. 1988); accord, *J.B.*, 127 F.3d at 927; *Croft*, 103 F.3d at 1125; *Hurlman v. Rice*, 927 F.2d 74, 79 (2d Cir. 1991); *Duchesne v. Sugarman*, 556 F.2d 817, 824 (2d Cir. 1977).
 - d. **Officials may remove a child from the custody of its parent without prior judicial authorization only if the information they possess at the time of the seizure is such as provides reasonable cause to believe**

- that the child is in imminent danger of serious bodily injury and that the scope of the intrusion is reasonably necessary to avert that specific injury.** Good, 891 F.2d at 1093 (citing *Mincey v. Arizona*, 437 U.S. 385, 393 (1978)); see also *Campbell*, 141 F.3d at 927; *Franz v. Lytle*, 997 F.2d 784 (10th Cir. 1993); *Hurlman v. Rice*, 927 F.2d 74, 80 (2d Cir. 1991) (collecting cases).
- e. **The existence of reasonable cause, and the related questions, are all questions of fact to be determined by the jury.** *McKenzie v. Lamb*, 738 F.2d 1005, 1008 (9th Cir. 1984) (per Kennedy, J.); *Smiddy v. Varney*, 665 F.2d 261, 265 (9th Cir. 1981) (per Sneed, J.)
 - f. **First, the state may not remove children from their parents' custody without a court order unless there is specific, articulable evidence that provides reasonable cause to believe that a child is in imminent danger of abuse.** *Croft v. Westmoreland County Children and Youth Servs.*, 103 F.3d 1123, 1125; *Ram v. Rubin*, 118 F.3d 1306, 1311 (9th Cir. 1997) ("An indictment or serious allegations of abuse which are *investigated and corroborated* usually gives rise to a reasonable inference of imminent danger."); Good, 891 F.2d 1087, 1093 (3d Cir. 1989) (citing *Mincey v. Arizona*, 437 U.S. 385, 393 (1978)); see also *Campbell*, 141 F.3d at 927; *Franz*, 997 F.2d 784; *Hurlman v. Rice*, 927 F.2d 74, 80 (2d Cir. 1991) (collecting cases).
 - g. **Moreover, the police cannot seize children suspected of being abused or neglected unless reasonable avenues of investigation are first pursued, particularly where it is not clear that a crime has been - or will be - committed.** See *Sevigny v. Dicksey*, 846 F.2d 953, 957 (4th Cir. 1988) (holding that child abuse investigator has duty to investigate information that would have clarified matters prior to separating children from their parents); *BeVier v. Hucal*, 806 F.2d 123, 128 (7th Cir. 1986) (officer has duty to "make a thorough investigation and exercise reasonable judgment before invoking the awesome power of arrest and detention").
 - h. **Merely because some intrusion on a child's protected privacy and security interests may be reasonable does not mean that any intrusion is.** *Bell*, 441 U.S. at 559; *Barlow*, 943 F.2d at 1138 ("Police officers can proceed without a warrant if they reasonably believe they are confronted with an emergency that threatens life or limb, but the [intrusion] must be strictly circumscribed by the exigencies which justify its initiation."); *Franz*, 997 F.2d at 791 (intrusion must be "reasonably necessary to alleviate the threat"); Good, 891 F.2d at 1093 (under "very limited exception" to warrant rule, intrusion must be reasonably necessary to alleviate the threat of immediate harm); *Hebein*, 37 F.Supp.2d at 1043 (holding that danger must justify the degree of interference imposed).
 - i. **RE: medical exams of children - Parents have a right arising from the liberty interest in family association to be with their children while they are receiving medical attention** (or to be in a waiting room or other

nearby area if there is a valid reason for excluding them while all or a part of the medical procedure is being conducted). Likewise, children have a corresponding right to the love, comfort, and reassurance of their parents while they are undergoing medical procedures, including examinations - particularly those, such as here, that are invasive or upsetting.

- j. **The right to family association includes the right of parents to make important medical decisions for their children, and of children to have those decisions made by their parents rather than the state.** See *Parham v. J.R.*, 442 U.S. 584, 602 (1979) (holding that it is in the interest of both parents and children that parents have ultimate authority to make medical decisions for their children unless "neutral fact finder" determines, through due process hearing, that parent is not acting in child's best interests); see also *Calabretta v. Floyd*, ___ F.3d ___ (9th Cir. 1999) (holding that "[t]he government's interest in the welfare of children embraces not only protecting children from physical abuse, but also protecting children's interest in the privacy and dignity of their homes and in the lawfully exercised authority of their parents."). The right to family association includes the right of parents to make important medical decisions for their children, and of children to have those decisions made by their parents rather than the state. See *Parham v. J.R.*, 442 U.S. 584, 602 (1979) (holding that it is in the interest of both parents and children that parents have ultimate authority to make medical decisions for their children unless "neutral fact finder" determines, through due process hearing, that parent is not acting in child's best interests); see also *Calabretta v. Floyd*, ___ F.3d ___ (9th Cir. 1999) (holding that "[t]he government's interest in the welfare of children embraces not only protecting children from physical abuse, but also protecting children's interest in the privacy and dignity of their homes and in the lawfully exercised authority of their parents."). The Second Circuit held, in *van Emrick v. Chemung County Dept. of Social Servs.*, that the "Constitution assures parents that, in the absence of parental consent, [physical examinations] of their child may not be undertaken for investigative purposes at the behest of state officials unless a judicial officer has determined, upon notice to the parents, and an opportunity to be heard, that grounds for such an examination exist and that the administration of the procedure is reasonable under all the circumstances."^[fn11] 911 F.2d 863, 867 (2d Cir. 1990).
- k. **Barring a reasonable concern that material physical evidence might dissipate**, see *Schmerber*, 384 U.S. at 770, or that some urgent medical problem exists requiring immediate attention, the state is required to notify parents and to obtain judicial approval before children are subjected to investigatory physical examinations.



NAZIS AND CPS - A Comparison

We are all aware of the Nazi eugenics programs. What we aren't aware of are the chilling comparisons between the Nazi Lebensborn program and contemporary American Child Protective Services (CPS) programs. Simplistically, it can be described as follows: In the U.S. parens patriae is the legal principle used to justify state sanctioned kidnapping of children from their families in order to 'protect' them. In Nazi Germany, the Lebensborn program was legally used to justify the kidnapping of 'Aryan' looking children from occupied territories to be 'Germanized'; to be raised as good Germans (younger children) or designated as breeders for the German race - to produce 2 -3 racially pure children then be killed (older children). But, in reality, the comparison is more complicated -

and more horrifying - than that.

PARENS PATRIAE is a legal term in American law that is defined as - The right of the government to take care of minors and others who cannot

legally take care of themselves.

In a Nazi booklet published by SS Gruppenführer Rediess, *The SS for Greater Germany - with Sword and Cradle*, speaking about the recently Nazi occupied country of Denmark as it related to the Lebensborn program, the German position is stated as, "This people is a Germanic people, and hence it is our duty to educate its children and young people and to make the Norwegians a Nordic people again as we understand the term."

The similarity between these two principles is that a government has assumed a certain authority, either by law or by fiat, over the population. This authority can be as extensive or limited as the government chooses and as the population will endure. In both stated instances, the governments assumed authority over children.

Pseudo-Sciences

The majority of reasonably intelligent people today recognize



Instruments and color charts measured characteristics in order to distinguish members of inferior races. *Ibid*



Holocaust Museum Washington D.C. display of Nazi pseudoscientific works on 'racial studies' and 'racial hygiene.' *The Holocaust Museum in Washington* by Weinberg and Elieli.

that Nazi attempts to designate one race as superior to others based on physical racial characteristics was nothing more than superstitious bigotry unsupported by science.

The Nazis actually created a 'science' of racial studies, endorsed by 'experts' and supported with manufactured 'scientific evidence,' in order to support their pet theory that the so-called Aryan race was superior to all others. They had panels of experts, advisory councils, college courses, and specially trained bureaucrats to develop and implement their 'racial hygiene' policies. This cadre of 'experts' would devise, implement, oversee, evaluate and propagandize the various racial hygiene programs, including Lebensborn. Nazi society abounded with popular literature, textbooks, and manuals touting this most important Nazi platform. Nazi Germany was inundated with racially based propaganda which extolled the virtues of the Aryan and justified the 'solutions' imposed on inferior races.



Popular propaganda of the day would picture Aryan perfection against 'sub-human' races with the caption, "Can the same mind, the same soul, inhabit such different bodies?" *Of Pure Blood*

Of Pure Blood by Marc Hillel and Clarissa Henry is a 1976 book detailing the Nazi Lebensborn program. "Doctors specializing in 'racial knowledge', all members of the SS or the police, were put in charge

of racial testing at the reception centers. . . The children's heads, bodies, arms and legs were measured, as well as the pelvis in the case of girls and the penis in the case of boys, and they were then divided into three groups: a- those representing a desirable additions to the German populations: b- those representing an acceptable addition to that population, and c - the unwanted. . . More the 200,00 Polish children were thus declared . . . to be 'racially useful'."

In the United States, the state cannot legally evaluate a person based on their race, or use physical or racial characteristics to judge them. CPS agencies use something much more subtle, but no less specious than Nazi racial hygiene measurements; they use psychological measurements to determine how defective (dangerous to his own child) a parent has been or is likely to be. Under the mechanism of court ordered or coerced 'voluntary' psychological evaluations, many parents are being 'diagnosed' as a 'risk' to their children based on psych eval findings from service providers who are paid for by the state; who conduct their evaluations based on a tainted family history provided by the state; and who, by their own admissions, stand to lose their contract with the state if they submit any findings that are contrary to what the caseworker has ordained.

American law has already established protections for persons who are disabled by virtue of their psychology. Under the Americans with Disabilities Act, (42 U.S.C 12101, 12102, & 12131 et seq), disability is a physical or mental impairment the substantially limits one or more of the major life activities of such individual; having a record of such impairment; or being regarded as having such an impairment. Caring for, nurturing and raising their children is undoubtedly on of the most important major life activities of a parent. This country, through CPS, has raised psychology to the

exalted status of Nazi Racial Studies on no more scientific evidence than the Nazis had to support their theories and programs. This pseudo-science is used to demonize parents and justify the legal kidnapping of their children in order to satisfy the state's need for adoptive children.

For example, the most popular psychological test given today is the Minnesota Multiphasic Personality Index (MMPI II). According to one whistle blower evaluator, the completed test is fed into a computer that analyses the responses and returns a list of diagnoses to choose from. It is then up to the evaluator to decide which diagnosis applies to the subject. This is not a scientifically-based, measurable, objective diagnosis if it is left up to the subjective interpretation of the 'expert.' The selected diagnosis is based on a gut hunch, intuition, or maybe wishful thinking, or perhaps a state-contracted fee. Whatever it is based on, it is not based on measurable science in any instance; nor even the most rudimentary common sense in the hands of many self-serving psychological evaluators.

Psycho-sexual evaluations for allegations of child sexual abuse are used by caseworkers as a tool of making a determination whether or not the accused was a perpetrator. Many psychological experts will assert that these tools are not designed to be used on anyone who has not admitted guilt. However, caseworkers continue to use this tool inappropriately to validate allegations.

There are volumes of tests employed against parents. This process is inherently flawed based on the fact that once the children have been taken, the parents are depressed, suspicious, angry, anxious, traumatized, worried, frightened, and more. Requiring any person to submit to any psychological evaluation under these horrendous emotional circumstances is clearly setting them up for failure. There is no hope they could present as being 'normal.' Naturally, psychological 'deficiencies' will show up, and those deficiencies are effectively used by the experts against the parents.

However, none of the findings from psychological tests were ever designed to indicate that the parents actually are mentally impaired or that they legitimately justify the application of any psychological label upon the parents. Experts will admit that the findings of the parents' tests show that they share some of the same characteristics with others who are so psychologically labeled does not mean that any findings are proof positive that the diagnosis is scientifically accurate. This testing is so subjective, that diagnoses will vary from one professional to another.

The United States has a powerful industry backing up this 'science.' There are schools and seminars that teach and accredit the psychology of child abuse/child abusers; advisory councils against child abuse that advise powerful political figures and who lobby for intrusive and offensive legislation that undermines the sanctity of the family; cadres of 'experts' who analyze, devise, implement, oversee, evaluate and propagandize child abuse and prevention programs in the private and public sector and whose livelihoods depend on the perpetuation of this pseudo-science; and millions of service providers who provide 'voluntary' or court ordered services and whose livelihoods literally depend on the removal of children from their homes. There are many 'expert' tomes on the subjects of the psychology of children, parents, child abuse, risks of abuse, and prevention of abuse. Parents have no credibility in the face of this multi-billion dollar industry.

These people take this pseudo science very seriously, sometimes with deadly

consequences. The May 24, 2000 Rocky Mountain news reported about a therapy technique used on a troubled child in Evergreen, Colorado. The 10 year-old child had been adopted in 1996 and died as a result of this 'therapy.' "Sheriff's investigators say Watkins and Ponder, both therapists, wrapped Candace in a flannel blanket to simulate a womb that the girl should be "born" from. Then, in an attempt to mimic birth contractions, all four allegedly pushed against pillows Candace was lying under.

"Rebirthing is a controversial technique Watkins has used for about a year. It is used to treat children who suffer from attachment disorder, which prevents children from bonding with their [adoptive] parents. Critics of the technique call the treatment radical and say it hasn't been researched well." However, these 'experts' fail to acknowledge what anyone with common sense can see - that perhaps removing this child from her mother precipitated the attachment disorder in this child; that they caused this child's psychological problems by employing this pseudo science in the first place.

Traditional parenting practices are under massive attack with responsible parents being targeted for their refusal to conform to this pseudo-science. The 'virtuous' parents are those who do not spank or punish or subject their children to any undesirable circumstances such as an argument; and who casually inflict their consciousness brats on decent society saying, "Oh, isn't my darling so cute?" when he's really too bratty to bear. Conspicuous by its absence is any expert acknowledgment for the self-evident consequences of this pseudo-science - as demonstrated by offensive childhood behavior from the regular cacophony of temper tantrums in department stores; to bratty kids running out of control in inappropriate places; to children's complete lack of respect for others; all the way to the extreme of kids mowing down their classmates with guns because they were 'teased.'

Demonstrating a callous lack of common sense, the practice of this 'science' is based on the premise that removing a child from his parents presents less trauma to the child than being merely 'at risk' of future abuse if he remained with his family in a dirty house. People often say, 'They don't remove a child for a dirty home!' shocked that anyone could even suggest such a vile act. But there are volumes of documented cases where not only were the children removed for a dirty home, but parental rights were terminated based on that initial removal and the resultant, non-scientific 'risk assessment' administered by the intake caseworker.

Legalized Kidnapping of Children

In *Of Pure Blood*, the authors report " . . . many Norwegian women were trapped into going to Germany against their will. The kidnapping process was given a semblance of legality by a Nazi ruling that defied the fundamental laws of a sovereign nation and legalized the separation of mother and child against the mothers's will."

Heinrich Himmler, in a speech to officers of the Deutschland division, November 8, 1938 stated, "I really intend to take German blood from where it is to be found in the world, to rob and steal it wherever I can." Orders were issued to implement this 'stealing' of children. These orders had the force of law in Nazi occupied territories.

A Top Secret order, no. 67/1, 1941 from SS Gruppenführer Ulrich Greifelt, head of the

Central Office of the SS and SD in Poland ordered: “The children who are recognized as bearers of blood valuable to Germany are to be Germanized. . . .between the ages of six and twelve in state boarding schools, and between the ages of two and six with families to be indicated by the Lebensborn society.

“ . . .the Lebensborn Society will see to the distribution of these children among the families of childless SS men with a view to subsequent adoption. The Lebensborn Society will assume guardianship of the children accommodated in the Lebensborn Children’s homes.

In a Reichsführer circular dated June 14, 1941: “I think it right that young children of especially good race belonging to Polish families should be gathered together and brought up by us . . .health reasons should be given for taking the children away. . . .After a year consideration should be given to handing over such children to be brought in childless families of good race.”

Of Pure Blood - “ . . .the Lebensborn organization was the obvious agency for Germanizing the children abducted from Eastern Europe. The program was initiated as early as 1940 . . .it was decided, in agreement with the Reichsführer, that it was preferable for the organization to deal with children under six. There was a simple reason for this: Whether Polish, Russian or Yugoslav, at this age they would be more receptive to Nazi indoctrination than the older children . . .Because they were so young, they would remember less which would enable Dr. Tesch, the Lebensborn legal expert, to falsify their identity more completely. . . . By 1941 in Germany, Party and SS members were falling over themselves in their wish to adopt a child of good blood . . .and so demand had outstripped supply. Within a few months the round-ups of children in the occupied territories would make it possible to satisfy the demand of childless couples. . . .”

Who were children targeted by the Lebensborn Society? “ . . .all places where children were assembled; children of Polish adoptive parents or unmarried mothers; children having Polish guardians; children of mixed (Polish-German) marriages; children whose parents opposed Germanization; children of mixed marriages whose parents had divorced; children of deported, liquidated, or banished parents (the great majority); children picked up at random; children born in concentration camps, women’s labor camps or children of mothers deported for forced labor; abandoned children; children to whom special orders applied, children sent to Germany for forced labor.” Danish, English, Russian and other eastern European countries all lost children to this legalized kidnapping campaign.

Abducted children were ‘skimmed’ or evaluated according to racial purity, and the acceptable ones, approximately 10%, were Germanized. The others became slaves of the Reich. “The technique of approaching children in the street did not vary greatly. A hungry child would be offered biscuits (cookies), sweets, sometimes even a bar of chocolate or a slice of bread, thus creating an opportunity to question it about its parents, its home, the color of its brothers’ and sisters’ hair. That same evening they submitted their list of names and addresses to special teams of kidnappers . . .Several days would elapse, and then the child would be taken, the abduction generally taking place at night. The child’s parents would never see it again.

“The kidnapping game does not seem to have been played in accordance with any fixed rules. The decision whether a child was to be set to its death or back to its parents depended on the whim of a medical examiner or even of the SS man on guard at the door.”

“...in 1942, 1942 and 1944... kidnappings [in Russia] grew steadily more numerous. In the street, at school, at home, at kindergartens and even in public parks children were the victims of raids which nobody dared oppose. A climate of terror prevailed. . . .[Kurt Heinze, head of the Oberweiss home] escorted whole train-loads of children whom the Lebensborn organization rapidly placed in State schools or families.”

One account was remembered by a kidnapped child, “The chief of them immediately insisted that the women, who had a long and tiring journey to a labor camp ahead of the, should let the children go first by bus. . . He also insisted that the mothers should hand over their children voluntarily. Obviously none of the them were willing to be parted from their children. To show he meant business, he fired a shot in the air with his revolver. This of course caused panic among the mothers and children. The Germans took advantage of this to go for the mothers and snatch us from their arms.

“Believe me, that was a moment that none of us will ever forget, even in forty of fifty years’ time. It’s like a horrible, brutal film that keeps on passing before our eyes.”

According to recent government statistics, 67% of child abuse reports are false right off the top. As much as 60-90% of the ‘substantiated’ reports do not meet the statutory definition of abuse or neglect according to anecdotal data. This happens because parents are poorly represented by counsel and threatened, intimidated or coerced by their attorneys and caseworkers into falsely admitting guilt as a condition of seeing their children. By this action, the parents are forced to give the state legal authority to kidnap and keep their children. Once this occurs, the state does not have to prove the child was abused or neglected in order to terminate parental rights. Parents who do resist find themselves having to prove their innocence in order to win their children back, and it often takes months to accomplish.

In America, the presenting incident, which is the report of abuse or neglect, becomes the mechanism to gain access to the child and the family. This is the contemporary ‘skimming’ process. The American CPS ‘skimming’ tool is called a risk assessment. Under the Adoption and Safe Families Act, the primary concern is now the ‘safety of the child.’ Thus, the mere, speculative risk of abuse or neglect satisfies the legal requirements to take custody of children without any evidence of abuse or neglect. This country has effectively legalized the separation of parent and child against the will of both parents and children.

There is a virtual army of people out there looking for children to target. Under mandated reporting laws, anyone who has regular contact with children (teachers, counselors, doctors, dentists, etc.) are required to report suspected child abuse or neglect. The schools are especially effective at reporting suspected child abuse or neglect - not based on statutory definitions but on subjective assessments. They will also provide caseworker access to the children in the school and allow the caseworker to legally ‘kidnap’ the children from the school without notifying the parents, no questions asked. Hospital emergency rooms also provide many children for CPS.

There seem to be no fixed rules for determining which children are taken and which are not regardless of statutory requirements. It depends on the whim of the caseworker, many of whom falsify reports in order to support her claims.

The children are subjected to intimidating and often professionally incompetent questions by the caseworkers. They will use coercion, threats, leading questions and even lie in order to

validate the report of abuse. They excuse these tactics by rationalizing that a child often is unwilling to disclose abuse and they must use pressure to extract an accusation. They also object vehemently to having all interrogations video taped stating that it would traumatize the child. What it would do is expose their incompetence and predispositions.

The laws do not allow a caseworker to take a child without a court order. Only police can do that. However, under the color of law, they will often take the children by force. Parents routinely report their children being dragged, screaming, from their arms without having been presented with any evidence of abuse or neglect. Midnight raids on unsuspecting, sleeping families are not uncommon.

If an agency suspects the parents might resist their requests to question the children, S.W.A.T. teams have been used to circumvent the fourth amendment in Utah and other states. Michigan is actually considering legislation that allows force if a parent asserts their constitutional rights - which is being defined as uncooperative. One Arizona mother held a police S.W.A.T. Team off for 24 hours until they jumped her and took her toddler by force. All criminal charges were dropped but she never got her daughter back. Her frantic initial phone call to an associate, audio taped before her phone lines were cut, demonstrated her fear as the police kicked their way into her home and pulled weapons on her as she was nursing her baby.

Turning Children Against Their Parents

We must remember that an important element in brainwashing anyone involves trauma. It's pretty easy to traumatize a youngster simply by denying him his mom and dad.

From *Of Pure Blood* - "When children were taken for Germanization, "...Psychological methods were used to make a child forget or even hate its parents. He would be told they were dead, and there was nothing honorable about the way they died. The mother would be said to have been of doubtful morality and to have died of tuberculosis, drink or other shameful disease, while the father had died of cancer or drink, or been killed by Polish bandits. The object was to give the child a sense of inferiority about its origins and of gratitude to the Germans who had rescued it from the degeneracy of its home environment.

"In the German Federal Republic we met a young woman who, at the age of five, had been taken to a church by the Germans and shown a bishop's coffin and told it was her mother's. Some years later the child was traced, but she refused to go back to her mother, who had survived deportation. 'I had stood by my mother's coffin once,' she said, 'and I did not want to do that again.'"

Sigismund Krajeski, born in Poznan on April 17, 1933 told Hillel and Henry, "I was taken by force from my family on 20 May 1943." He went on to describe what they were told by the Nazis, "...The child would be told his parents were dead and that he was going to get new ones."

Mrs. Witaszek, survivor of Auschwitz, whose 4 and 6 year-old daughters were adopted when she was arrested. "Years afterwards my younger daughter told me she had often been kept awake at night, wondering why I had sold her to a foreign family. Did I have so little money that I had to sell her? Children at that age were simply incapable of understanding what had happened to them."

Kidnapped Aryan children would be subjected to intensive German language classes and

were forbidden to speak their native language after a couple of weeks. Discipline was described as ‘very, very strict.’

Children who refused Germanization had to stay in the chapel “ . . . in the dark on their knees with their arms crossed for hours. They wept, and soon fainted. They were punished like that for saying something in Polish or talking about their parents. They were beaten and deprived of food. But even apart from that, the children were always sad. They lived in fear and were homesick . . . ”

Many don’t believe we would treat our children so harshly in America. To those I suggest that they talk to the children who have been ‘protected’ by CPS agencies.

I have interviewed many former and current foster children. In the most benign cases, the children are often punished by exasperated foster parents when they cry for their mom and dad by being sent to isolation in their rooms. Children report being punished with isolation and withholding food for praying to be returned home. They are denied affection and understanding and feel depressed and homesick and frightened. When they see their parents, they often act out after the visit out of their natural frustration and impotence to change what they perceive to be unfair and cruel. As a result, they are punished by being denied their next visit with their parents.

They describe being told that their parents aren’t able to take care of them because their parents are ‘sick’ and need help. That it isn’t safe for them to live with their parents. Many children are told that their parents aren’t trying hard enough to complete the case plan and the children live in uncertainty as to what their future holds for them. They are actually told that their parents don’t want them or can’t afford to keep them. Children report that they are told their mothers are prostitutes, or drug users when they know it is false. They are psychologically manipulated until they begin to believe. They begin to resent their parent’s failures and imperfections that prevent reunification. But many of them are ultimately diagnosed with Reactive Attachment Disorder and others similar emotional problems as a direct result of state efforts to undermine their bonds with their parents.

One young boy in Elbert County, Colorado, under the supervision of caseworker Holly Sielaff, was repeatedly forced to deal with the ‘issue’, under the guise of therapy, that his mother had cross-dressed him. The child had no memory of that event, and mom denied doing it. He reports he was verbally abused by his therapist during his court-ordered therapy sessions for his refusal to admit that his mother forced him to wear girl’s clothing. Sielaff then reported to mother in this reporter’s presence and on tape, that they were addressing this issue ‘because it was the child’s reality’ and whether or not it was true, it must be treated as if it were true. Since mom was forbidden to speak of that allegation to the boy, she never learned that he consistently denied it until he was returned home. Many children are not strong enough to resist this kind of abusive psychological pressure.

Many of the children I have spoken with have been runaway foster children. They report being told that they must accuse their parents in order to return home. They are promised that if they accuse, they will be allowed to return home and the state will provide ‘help’ to their parents. If they do make a false accusation based on these promises, they are often denied all access to their parents. This isolation from their parents is used in the vast majority of cases. Besides being used to emotionally traumatize the children to make them more receptive to state suggestions, it

also has the effect of preventing the child from reporting to his parents any problems, lies or abuses that are being covered up by state agencies under confidentiality laws and ‘in the best interests of the child.’

If children in state custody are fortunate enough to see their parents, it is usually under supervision, where their every word is scrutinized. They are forbidden to hug, to whisper, or to display too much affection. They are forbidden to speak about what happens in their foster home, and to even report any abuse they suffer there. Many parent-child bonding rituals that have been established in the home, such as singing favorite songs or tickling games are forbidden between the parents and children during these visits for specious and/or undefined reasons.

There are documented cases where the psychological experts and caseworker not only actively subvert the parent-child bond, but actually employ dubious and traumatic methods in order to brainwash the child to bond to his foster parents.

In one instance, a five-year-old child in Weld County, Colorado, was forcefully ‘regressed’ to infancy by being placed in diapers and forced to break potty training, forced to crawl rather than walk, fed only from a bottle and denied all access to her mother in an effort to make this child bond to her foster parents. The mother’s act of abuse? She fell asleep after major surgery with her toddler at home, having been denied daycare assistance by Social Services until she recovered, and the child got into a bottle of Tylenol in mom’s purse. No treatment was provided at the hospital for the alleged overdose in spite of mom’s timely response to the emergency.

The most heinous of tactics is to place the child in residential treatment. This often happens to children who are resistant to caseworker indoctrination and especially where there is a risk the child will divulge a truth that is damaging to the caseworker, the CPS agency, the Guardian ad Litem (GAL) or other service provider. Often, caseworkers will predetermine a ‘diagnosis’ of the child in order to facilitate this placement. They can find an ‘expert’ who will validate the diagnosis and present this information to an unsuspecting court or a court who acts with complicity. The court will order the child to the residential treatment facility where they are often drugged. This drugging renders them more susceptible to suggestion and compliance at the expense of the emotional well-being of the child. Since the facility is only provided with the state’s version of the child’s history, the treatment is based on that tainted information.

In Pueblo County, Colorado, there is a story of a young boy who has been institutionalized for four years at La Junta Boys Ranch based on a caseworker diagnosis of psychotic behavior. Mom has been unable to obtain a release for the child, and all reports of the brutality he suffered at the hands of the staff are covered up. He finally had endured all he could and killed some of the turkeys on the ranch. He was shipped to the State Hospital in Pueblo, where for over a month the doctors there insisted he wasn’t psychotic and that he had been mis-diagnosed and improperly medicated. The caseworker began lobbying for the original diagnosis because, ‘she would lose the funding for him if he weren’t psychotic.’ The doctors at the State Hospital finally began to capitulate under funding pressure. Meanwhile, this child, now 15, clings to his mother during visits and the doctors are telling him that is inappropriate and denying him this only comfort in his life. This child has been sacrificed on the altar of psychobabble disguised as child protection. Too

many foster children would never have been forced to endure such levels of psychological abuse at the hands of their parents from whom the state was ‘protecting’ them.

Social work

The women charged with kidnapping children in Nazi occupied territories were called the “Brown Sisters.”

“Actually these women belonged to the NSV, established in 1933 to devote itself to the welfare of the German people. . . To those who suffered under them, these fanatical Nazi women, totally dedicated to the Fuhrer, were perhaps even more loathsome than the killers of the SS or the SD; stony-hearted robots was one description. The sight of these women . . . brutally snatching from its mother’s arms a baby who was smiling at her remains an intolerable memory to those who experienced it.

“The special training of the ‘Brown Sisters’ included intensive courses in which they were taught the racial criteria by which Nordics could infallibly be distinguished, and they were instructed in how to observe a child without being noticed themselves; they were also taught ways of abducting it in the street, at home or at school. . .” *Of Pure Blood*.

Caseworkers in America also receive highly specialized training pertaining to popular culture parenting techniques, child abuse, child abuse prevention and more, all based on theory rather than science. They are trained on the job to put pet theories into practice, with children and families being the guinea pigs. The good ones become disgusted in short order and leave for greener pastures.

Many ‘protected’ children actively hate the caseworkers who control their lives and their access to their parents. Once free of caseworker control, they often vent their anger in very expressive ways. I have one pair of sisters who opened up in front a video camera with threats and gestures all directed at their Arapahoe County, Colorado caseworker, Dawn Shields. They accused Shields of lying in order to obtain the court order terminating their parents’ parental rights. All of the children I have spoken to express the highest level of disdain, distrust and anger toward their caseworkers and GALs.

Parents universally describe caseworkers as heartless, soulless, evil, deceitful, arrogant, two-faced and more. I have personally seen caseworkers utter the most vicious false statements against a parents on the witness stand in court, then embrace the numb parents in the hall with apologies for what she ‘had’ to do to them. This feigned concern for the parents is abhorrent. At least the Nazis were honest about their bigotry and evil plans.

I have had one caseworker tell me, “I’m sorry for [your son being taken] but that was years ago. Get over it.” It is incomprehensible to a parent that anyone could be so callous and hard-hearted to even consider they’d ever ‘get over’ having their child kidnapped by the state for whatever length of time, but especially if the parent-child relationship was destroyed as a result. This attitude clearly demonstrates their lack of understanding of the depths of the bonds that exist between parent and child and how their meddling is, too often, more destructive than helpful.

For an indication of the state of mind of the affected families decades after the children were taken, let’s look to *Of Pure Blood*, “. . . Parents did everything possible to trace children who were unaware of their existence and will never know the distress the absence still causes. In some

Polish villages the grief is still so vivid after thirty years that one ends by wondering how such a thing can be possible.” It is not unreasonable to presume that the pain inflicted by contemporary caseworkers will be comparable and equally unforgettable for millions of American parents. This pain is compounded in many cases by the caseworkers’ casual use of deceit and manipulation of their undeserved credibility with the court in order to win their cases.

Many parents not only despise caseworkers, but hate the people they themselves have become as a result of their constant, unpleasant and threatening contact with these toxic bureaucrats. As a result of these abuses, there is little sympathy from victimized families for caseworkers who are assaulted and killed in the course of their work.

Abuse in State Custody

In one indoctrination home, where children were taken before being sent for adoption to Nazi families, there “ . . . is a cemetery in which most of the graves are of ‘victims of Nazi barbarism’. Tadeus Martyn, a member of the Polish commission for Hitlerite Crimes . . . told about the authors about a child named Zygmunt Swiatlowski: ‘He was taken from his parents against their will at Poznan and brought here. . . He felt himself to be Polish and would not be Germanized. . . One day, after refusing to greet a German in German, he was killed on the spot by the woman in charge of the institution, Johanna Sander. The children who died in the home were buried anonymously, but the German who buried Zygmunt revealed his name to the Polish woman caretaker of the cemetery. So this grave remains the only memorial to the martyrdom of Polish children and Kalisz.’”

Alycia Sosinka, born at Lodz in 1935, taken from her mother in September 1942. “ . . . for months, when my [adoptive] mother came to tuck me in at night I used to jump out of bed and stand at attention . . .” due to abuses suffered during her indoctrination period.

When a Lebensborn home tended by SS ‘nurses’ was liberated by allied forces, a nun who was subsequently charged with caring for the children observed, “These children did not know what tenderness was. They were used to being in bed or living in groups, and were frightened of any grownups who approached them. . . The older children, the three and four-year-olds could not even talk. They merely expressed them onomatopoeically, like young animals. That is typical of children brought up in institutions. Also they were very backward in Mental development in comparison with other children of the same age.”

According to Department of Health and Human Services statistics, approximately 50% of the children who die of child abuse, die in foster care. Children in foster care are also subjected to more severe abuse in foster homes than they ever endured in their own homes.

The Denver Post began a five part series of articles exposing the unsafe nature of foster care on May 21, 2000. They report that abuses are perpetrated by foster parents, biological children of foster parents, and other foster children. This finding supports the overwhelming number of reports of foster care abuse nationwide received by parents and family rights advocacy groups.

In the summer of 1999, Colorado Governor Bill Owens commissioned a task force to look into the foster care and child welfare issue due to the deaths of four children, three of whom were in foster care. The task force returned their findings early in 2000, months prior to the Denver Post

series, but nothing has been done by Colorado Department of Human Services (DHS) to insure that children are safer in state custody than in the homes they were removed from.

Foster care providers are not held to the same standards of safety as parents are. In fact, the Child Abuse Prevention and Treatment Act (CAPTA) applies only to parents. CPS agencies, foster care providers, and institutions do not fall under the jurisdiction of CAPTA even though they are charged with keeping children safe under CAPTA. The standards of care and safety that foster care providers are required to keep are only defined vaguely in CPS policy manuals.

Abuse of children in foster care is drastically under reported because there is no independent investigative body to whom foster care abuse or neglect is reported. The CPS agency places the children; and chooses, licenses and oversees the foster homes. Reports of foster care abuse and neglect are made to CPS agencies. Abuse and violations of standards of care are investigated by CPS agencies. As a result, most reports are determined to be 'unfounded;' after all, how good would it look if they were to expose the level of abuse that occurs in their own foster homes and contract institutions? Even if abuse is substantiated, the providers do not lose their own children or their foster care license, and the abused children will often remain in the foster home. Occasionally, the alleged abuse will rise to the level of a crime, but even then it is not consistently prosecuted and foster care providers openly acknowledge that any penalties imposed on them will be minor at most.

An Adams County, Colorado mother reported that when her children were returned home after over a year in foster care, she caught her 7 year-old son humping her 5 year-old daughter. She was terrified that the children would be removed again. Since she had never been accused of sexually abusing her children, they could only have learned of this in the foster home.

An El Paso County, Colorado, twelve year old had his arm broken in a group home while being restrained. He was lucky. Some restrained children die. A youth in DHS custody who resided at the Colorado Boys Ranch was locked up in his room for 23 hours a day, and during his recreational hour, he was shackled and chained. He had not been charged or convicted of any crime. 13 year-old Veronica from Larimer County, Colorado was repeatedly coerced to falsely accuse her father. Upon her return home, she was unable to fall asleep without her bedroom light on and her mother by her side for six months. She'd hide in a closet whenever someone knocked at the door.

Taler Barnes, was taken from his mother at birth due to a false hospital social worker report. While in Kansas foster care, he suffered broken ribs, broken hip, constant bruising, his eyes were gouged until he is legally blind, and he suffered shaken baby syndrome resulting in brain damage. He was emaciated and starving when he was finally returned to his family at 22 months old. During the course of her visits, his mother would photograph the injuries, but the judge ordered her to stop and to remove her web site that documented her case and the abuse her son suffered at the hands of the state. Even the courts cover up foster care abuse.

At the very least, parents report that the children who are returned to them from foster care are not the same children that were taken. They are easily frightened, clingy and needy, they act out sexually or are physically and verbally abusive, they wet the bed, they test their parents' love and violate established rules, schoolwork suffers, they are haunted and distrusting, and more. Evidently, foster care is not the warm and fuzzy panacea it's cracked up to be.

Throwaway Children

Of Pure Blood - 21 September, 1942 - Notes on an SS discussion “ . . .after the sifting has been carried out the children will be separated from the mothers. . .so that no irresponsible hatred will develop among these children. . .children with a good capacity for Germanization will be handed over to the Lebensborn Society, which will arrange for the adoption of these children by pure German families.”

Himmler, recognizing the threat posed by children who were not properly conditioned against their parents, said to Max Sollman, on June 21, 1943, “The children of good race, who obviously could become the most dangerous avengers of their parents if they are not humanely and correctly brought up, should . . .be admitted to a Lebensborn children’s home for a probationary period, where as much as possible about their character should be discovered, and then be sent to German families as foster-children or adopted children.”

“ . . .Children who passed the tests were taken to a Lebensborn reception center; the others generally disappeared without trace, often being dispatched to a concentration camp. Luckier children might be returned to their parents without explanation.”

“ . . .many children became ‘orphans’ when they were taken from their parents . . .”

Leo Twardecki, 11, roused from sleep and kidnapped by three SS men with Alsatian dogs, were herded to a train observed. “I was never adopted. I was too big and too Polish, and no one wanted me.”

German Nazis who adopted the Lebensborn children were told that the children were orphans of German parents and if it was found out that they had a child of inferior race, they would often refuse to keep the child.

Lebensborn children came with a monthly government payment to subsidize their care and upkeep. Their records were falsified and their names Germanized; new birth certificates were issued to support the stories told to the adoptive parents.

The Nazi occupied countries never knew about the Lebensborn program until after the war. They all presumed that the children were exterminated or enslaved. In fact, the vast majority were. They were the Nazi’s throwaway children.

CPS agencies, in taking children who do not meet the statutory definition of abuse or neglect from loving homes is creating more throwaway children than they are legitimately saving. Anyone who doubts this only has to look at the adoption web sites, adoption fairs, and adoption catalogs sponsored by CPS agencies. These listings present huge quantities of children available for adoption who have problems that make them difficult to adopt. Virtually all of them are on medications to treat behavioral or emotional problems, they are generally over six years old, and they are not blonde-haired and blue-eyed. Some of them are sibling groups that shouldn’t be separated. Their birth certificates are altered to remove their birth parents names. Sometimes their names are changed making it impossible to trace them. These children come with adoption subsidies - a monthly check from government - medicaid, food stamps, a hefty tax break and intensive support services.

Just think what the biological parents could have done with those resources. Since the vast majority of the children are taken due to poverty related issues, the money provided to foster parents and adoptive parents could have prevented the removal of the children in the first place.

Under the Adoption and Safe Families Act, the Federal government pays a \$4000 bounty for every child adopted out of foster care who exceeds the 1997 baseline. If the child is 'special needs' - and most of them are by virtue of the psychological trauma they suffer at being separated from their parents - the bounty goes up to \$6000.

There are many childless couples and others who desperately want to adopt. CPS is the legalized adoption mill. With the law requiring permanency planning in twelve months for children under six, most of these children become adoptable within a year and a half of being taken. Is it coincidence that the Nazi Lebensborn program advocated placement of the children within a year of their abduction and focused on blond-haired, blue-eyed children under six?

In taking the younger children, many older siblings are left to languish in foster care. The real tragedy is that many of these children were very much loved and wanted by their biological parents. These parents fought with everything they had in too many cases only to lose their children. Since the state saw fit to take these children from these loving parents, these children are now alone, unloved and unwanted by the rest of the world. They are the throwaway children, and don't think they don't know it.

The two sisters from Arapaho County, Colorado reported that their foster mother told them she wanted their baby sister but didn't want them. Nobody wants the older, troubled child who knows they were kidnapped.

Even the children who are adopted often know that they should never have been taken from their parents. All adopted children exhibit some of the same issues to resolve; abandonment or the fantasy that they were, in reality, kidnapped against their loving parents' wills. The kidnapping fantasy is, in fact, the truth in many of these cases anymore. And when these children grow up and learn their real parents fought tooth and nail to keep them, they will resent their adoptive parents as being willing participants in their abductions. This is too obvious to deny.

But worse, 25% of state adoptions disrupt. This literally means the children are returned like defective merchandise, creating even more throwaway children. When an adoptive parent returns a child, CPS will offer higher subsidies or threaten to take all other children in order to prevent the adoption from disrupting. Our children are treated like commodities, to be bartered and sold by CPS agencies.

Returning Children Home

The U.S. obstructed the repatriation of kidnapped children. June 11, 1948, *Zycie Warszawy* reports, “. . .the attitude of the British and American occupation authorities. . . These authorities are not satisfied when a child is tracked down, when evidence of its identity is produced and even its parents (if they are alive) claim it. All that is not enough for them. They do their best to insure that the child is not returned to Poland . . .”

“. . .there was the 'interest of the child' to be considered, that famous interest in the name of which they had been taken from their families in the first place. The British, American and French investigators, often motivated by the most generous feelings, hesitated to create new dramas in the minds of young children who could remember only their adoptive parents. . . No one knew whether children who were being brought up in comfortably-off families would find similar conditions if they were sent [home].

“Thus, the post-war files contained a multitude of reasons why [kidnapped children] stayed in Western Germany.”

“Dr. Roman S. Hrabar, a lawyer who in 1945-7 was head of the Polish mission responsible for repatriating Polish children “It was also claimed that it would be a shock to the child to be returned to its real family. That turned out to be false. . . . [the military authorities in the Western Allied occupation zones] took the view that it was preferable to leave the child in its present surroundings - in the interest of the child - instead of making it get used to new surroundings, unknown to the child. These were humanitarian explanations which covered essentially politically motives.

“Reactions [of children who were identified] varied. Younger ones, who remembered nothing, were surprised. They had to be prepared for the change. The others, the older ones . . . accepted the situation with delight, particularly when we were able to tell them that their parents were still alive and waiting for them.”

This sounds suspiciously like today’s CPS excuse for whatever they do: “The best interest of the child.” While they trot that phrase up at every opportunity, they never define it or describe exactly why a recommended action is in the child’s best interest. They are not even qualified to judge what is in an individual child’s best interest since they don’t know the children as individuals; they don’t know anything personal about the children they kidnap. Many of them even admit that they act for the best interests of children in general, not necessarily for the individual.

The best interests of the child has become the equivalent of the Nazi’s ‘Final Solution,’ a phrase that sound good and justifies their destructive and abusive actions. Clearly, the U.S. has an extensive history of plugging other people’s children into whatever slot they feel is best, the child’s and the families needs notwithstanding, placing political expediency above the humanitarian issue of truly protecting children.

CPS will also say the children need a ‘reunification’ process before being returned home. Why was it acceptable to remove children precipitously from their parents, but they can’t be returned in the same manner? Could this be reverse brainwashing time? Or is it merely a mechanism to extend more control over the family? Whatever it is, CPS is extremely reluctant to allow foster children to return to their birth parents even if they haven’t proven abuse or neglect.

Evaluating the System

As far as the Nazi’s were concerned, the Lebensborn program was a great success. They were evaluated by their experts and their superiors. They were rounding up and distributing valuable Aryan bloodlines. As far as they were concerned, the end justified the means.

It is important to note, that at no time during the Nazi regime, were the subjects and victims of these programs ever consulted for their assessment, evaluation or input into the effectiveness and reliability of the racial hygiene programs; the effects of those programs upon the individuals and families involved; or the moral implications of what was occurring in Nazi Germany and the countries it occupied as it implement its master plan.

Today, CPS agencies undergo the same kind of evaluations as to the effectiveness and efficiency of their programs. The same experts who devise and operate child protection also

evaluate it. There is no mechanism whereby an evaluation is conducted by an independent agency or that the clients of this system are ever contacted for their input.

Client complaints are often covered up. David Berns, Director of El Paso County DHS reported to the county commissioners that his agency had received only one complaint for the year ending June, 1999. This reporter knows of seven that were filed during that time. When I protested his report, he amended it a few weeks later to two complaints. He stated that the second complaint had not been filed on proper form, forgetting that their complaint process did not require filing in writing and not knowing that all seven complaints that were unreported were filed in writing.

Later, a Denver paper reported that most counties in Colorado had no complaints against DHS; that the citizens review panels had only heard three complaints for the entire state in the previous year. They speculated that either DHS was virtually perfect, or more likely, that they were stonewalling complaints.

Many family advocacy groups are demanding independent investigations into CPS agencies nationwide. These agencies respond by requesting an internal investigation, or failing that, an outside 'expert' in the field. The advocacy groups are resisting, saying that's like having the Gestapo investigate a concentration camp.

Until there is independent public oversight over CPS agencies; until the confidentiality laws are eliminated; until caseworkers are held accountable and liable for abuses against families; until child abuse is treated like a crime and investigated by law enforcement; our children will continue to be more horribly abused in state custody than they ever were in their own homes. Our population of legal orphans will continue to grow and we will produce more human fodder for prisons and mental institutions as a direct result. If we don't learn our lessons from history, we are doomed to repeat the failures. American CPS agencies are well on their way to becoming the Nazi kidnappers of the new millennium.

THE WAR AGAINST FAMILY RIGHTS ADVOCACY

May 24, 2003 © 2003, Suzanne Shell

Some disturbing things have been happening to advocates and advocacy groups around the country. It seems the Child Protective Services agencies who, for the past several years, stated that a parent is allowed to have an advocate during a child protection intervention or legal proceeding have decided that such a right is only to be extended to those advocates and advocacy groups who do not pose a significant threat to their agenda of redistributing children from unlicensed parents to state-licensed parents-for-pay.

Various advocates and advocacy groups who proven to be effective against CPS abuses, particularly those who have received training from the American Family Advocacy Center, have been subjected to efforts designed to render them completely ineffective.

Compounding that infringement, is the tactic of requiring parents to shut down their websites and issuing gag orders preventing them from speaking to anyone about the abuses they and their children suffer at the hands of these child savers.

It appears we have reached a new level in our battle to protect families from unwarranted and abusive intrusion by state agents. There are those among us who will remember the early and mid 1990s, where parents were not afforded access to the information that is available to them on the Internet today. There were no family advocates, and precious few advocacy organizations. The advocacy organizations that did exist operated on the premise of parents' rights, rather than family rights, and found their battles ineffective against the child savers. As we have learned since then, if we fight against the child savers on their terms, e.g. parents vs. children, rather than family vs. the state, we are destined to fail in our endeavors.

Initially, when family advocacy was introduced, the Child protective services agencies did not object to a parent having an advocate. Perhaps this was because they felt that an advocate posed no threat to their standard operating procedures. With the advent of training for family advocates and family advocacy organizations, CPS agencies have come to realize that a family advocate poses a very real and identifiable threat to their standard operating procedures.

Currently, there's only one organization that trains people how to be a family advocate, that is the American Family Advocacy Center. Trained advocates are reporting that their efforts to advocate on behalf of a parent against the child savers is being met with illegal obstacles at every opportunity.

Those most effective at that advocacy are literally being shut down. Likewise, parents who are publishing their accounts of abusive government agencies, courts, guardians ad litem and service providers are being ordered by the courts, at the request of the child protection agencies, to cease publishing their websites. There also being issued gag orders, prohibiting them from speaking with the media or others.

These very serious issues strike at the very core of our constitutionally protected rights. We no longer have the option of acquiescing to these illegal and abusive demands by government agencies. The very right of the family to exist without government intrusion depends upon those who are aggrieved by these kinds of state actions to stand up and fight them.

If you are ordered to shut down your website, and you comply, you are part of the problem.

If you are gagged by a judge from speaking with the media or somebody else, and you comply, you are part of the problem. If you are an advocate whose been blocked from performing your duties, and you don't fight it, you are part of the problem.

We can do longer sit here and fight the child savers, as well as fighting those of us who won't fight for themselves, and who will advocate that we must silently endure the deprivations of our rights imposed upon us by these amoral peddlers of our children in the name of appearing "reasonable." It is time for all advocates and parents to realize that we cannot reason with unreasonable people like the child savers. The reason we are at the juncture we are today, is because not enough people would stand up and fight for their right to be a parent, for the right to have an advocate or be an advocate, for their rights guaranteed under the Constitution, and against all of the other innumerable violations that have been imposed upon that segment of our society known as the family.

Case in point: the Director of the American family advocacy Center, Suzanne Shell, has just been dragged into a family court in a neighboring County, and added to the case as a party against her will, for the purposes of preventing her from contacting the respondent mother in that dependency case. The fact that the respondent mother and Shell opposed that joinder, was irrelevant to the child savers and the court. Their agenda included preventing the mother from having any access to Shell, because parents who have access to Shell know their rights, assert their rights, and insist that their attorneys defend them adequately. Parents who have access to Shell, to their stories broadcast on her upcoming video documentary series.

This particular mother is insisting on her right to a jury trial for the adjudication of her children. Child saver and guardian ad litem Anna Hall Owen has advised the mother that her resistance to admitting to the petition is "not in her best interests." In reality, the mother's resistance to admitting to the petition is not in the best interests of the state or the other child savers.

The child savers in this case include County attorney Rocco Meconi, and District Court Judge Julie Marshall. Fremont County Department of Human Services, along with the aforementioned child savers, believe that the reason the mother is resisting admitting it to the petition is because Shell is unduly influencing her. Therefore, they must remove the influence of Shell.

It just so happens, but this mother is a subject of Shell's documentary video project. The court order preventing Shell and this mother from having contact constitutes a prior restraint on freedom of the press. We have two options here Shell and the mother could resign themselves to this court order to move on to other issues. Or, Shell and this mother could fight. If the truth be told, most parents would choose to move on. They are part of the problem.

Shell and this mother have resorted to filing a complaint in the Colorado Federal Court in Denver. They're alleging violations of First Amendment freedom of association and freedom of the press, due process, right to contract, and viewpoint discrimination. They have named seven defendants. They have done this without an attorney. The Fremont County Department of Human Services and its employees have hired a powerful, high priced legal firm to represent them. The courts have the attorney general representing them. The guardian ad litem has hired an attorney who is also a guardian ad litem. The mother's attorney is representing himself. Oh, did I mention, the mother is slightly developmentally disabled and has been ordered by the federal court to

prepare and file her own pleadings.

Sounds a little bit like David and Goliath, doesn't it?

The question is, why did they file this lawsuit without representation? It certainly looks like an exercise in futility, and an expensive exercise at that.

I'm not going to pull any punches here... this lawsuit was filed because if the child savers can shut Suzanne Shell down from practicing any advocacy, from associating with any parent, from engaging in any news gathering, they can shut you down.

They can shut you, the advocate, down. They can shut you, the newspaper or television broadcast station, down. They can shut you, the Webmaster, down. They can shut down any public scrutiny. They can shut down any private investigator. They can shut down any investigative reporter. They can shut down your elected representatives from looking into their conduct. They can isolate parents and children from any information that apprizes them of their rights and child saver obligations, and from a support network to encourage them when they're going through a child protection intervention. They can work unfettered by any public scrutiny or resistance to their conduct.

The child savers, by and through Fremont County, believe that they are invincible. I do not exaggerate when I state that they are probably already gathering monetary and other support from other counties in Colorado to assist them in their endeavors to not only shut down Suzanne Shell, but obtain judgments from the federal court for their court costs and attorneys fees. The fact that they will obtain monetary support from other child savers will not preclude them from requesting reimbursement for their attorney fees from both Shell and the mother.

This case will decide the amount of control any child protection services agency is legally permitted to exert over parents and outside parties covering issues that have nothing to do with a parent's ability to provide a safe and appropriate home for their children, the merits of any child protection case, or compliance with any court order treatment plan.

It is the contention of Shell and this mother, that the agency has acted outside of their authority in depriving them of their freedom of association for the purposes of advocacy and news gathering.

The original petition has been filed, parties have been served, and Shell is seeking to file a supplemental petition to cover acts that have occurred since the filing date of the original petition.

Shell and this mother are seeking assistance from anybody who wishes to see advocacy continue, to ensure that media access to families affected by child protection interventions is not impaired, but to protect the constitutionally protected rights of a parent to freely associate with anyone they choose to without the scrutiny of the child savers.

Specifically, the mother in this case requires an attorney to prosecute her claims. Shell would also like an attorney, but is willing to manage on her own if that is necessary. However, there's a very great potential that bad case law will be made on this case if both parties are not properly represented by qualified and aggressive attorneys who are knowledgeable in constitutional law. Shell and this mother have committed to take this case as far as they can.

Shell and this mother are requesting you to disseminate this message as widely as you possibly can.

If you are an attorney, we're appealing to your conscience and your sense of doing the right thing and at the very least, representing the respondent mother.

If you are member of the media, PRIOR RESTRAINT IS AT ISSUE in this case. If you value a Free Press, get your attorneys on this case and cover this story in your publication or broadcast.

If you are an advocate or a parent who has benefitted from the services of an advocate, and you don't want them coming after you to do the same thing they're doing to Shell, they are asking you to contribute to their prosecution of this case. To date, Shell has borne the entire burden of all expenses related to this case. As many of you know, Shell does not charge for her services to families who seek her help, so now is the time to give back what you have benefitted from. This appeal is made shamelessly, because Shell and this mother are in dire straits, and the issue is one of monumental proportions to our movement. It has taken years to build momentum to this point, and we don't want to waste the opportunity.

Expected decisions to arise out of this case include: the rights of a parent to associate with anyone despite an ongoing dependency case, the right of the media to have access to parents to cover these cases, the right of advocates to be advocates unobstructed, the right to be free from discrimination based on a critical viewpoint of child protection agencies and their practitioners, freedom from being dragged into a court case as a party for the sole purpose of restricting your practice and the right to publish your horror story about government abuses without suffering retaliation for doing so.

If these issues are of any importance to you, this is the testing ground for them. If support is not forthcoming, Shell will continue to document the demise of the family advocacy movement and the American family for posterity. However, she will not be available to assist any family in any future cases. If your group wants her training to become an effective family advocate, expect to pay for it in the future. It boils down to this, if you aren't there for her now, she won't be there for you in the future.

We will agree, it is a tough stand, but we believe that if you won't respond to this crisis, you are part of the problem, and we will respond in kind. Desperate times call for desperate measures.

On-line donations can be made at the website <http://www.profane-justice.org>. Contact information is also included on that website for the media or attorneys who wish to contribute services or coverage and for those who wish to mail in a donation. Donations are not tax-deductible.

Assuming we get adequate response to our request for assistance, filings in this case are anticipated to be posted for public access in the near future. Meanwhile, the case number is 03-RB-0743 (MJW), Colorado Federal Court, Denver. We will be issuing periodic updates on this case.

Parentsmarch 1998 Platform and Petition

PETITION

To the Congress of the United States of America:

Whereas the fifty states have demonstrated a history of abusing their power and authority over the parents and children of this country through various Child Protective Services (CPS) agencies (by whatever name they are called) , and

Whereas CPS have knowingly and willfully habitually violated the letter, the spirit and intent of Federal law governing child protection and have exceeded or ignored their statutory authority and mandate governing child protection by allowing truly abused children to remain in their abusive homes while illegally and immorally removing non-abused children from their loving and caring homes, and

Whereas CPS have intimidated, threatened and coerced families into complying with unneeded and unwanted therapies and case plans to their detriment, and have held their children hostage to their demands that they accept a false plea bargain, and have employed abusive and intimidating interview techniques upon children to coerce false accusations from them, and

Whereas the citizens of the United States of America have the right to expect that all agents of the State be compelled to obey the law in all their doings and investigations,

BE IT THEREFORE RESOLVED that the undersigned citizens of the United States of America **demand** that the Congress of the United States of America, who write the laws that govern child protection and the disbursement of funds to the states for child protection;

1) Conduct an investigation into the associated complaints and report their findings publicly within 90 days of the receipt of this petition; 2) Repeal the Mondale Act and associated laws pertaining to child protection, 3) Rewrite the laws to restore the inherent rights of families; 4) To hold all parties responsible for child protection accountable, civilly and criminally, for their actions during their investigations into child abuse and neglect.

Print Name	Address	Phone	Signature
1	.	.	.
2	.	.	.
3	.	.	.
4	.	.	.
5	.	.	.
6	.	.	.

We the People of the United States of America hereby petition the Congress of the United States of America under article I of the Bill of Rights of the Constitution of the United States. This petition is to be construed as a formal Petition to the Government for Redress of Grievances.

The history of the present Government is a history of repeated injuries and usurpations against the inherent sovereignty of the American family, designed to undermine the authority and control of parents over their children and to deprive their children of their inherent birthright.

Our nation's parents and children labor under burdensome state-sanctioned violations of their God-given rights, and of their enumerated rights which are guaranteed by the Constitution of the United States of America:

The right to the free exercise of their religion. *Children are removed for various religious practices including reading the Bible, disciplining with spanking and home-schooling.*

The right to free speech. *Many parents are ordered by the courts not to speak publicly about the violations of rights that they and their children suffer at the hands of the State or in court-ordered custody arrangements. Others have their children held hostage to the demands of CPS workers that they silence their public outcry against the injustices perpetrated against them and their children, with visitations being denied until they comply.*

The right to freedom of the press. *Parents and children have been ordered by the Court to remove all Internet web sites that publicize the injustices perpetrated against them by CPS (Child Protection Services and all other child welfare agencies by whatever name they are known) agencies and the Family Court. Flyers published at the parents' own expense have been ordered removed from local businesses by CPS agents. Parents have been denied the right to purchase and publish advertising in local papers requesting other abused families to contact them.*

The right to peaceably assemble. *Parents have been penalized by CPS agencies when they gather with other falsely accused parents and become pro-active. There are documented cases where, in open court, CPS representatives have questioned parents about membership in these groups and used that information against other member parents.*

The right to petition the Government for redress of grievances. *Parents' petitions to elected representatives at the local, state, and federal levels go unanswered and unresolved while their and their children's rights are casually trampled by CPS agencies. Our representatives tell us the CPS agents are protected by immunity and there is nothing anyone can do. Our pleas are ignored by the courts. Our funds are drained and we lack the resources or the availability of competent legal representation to take our petitions to higher courts. Our cries and the cries of our children fall on deaf ears.*

The right to keep and bear arms. *Thousands of parents daily are being denied the right to keep and bear arms under the domestic violence laws. They are threatened, intimidated, and coerced into accepting false plea bargains of child abuse, which then costs them their right to own firearms, even though they are not convicted felons. This is unconscionable.*

The right to be secure in their persons, houses, papers, and effects against unreasonable searches and seizures. *While nobody can enter someone's home and simply confiscate their television, CPS agencies routinely enter a family's home without probable cause, without warrants, without court orders and many times with force and casually remove the children to*

places unknown without any evidence of abuse or neglect. This happens three thousand times a day and the parents have no recourse. With the children in the custody of the state, and with possession being nine-tenths of the law, it can take years to get their children back despite the fact that, in the absence of evidence, probable cause, or a warrant, these children have been taken illegally.

The right to be free from Warrants issued, but on probable cause, supported by Oath or affirmations and particularly describing the place to be searched, and the persons or things to be seized. *CPS agents and police officers, as a matter of routine, steal children without warrants, and search homes for evidence without warrants or evidence of any crime. This is all done in the name of protecting the children.*

These warrantless searches are used by CPS agencies to obtain access to the children and interview them on the spot in a separate room, completely disregarding the trauma they inflict on the children and with complete disregard for the right of parents to oversee and protect their children. These children are often strip searched and their naked bodies photographed. If the parents object to such intrusions and interviews, they are accused of hiding something and this assertion of their rights is presumed to be proof of guilt.

They conduct their warranted searches for children illegally, by looking in places where children could not possibly be hidden in their illegal endeavors to obtain more evidence to manipulate against innocent parents.

The right to not be compelled to be a witness against himself. *Parents are routinely ordered by the court to cooperate with CPS agencies, which means to disclose information that is often twisted and manipulated into lies and is presented as fact to the court. They are never informed by any CPS agent that what they say will be used against them. They are court-ordered to sign releases of private medical and psychiatric information which once again is a violation of their right not to be a witness against themselves. Failure to sign these releases results in either contempt charges or the court ordering the information released against the parent's will.*

Even when a parent is not criminally charged, they are 'held to answer' for charges that are, in substance, the same as if they had been criminally charged. If the substance is the same as a crime, then the protections must likewise be the same.

The right not to be deprived of life, liberty or property without due process of law. *Parental rights are effectively terminated when the CPS agent leaves the home with the children. This does not protect the right to due process. Parents are automatically denied the right to be present at interviews and examinations or to even speak with their children. If they have visitation, they are forbidden to speak about the case, or to initiate a hug lest the visitation be immediately terminated. They have no say in any aspect of their children's life, who will care for them and how, or in the treatments the children will receive.*

The children's right to due process is also violated by these actions. To all appearances, they are being punished because they are being denied access to their beloved parents, to their family, their home, their friends. They are patted on the head and told this is for their own good. When they act out their anger and fear due to the State's ill-advised action, they are drugged into compliance against their wishes and the wishes of their parents, all at the unilateral whim of a case worker.

Parents have been ordered out of the courtroom during hearings where the decisions about their

children are being made, leaving them without a voice in their defense or in the disposition of the children, or even the means to cross examine witnesses and impeach testimony. Parents are denied the admission of evidence in their favor - many times under the guise of protecting the child's confidentiality - and are subjected to hearsay evidence against them which is accorded the unjustified status of truth. Their children are removed from their homes and placed with strangers where they are at far greater risk of abuse than they were at home. Parental rights are terminated and the child is never seen or heard from again, all without due process.

Parents are often not notified of hearings pertaining to their case or their child. When they don't show up, they have no say in the process, can present no defense and cannot answer any accusations. Many times when parents are notified of hearings, they are told 'it is only a formality, you don't have to be there.' Once again they have been lied to, to their own and their child's detriment. If they are notified, it can be as short as one hour before the scheduled hearing.

Parents are denied access to their children without having been found guilty of any crime against them. This is often denied arbitrarily, and often as punishment for the parents' refusing to admit guilt or accept a plea bargain. Not only is this a denial of due process, it is cruel and unusual punishment for both the parents and the child.

Even when a parent is not criminally charged, they are 'held to answer' for charges that are, in substance, the same as if they had been criminally charged. If the substance is the same as a crime, then the protections must likewise be the same.

The process of intervention is fundamentally unfair and a gross violation of both the child's and the parents' rights.

The right to a trial by jury. *In all cases of Dependency & Neglect, where a child can be ordered removed from the home, where the parent can be ordered to comply with expensive and dubious treatment plans, a parent is denied the right to a trial by jury. This is unconscionable as the very heart and soul of the parent, his progeny, is at risk and left to the whims of a Family Court judge, who is, in far too many cases, predisposed against the parent. It may be allowed during termination hearings, but this is too rare. A trial by jury must be allowed for all Family court proceedings to protect the rights of both the parents and the children. Many times, children are removed from their parents to the detriment of the child. Juries could provide a process of checks and balances against this.*

Even when a parent is not criminally charged, they are 'held to answer' for charges that are, in substance, the same as if they had been criminally charged. If the substance is the same as a crime, then the protections must likewise be the same.

The right to be confronted with the witnesses against him and the inherent right to have free and unfettered access to all evidence and witnesses against them. *Accused parents are denied the right to know and face their accusers, be they anonymous reporters, mandated reporters, or the child himself. Parents are denied access to many forms of so-called evidence against them under the guise of 'confidentiality' laws. They are often denied access to their children to determine if any disclosures have been obtained through questionable tactics such as intimidation, deceit, the administration of drugs to the child, and the threat of never seeing their parents again unless they disclose abuse.*

Additionally, the motive of many child abuse reporters is never investigated, resulting in many custody disputes being resolved through false reports against the other parent - as many as 80%

of these reports. The accused must have the right to confront the witnesses against him.

Even when a parent is not criminally charged, they are 'held to answer' for charges that are, in substance, the same as if they had been criminally charged. If the substance is the same as a crime, then the protections must likewise be the same.

The right to have compulsory process for obtaining witnesses in his favor. *Parents often find that the witnesses they subpoena do not appear for court hearings, including social workers, Guardians ad Litem, and therapists. The court sanctions these violations without allowing the parents the remedies they need to compel these witnesses to appear.*

Even when a parent is not criminally charged, they are 'held to answer' for charges that are, in substance, the same as if they had been criminally charged. If the substance is the same as a crime, then the protections must likewise be the same.

The right to have the Assistance of Counsel for his defense and the inherent right to effective counsel for his defense. *Again, we are dealing with an important issue, THE most important issue to most parents; their children. A parent is denied court appointed counsel UNLESS his rights are being terminated or he is facing criminal charges. Too sadly, most charges do not meet the burden of proof for criminal charges and CPS agencies file charges in civil - or family - court. This is an illegal ruse to avoid the fact that they do not have a legitimate case against the parent. By the time parental rights are being terminated, too much time has passed, too many violations of the parents' and the children's rights have been perpetrated and too many opportunities have been missed due to lack of competent counsel. It becomes a slam-dunk for the CPS agency.*

Additionally, most cases are lost, not because the parent was guilty, but because there is virtually no attorney out there who will effectively represent a defendant. By their own admission, attorneys have too much to lose by presenting a vigorous and effective defense. They advise their clients to accept a false plea bargain, to cooperate and give up all their rights, just to make their own jobs easier.

Many parents, having been drained of funds and unable to find competent counsel, attempt pro-se defenses, only to find the courts biased against them. Still others look for help outside the Bar Associations only to find that while their non-licensed counsel may be truly competent, he is not allowed to represent them in court.

The amendment states "Assistance of Counsel" and does not include the qualification that said counsel be licensed to practice law.

Even when a parent is not criminally charged, they are 'held to answer' for charges that are, in substance, the same as if they had been criminally charged. If the substance is the same as a crime, then the protections must likewise be the same.

The right to be free from cruel and unusual punishment. *Removing a child from a loving and non-abusive home is cruel and unusual punishment, for the child and for the parents. Doing so without due process exacerbates the injustice. These children ostensibly have a voice through the GAL, but in substance, their voice is ignored by all who profess to protect them, and their voice is silenced to their parents whose hands are tied to protect their beloved child. This unwarranted and unsubstantiated separation is cruel and unusual punishment whether it comes before or after a conviction or without a conviction. The substance of the action is to punish.*

Alternatively, the CPS agencies and the courts routinely leave truly abused children in the homes

of their abusers, ignoring the pleas of the children and non-custodial parents to protect the children from the ongoing abuse, be they in State custody or in a divorced parent's home. These are the children who die, and CPS agencies knew of the abuse and did nothing to prevent it.

The States actively cover up the abuse of children they have in their custody and there are no provisions for independent investigations into such complaints. The children suffer at the expense of CPS agencies.

Even when a parent is not criminally charged, they are 'held to answer' for charges that are, in substance, the same as if they had been criminally charged. If the substance is the same as a crime, then the protections must likewise be the same.

The right to decide whether to have children or not, without fear of having those children forcibly or unwillingly removed without true due process of law. *Under the law, parents whose parental rights have previously terminated involuntarily are now subject to having their rights terminated on any other existing children as well as any child yet to be born, without due process, and without any reason given. This is unconscionable.*

Additionally, the state cannot mandate that a person have a child, nor can it mandate that they do not have a child. Children are part of a family, the family is an institution that predates any government, and has rights that Government cannot intrude on. The family is as inviolate as a man's home. Our Government has displayed a casual disregard for this institution which is the backbone of our society. As families are destroyed willy nilly, so our society crumbles.

If the State wishes to raise children, let the State bear its own children. Since this is impossible, the State has no right to interfere with family matters unless they present a real danger to the child.

The right to raise said children with the values and teachings that the parents see fit, whether or not the State agrees with those values or teachings. *Children are being removed from homes for home-schooling, for Bible reading, for having guns in the home, for having their children born at home, for teaching the Constitution, and for any number of reasons that deal with the values and teaching the parents chose to impart to their youngsters.*

The State has no right to remove children from non-abusive homes regardless of the State's position on certain teachings or beliefs.

The right of a child to be raised by blood relatives rather than the State. *The State does not make a good parent, it has no vested interest in the welfare of the child, and cannot love and nurture a child. In the tragic event that a child must be removed from their home to protect their safety, the best way to mitigate the resultant trauma is to place the child with blood relatives. This is the child's RIGHT.*

This is also the right of the blood relatives, be they grandparents, aunts or uncles, or siblings. Theirs is the vested interest, theirs is the ability to comfort and protect that child better than any State agency, because they have a blood tie to that child that will serve to genuinely nurture and love the child. Placing the child with any but a blood relative should only be done as a last resort.

Additionally, blood relatives should not be required to meet the same requirements as strangers who apply to be foster parents or adoptive parents. The blood tie should suffice along with the presumption of innocence. The blood relatives will be more likely to have the best interests of the child at heart, much more so than strangers or the State would. To require more is a violation of the integrity of the family bond and patently immoral.

If the child is to be adopted, blood relatives should have the first option, and they should be given the child in all cases except for previously proven abuse or neglect against the relative who wishes to adopt. To give a child to strangers is cruel to the child and to the blood relatives who have been denied the right to raise their own kin.

The right to refuse unwanted or unneeded medical or psychiatric evaluations, treatments or drugs, for themselves and for their children. *Parents whose children are taken often find their children are placed on dangerous or questionable drug therapies, subjected to offensive and unnecessary medical examinations by practitioners whose expertise in certain areas is questionable, and forced to undergo traumatic therapies designed to help the child disclose nonexistent abuse. The child's fragile psyche is manhandled and manipulated until the child succumbs to the demands of the interrogator. They are exposed to adult sexual situations under the questionable guise of therapy and their natural inhibitions are brutally torn from them in the attempt to get a disclosure.*

Their natural reactions to the separation trauma from their parents are misinterpreted as signs of sexual abuse and they are hammered to disclose.

Normal, happy, healthy children become traumatized drug-addicts, and dysfunctional while in state care, and the state erroneously treats the child as if the trauma was inflicted in the home instead of triggered by their very actions of taking the child from his parents.

When the parents plead to have their children back and state that they never had these problems at home, the CPS agencies refuse to listen and continue on their destructive course of intervention.

These agencies use the courts to order the parents into therapies designed to 'treat' their nonexistent domestic relations problems; therapies in which the parent must admit guilt before being allowed to complete it successfully. Non-abusive, falsely accused parents must either falsely admit guilt or refuse to comply and risk losing their children permanently.

CPS agencies actually recommend medications and dosages, in some cases requiring parents to take Antabuse and increasing the dosage over and above what the doctor prescribed causing toxic side effects. In other cases, they put traumatized children on Ritalin and other drugs in an attempt to control the child's behavior problems that have been caused by the agency's intervention.

Most parents vehemently oppose these drug therapies in vain. The child learns to turn to a pill to solve his problems which cannot, in any way, be portrayed as a good thing. The parent must have the right to choose whether or not their children will be examined, treated and medicated.

The right of parents to select therapists, mental health professionals and medical practitioners of their own choosing, for themselves and for their children. *Parents and children are ordered by the courts to attend therapies, and do not have the option of choosing who will treat them. The therapists they must go to are often 'whores' of the CPS agency and will produce any diagnosis that agency wants or risk losing that source of income.*

If a parent/child rightly suspects the evaluation might not be unbiased, they will further taint it by not trusting the therapist.

The true issue is that the patient must be able to trust their health care provider, and ordering them to providers that they don't trust or don't agree philosophically with is a violation of their right to choose their own providers, whether the State is paying for these services or not.

Furthermore, many of these 'whores' casually disclose private information to unauthorized sources, leaving another reason for not trusting them.

The right of children to be with their parents and of parents to be with their children. *This speaks for itself. When two people have a child, a bond exists that cannot be severed easily, either for the parents or for the child. To attempt to sever it or to interfere with it is the ultimate cruelty. So harsh are the repercussions to the interference with that bond, that any intervention MUST be based on evidence, not supposition, of abuse.*

This means both parents, under all circumstances. To deny a child access to either parent, or to restrict that access is a violation of that special bond, and an act of extreme cruelty.

We are not 'breeders' for the state. Our children do not belong to the state. They are OURS! We bear the ultimate responsibility for them, and the state has no right to interfere for anything less than real danger to the health or safety of the child.

The right to be free from threats, duress, coercion, or intimidation in their dealings with the State; to be assured that their children will not be held hostage to the illegal demands of the State. *Parents are routinely subjected to threats, duress, and coercion during interviews with CPS agencies. Their children are held hostage for a guilty plea. They are told they will never see their children unless they confess. Innocent people have nothing to confess, but this is irrelevant to the CPS agents.*

Children are also told that unless they disclose, they will not see their parents again. This emotional manipulation of children, some who are as young as three years old, is cruel and brutal. Children are torn between believing the agents who say they will only help mommy and daddy and not throw them in jail, and telling the truth and running the risk of not seeing their parents again. If they make a false disclosure, the parents are put in prison and the children realize that the agents lied to them, further traumatizing them.

Such tactics are torture, to parents and to children. Without the presumption of innocence and accountability, any agent of the State can brutalize families with impunity.

The right to privacy; to refuse to sign releases or to have private information forcibly taken from them without their permission. *Court orders to sign releases is a violation of personal privacy. This allows any number of people associated with CPS agencies to have access to personal medical and psychological information on the parents or the children. This is a gross violation of the inherent right to privacy and the right not to be a witness against oneself, and violates the patient/doctor confidentiality.*

The right to refuse to participate in unwanted or unneeded treatment plans. *All treatment plans proposed by the CPS agencies do not have a clearly defined termination point. Parents are given hoops to jump through, and when they do it - expecting to get their children back - they are only given more hoops to jump through. CPS agencies can keep hapless parents dancing to their tune indefinitely.*

Most treatment plans are irrelevant to the circumstances that precipitated the intervention. Sober parents are ordered to alcohol and drug treatments, and are required to submit to random urinalysis. Nonviolent parents are ordered to anger management classes and domestic violence classes. All parents are ordered to parenting classes that often teach ineffective discipline techniques and oppose spanking. Parents cannot 'pass' these classes unless they admit non-existent guilt and comply with the suggested techniques, whether those techniques violate the

family's values or not. This is an undisguised attempt to maintain control over the family as long as possible, and is also an illegal 'fishing expedition' to gain more 'evidence' to use against the parents.

Is it any wonder that parents are reluctant to comply with treatment plans?

The right to refuse to contract and to place themselves in debt at the order of the state. *The right to contract also implies the right to refuse to contract. When the court orders therapies, examinations, classes, drug testing, etc. they are forcing a parent to contract with various agencies against his will, and forcing him to incur unwanted, unneeded and/or unaffordable debt. It also forces action that may be against the parent's values and beliefs, or forces punishment/treatment without a finding of guilt. This ties up funds that could be available for his defense and limits his ability to protect his and his children's rights. To force anyone to incur debt, without having been found to have committed a crime or breached a contract by a competent court of law, is tantamount to stealing. Families are bankrupted daily by these actions.*

The right to be legally protected from slanderous or libelous reports against them; and the right to be able to seek real retribution for any such violations against their character. *When a parent's name is entered on a 'registry' of child abusers, without having been convicted of the crime of child abuse, it publicly presents this person as a though he were a convicted criminal and has the effect of legally slandering and libeling his character. This registry is accessed by employers, schools, police agencies, and even neighbors. People assume that a name on the registry means a conviction. Even parents who have never been found guilty of child abuse/neglect have their names entered on the registry for the mere suspicion of abuse/neglect, whether founded or not. The presence of a person's name on the registry is stigmatizing in the extreme, especially if the person is innocent.*

The process of placing a person's name on a registry has no procedural safeguards, nor is it employed only after due process, in order to protect the rights of the persons listed and is therefore facially unconstitutional.

A false report of child abuse is in and of itself slanderous and libelous in nature. There are numerous documented cases of an irate neighbor or one party in a custody dispute using a false report of child abuse to get even or to resolve a disputed custody issue in their favor. The existing laws designed to punish such malicious actions have no teeth and the damaged party has, in substance and in practice, no recourse against the offender. Prosecutors refuse to prosecute these cases.

These malicious reports invariably cost the victims their reputations, thousands of dollars in their defense and deny them access to their children. The subject children are denied the necessary contact with their parents and are traumatized, making the children victims of this malice, too.

Mandated reporters have taken to turning virtually everything over to CPS agencies, whether the incident or circumstances can reasonably be construed to be abuse or not. This is a cowardly effort to cover their own backsides at the expense of innocent families. These mandated reporters can get away with this because of the absolute immunity they enjoy against making a false report. They have no motive to avoid making a false report, even though such a false report violates the rights of the children and the parents.

The right to be free of debtors' prison. *Many parents are being ordered to reimburse the CPS*

agencies for foster care, to pay for Guardian ad Litem fees, and forced to spend money on unwanted and unneeded therapies and treatment plans. When the parent cannot or will not pay for these items, many have been threatened with and actually found in contempt of court and imprisoned at the whim of the judge for their failure to pay. Even parents who have filed bankruptcy, with the associated charges included on the filing, are imprisoned for not paying.

The right to assert their rights without suffering repercussions. CPS agencies use intimidation to force their services on families. When parents know and assert their rights, these agencies become even more belligerent and use cruel tactics such as telling the parent that if they don't cooperate, they will never see their child again, and telling the children that their parents don't want them or love them. Many times, CPS agencies will move these children to other jurisdictions and deny the parents any contact with their children. These tactics are inhumane and malicious, and are most strongly targeted at parents who assert their innocence and their rights. These families, in effect, suffer harsher repercussions for their righteous assertions.

The right to the presumption of innocence. The fact is, that in substance and in practice, in a child abuse case, a person is guilty until he can prove his innocence. There is no provision for innocence that is not proven.

The right that all men must live under the law; that no man who is in a position of authority over them is above the law; that those who have been victimized have the real ability to seek civil and criminal punishment against those who use the authority of the state to act outside the law with impunity. CPS agents, mandated reporters, and the courts have all been placed above the law, by being granted unqualified immunity to act against any person in this country. By not being held accountable for their actions, whether these actions be legal or illegal, has created a class of person who can act with impunity and without fear of justified action against them. They can destroy a family by tearing it apart, bankrupting them, driving parents and children to mental anguish and suicide, refuse to protect known abused children, and demand unfair and unreasonable treatments, all against innocent victims of their state sanctioned arrogance. They have no motive to act reasonably, or within the law, and as a matter of routine, act capriciously. These people have been corrupted by absolute power and our children are paying the price.

Parents and children who have been abused by these people have, in practice and in substance, no recourse against the violations perpetrated against them, and the violators know it.

The right to not be subjected to hearsay evidence against them. In a child abuse case, be it civil or criminal, hearsay evidence is routinely admitted into court. In many cases, the children, who were the only witnesses to the alleged abuse, are not permitted to testify. This 'he said, she said' testimony is a violation of a fundamental constitutional right. To put someone on trial, or to convict someone, based on hearsay is a travesty.

These wholesale violations of parents' and children's rights are cloaked in secrecy under the guise of the confidentiality laws and are actively championed in Family Courts across this country. The actions of the Child Protective Services (CPS) agencies and the Family Courts are accorded the unjustified status of 'due process' while these vile practices are, in substance and reality, state sanctioned tyranny and oppression on a wholesale scale against innocent parents and children. As we have been reminded by the supreme Court in *Marbury vs. Madison (1803)*, "...**that a law**

repugnant to the constitution is void; and that courts, as well as other departments, are bound by that instrument."

The CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA) and associated Child Protection laws and regulations which sanction all of the above violations against Our Rights and the rights of Our Children, are repugnant to the constitution and must be repealed. This is to serve notice that you, hereby having knowledge of these violations, that your failure to prevent or correct these violations makes you complicit in these violations and opens you to civil and criminal remedies under the law.

We DEMAND the following REMEDIES:

- 1.** DEFINE that the first best interest of the child is to be under the control of and in the physical custody of his biological parent(s). Failing that due to clear and convincing evidence of abuse, that the best interests of the child includes the right to be raised and/or adopted by blood relatives before being turned over to strangers or the State.
- 2.** DEFINE that the parent-child bond is more precious than any bond linking the child with the state; that the right of a parent to the companionship, care, custody, and management of the child and the right of the child to be under the custody and protection of his parent is a fundamental right protected by the U.S. Constitution.
- 3.** DEFINE that the State is not the best parent for a child, and that the State cannot give the same loving quality of care and nurturing to a child that a parent can, nor can the State know the best interests of the child better than the parents and/or blood relatives do; and that the child is at greater risk of abuse and/or neglect while in State custody than in the home.
- 4.** DEFINE that the children's rights cannot be artificially separated from the parents' rights nor the parent's rights artificially separated from the children's rights; and that any attempts by any outsider to separate these rights; or to pit the child against either parent; or to dis-empower the parent; or undermine the parents' authority over the child is prima facie evidence of bad faith and severs the offender from all immunity protections.
- 5.** DEFINE that to 'err on the side of the child' is a phoney excuse for laziness on the part of officials involved; and that it allows them to adopt a self-righteous veneer as a concerned child saver while loftily sanctioning and ignoring the devastating traumatic effects intervention has on such a large majority of children and families; and that if there is a choice between erring and not, that the choice should be to not err; and that it takes much more effort to actually investigate and determine whether an allegation is founded than to simply take the child and warehouse him somewhere while the witchhunt commences; and that whenever someone 'errs on the side of the child', the child is invariably seriously injured by that error; and that the higher purpose is to not err at all; and that goal admittedly takes some effort, but if one is unwilling to put the effort required into conducting a fair and reasonable investigation, then they are probably in the wrong profession; and that to employ this line of reasoning severs them from their immunity.
- 6.** DEFINE that any disability - either the child's or the parent's - is not sufficient grounds in and of itself to remove a child from the home.
- 7.** REQUIRE that if a child is suspected of being abused or neglected due to a disability suffered by either the child or the parent, that CPS agencies cannot remove the child until sufficient,

relevant in-home services have been provided to correct the deficiency in the home; and that if said disability is permanent, that said in-home services are not to be withdrawn simply to allow grounds to remove the child; and that the deficiencies in the home due to said disability presents clear and convincing evidence of danger to the health and safety of the child or that the parent's disability is so debilitating that he cannot properly care for or protect the child even with in-home assistance; and require extraordinary efforts to keep the family with disabilities together; and that removal of the child from parents solely due to the child's disability is not permitted.

8. DEFINE NEGLECT as not being sufficient grounds in and of itself to remove a child from the home.

9. REQUIRE that if a child is suspected of being neglected, that CPS agencies cannot remove the child until sufficient, relevant in-home services or training classes have been provided which would be required for a reasonable person to remedy the neglectful situation; and that said neglect has not been reduced or eliminated in that reasonable time; and that said neglect presents a clear and present danger to the health or safety of the child.

10. DEFINE that no ties are more precious than those binding parent and child and few decrees are so grave in their consequences as a court order to remove a child from the home or permanently severing the parent-child bond.

11. REQUIRE that said parental custody and control can **ONLY** be interfered with based upon probable cause of serious injury or neglect, which cause is willful and/or intentional, and is substantiated by bona fide evidence to the same.

12. REQUIRE that the States shall not prosecute the parents or caretakers nor intervene for cases of abuse and/or neglect that are beyond the parent's or care givers control. Establish the presumption that if the child is in the home or residence at the time of the incident, and if a reasonable person could have prevented the abuse and/or neglect and did not prevent it, that that person can be held accountable for allowing it to happen and for failing to protect the child.

13. REQUIRE that in all cases of suspected child abuse and neglect, the burden of proof be upon the CPS agency and the State, whether the case is heard in criminal or civil (family) court.

14. REQUIRE that no CPS agency nor the state can prosecute for nor force intervention on, nor force treatment plans on, nor force separation of the child from the parents or anyone else for what *might* be or what *might* happen or for anything that *has not actually happened* and which has been substantiated by evidence.

15. REQUIRE that any CPS agency and the Family Courts recognize and act on the premise that a parent or anyone accused of child abuse or neglect is innocent until proven guilty.

16. DEFINE serious injury as that which jeopardizes the life or health of the child; and require the States to implement such definition into their statutes.

17. REQUIRE that mandated reporters must only meet the standard of 'reasonably believed' that injuries were the result of willful intent to injure; and that an organization's policies for reporting an incident of child abuse must not be based on anything other than an individual, reasonable analysis of each case or they may be held liable for slander and libel; and eliminate the vague standards that provide for the wholesale reporting of innocent circumstances as abuse to the detriment of innocent families.

18. ELIMINATE the provisions for immunity from prosecution under State and local laws for

persons who report instances of child abuse or neglect from circumstances arising from such reporting.

1. Institute qualified immunity for persons reporting who knew or reasonably should have known that an instance was in fact child abuse or neglect. If the person knew or reasonably should have known that the reported incident was not abuse or neglect, that person will not be protected from prosecution.

2. Any person working in the capacity of a social worker, investigator, or other child protection professional will be presumed to have known that a reported instance was not in fact child abuse or neglect if they ever, in the course of their investigation and/or intervention, employ lies and/or deceit with, or withhold evidence from, the parents, children, departments, or courts in an effort to provide services to a family.

3. Require all states to vigorously pursue RICO and/or criminal felony prosecutions against all persons who act alone, or conspire, to violate the rights of any family member, or who act outside their statutory authority during the course of an investigation or intervention; and to immediately sanction them against ever working in the capacity of child protective services; and to enter their names on a national data base of sanctioned social workers; and mandate the States to prosecute for perjury any state agency worker who lies in any report to the court or while under oath.

19. REQUIRE an immediate (within 24 hours) trial by a jury of twelve (12) in order to remove a child from the home for more than 48 hours.

20. REQUIRE the 'clear and convincing' standard of proof to keep a child out of the parents' home.

21. REQUIRE a trial by a jury of twelve (12) to terminate parental rights.

22. REQUIRE the 'clear and convincing' standard of proof to terminate parental rights.

23. REQUIRE all investigations of child abuse to be conducted by the law enforcement agency of the appropriate jurisdiction; and that child abuse is a crime and should be treated as such; and that social workers are not trained to conduct investigations, to interview ALL knowledgeable parties, to completely document all findings, to properly preserve evidence, and to respect legal rights.

24. REQUIRE that during any intervention by child protection agencies, the parents and the children are to be informed of their right to remain silent, and that anything they say can and will be used against them.

25. REQUIRE the parent is to be informed that to confess to a crime they did not commit (to accept a false plea bargain) is perjury.

26. REQUIRE that the State inform the parents in writing of every hearing scheduled in their case that pertains to themselves or their children; and that such notice clearly details the consequences for failing to appear; and that such notice is delivered to the parent no less than 48 hours prior to said hearing.

27. REQUIRE that during any intervention by child protection agencies, the parents be informed in writing of their right not to sign releases of private information; and of their right to participate in the formation of a treatment plan; and of their right to refuse participation in a treatment plan if they have not been found guilty of child abuse and/or neglect.

28. REQUIRE that CPS agencies shall not hold the child hostage to their demands that the parents separate, break up or get a divorce; and that to set forth such conditions for the return of the child will be prima facie evidence of bad faith and removes all immunity protections for the social workers involved.

29. REQUIRE that during any intervention by child protection agencies, any treatment plan devised must include a definite termination point, either a time frame or the completion of certain criteria and that upon completion of the time or stated criteria, the children must be returned to the family and intervention must cease.

30. REQUIRE that any treatment plan be relevant to the circumstances that instigated the intervention, and include an explanation as to why and how each element is relevant and the proposed benefits of each element.

31. REQUIRE that the States provide for an effective administrative appeal process for any proposed treatment plan, including but not limited to presenting the appeal before a citizen's review panel, before asking the court to order it; and advise parents in writing of their rights to appeal certain elements of any treatment plan in court for being irrelevant to their situation.

32. REQUIRE that the CPS agency prove to the Court the necessity of all elements of the treatment plan or the court must deny the agency's request; and that said proof must include the fact that the parent(s) has a past history of actions that warrant the requested element of treatment; and that said history constitutes a violation of the law.

33. REQUIRE that child protection agencies provide written guidelines for dealing with parents who assert their innocence and where there is no evidence of abuse, and have real provisions for immediately terminating intervention and returning children to their parents' custody when no probable cause can be found to continue intervention.

34. REQUIRE that all child protection agencies provide written guidelines of rights and remedies for complaints against the agency upon initiating an intervention; and that there are provisions for a truly independent citizen's review panel to deal with complaints that are not satisfactorily addressed internally; and that said panel is not to be under the influence of or suffer the presence of any CPS agency representative during their investigations and that the CPS agency is required to follow the recommendations of said citizen's review panel; and said panel will have the power to compel evidence to be produced and to compel witnesses to testify before them.

35. REQUIRE that all efforts to place children with relatives be documented in the case file by transcripts of tape-recorded conversations and/or certified letters, which unedited tapes are to be made available to any party upon request; which records will include the names of the relatives contacted, including date, time, results of the contact.

36. REQUIRE that all efforts to reunify the family are defined as such in writing and be included in the case file as a reunification report; and that such efforts describe exactly how these efforts are relevant to the family's dynamics; and describe how they will benefit the family; and require that these efforts are approved by the parents and validated with the parents' signatures on the said reunification report; and that the parent is permitted to submit their own analysis of the reunification efforts that must also be included as part of the case file and must be presented to the court.

37. REQUIRE that all interviews with children who are suspected of being abused or neglected be video tape recorded in their entirety; and that fact subscribed and sworn to under the penalty of perjury; and that the parents have a right to have their representative present at such interviews; and that such representative is not required to be a lawyer licensed to practice law; and that the

parents have the right to video or audio tape said interviews themselves, or to have free access to unedited, true copies of said interviews upon request; and that all persons present at said interviews must be visible on the video tape at all times; and if anyone present during the interview is not visible on the tape at any time, it is prima facie evidence of inappropriate interview techniques and any disclosures made under those conditions may be rendered invalid in court.

38. REQUIRE that the CPS agency, its agents or assigns may not isolate the child from his parents or other relatives unless there is a real threat to the child's life or safety that is substantiated by hard evidence; and if any CPS agent denies the parents access to the child without said evidence of danger, the agent is severed from immunity from civil and criminal penalties.

39. REQUIRE that the parents' access to the child be frequent and lengthy so as to maintain the parent-child bond and relationship; and that the CPS agency may not limit visitations because it is inconvenient for the agency.

40. REQUIRE an objective, age-appropriate definition of abuse and neglect that cannot be subject to individual interpretation and biases; and in this definition, spanking or slapping, in and of itself, cannot be construed to be abuse; and that any condition that is statutorily defined as an injury must be proven medically to be an injury that requires medical attention to preserve the health of the child; and that any definition of mental abuse must conform to the *science* of psychology, not to *theory*.

41. REQUIRE that the laws protect the practice of the parent's religious beliefs which do not seriously endanger the health or safety of the child; and provide stiff punishments for agency representatives who remove children from their homes due to the parents practicing their religion.

42. REQUIRE laws to protect the right of parents to home-school their children; and to control who the child will associate with; and to control the child's medical care where the life of the child is not in danger by their inaction; and to direct the religious and secular education and upbringing of their children in all cases where there is no clear and convincing evidence of danger to the child's health or safety.

43. ELIMINATE anonymous reporting; and REQUIRE that the names and addresses of all persons who report child abuse be made freely available to any party to the complaint; and that the accused be allowed to face the person reporting abuse against them in court; and make all persons who report child abuse subject to qualified immunity based on the standard that they knew or reasonably should have known the report of abuse was true and accurate and within the statutory definition of abuse; and make them accountable for false reports with severe criminal and civil penalties; and REQUIRE the states to ENFORCE these penalties upon the penalty of losing funding.

44. REQUIRE the states to advise any child reporting child abuse against himself of the existing criminal liabilities he faces for making a false report.

45. REQUIRE all social workers to be licensed, and bonded.

46. REQUIRE all Guardians ad Litem (GAL) to be bonded.

47. REQUIRE that GALs conduct bona fide investigations on behalf of the child; and make the results of that investigation available to all parties; and make the falsification of this investigative report punishable by mandatory fines, imprisonment and revocation of their license to practice law.

48. ELIMINATE the requirement for secrecy and sealed records in all unfounded cases; and open

these records for public inspection so that abuses by the system can be exposed.

49. ELIMINATE the confidentiality protections which in reality are a cloak of secrecy which protects the parties in power from having their illegal activities uncovered; and open all records and hearings to the public, censoring only the name of the child, and of the parent if they request it. See if they can stand the scrutiny of the public eye.

50. REQUIRE that the falsification of any records related to child abuse investigations punishable by mandatory fines and imprisonment, based on the standard that the person making the report knew or reasonably should have known they falsified the report; and REQUIRE prosecutors to prosecute such crimes vigorously.

51. ELIMINATE all instances of hearsay evidence against the accused in court.

52. REQUIRE that all complaints of the abuse or neglect of children while in state custody and under state care be investigated both by the CPS agency and by the independent citizen's review panel; and that these investigations be conducted independently of each other.

53. REQUIRE that any child protection agency worker who knew or reasonably should have known a child is being or has been abused regardless of whether the child is in State custody or not; and/or conceals the abuse of that child; and/or fails to take action to protect that child; is liable for triple the fines and prison terms as the abuser is subject to for committing the crime; and make the director of the CPS agency ultimately responsible for following through with all reports of abuse; and that the director will be presumed to have known or reasonably should have known of all reports that come into the agency by whatever means.

54. MAKE the true and actual numbers of children in foster care or other state custody arrangements publicly available annually; along with the true and actual numbers of reported cases of abuse against children in stated custody; and the true and actual numbers of deaths - including accidental, intentional, and suicides - of children while in state custody; and the true and actual numbers of state custodians or caretakers prosecuted for these abuses.

55. REQUIRE that the states protect the rights of the accused by allowing them to face their accusers; even if they are children, in court.

56. REQUIRE that a child may refuse medical treatment and/or examinations without his parent or his parent's representative present. The child must be informed of this right, prior to any examination or treatment and said statement must be video taped and the accuracy and completeness of said taped statement sworn to under the penalty of perjury.

57. REQUIRE that a child may refuse to speak to anyone without his parent or his parent's representative present. The child must be informed of this right prior to any interview and said statement must be video taped and the accuracy and completeness of said taped statement sworn to under the penalty of perjury.

58. REQUIRE that before the state can order a child into therapy, put the child on any drugs, or give the child medical treatment against the parent's will, that the state have clear and convincing evidence of abuse or neglect against the parent; and that such treatment or examinations are conducted by independent providers; and that the state meets the burden of proof that failure to provide the child with the requested examinations and treatments will seriously injure the health or life of the child; and that the parents may present a case in court against allowing any such

treatments or therapies based on the treatment's validity, the validity of the diagnosis, and the instance where the need for such examination or treatment is precipitated by the removal of the child from his family and the symptoms can be alleviated by reunification; and to allow the parents to demand that their children see the medical professionals of their own choosing; and allow a provision for the administration of emergency medical treatment for injuries and acute illnesses for children legally in state custody without the parent's immediate consent.

59. REQUIRE that all hearings involving the parent or the child, both the parent and child must be allowed to be present if they so desire; and make it illegal to order either one from the courtroom for anything less than threatening behavior, and require Judges to make every attempt to make it possible for all parties to remain in the courtroom during the hearing.

60. REQUIRE the judge to allow the child to speak to the judge in chambers if the child desires; and make it a punishable offense if any social worker, GAL or other child protection worker conceals the child's request from the judge.

61. REQUIRE the States to diligently protect the rights of families who are involved with CPS agencies; and that failure to protect their rights as defined above against illegal activities by the State will result in the denial of Federal funds to the State for the following year in the amount of 25% of the current year's allocation for the first offense, 50% for the second offense, and 100% for subsequent offenses; and that said denials of Federal funds are cumulative and can be carried forward into subsequent years.

In this great nation, ***We the People*** are the government. We are holding all of our elected officials accountable for these devastating and immoral violations to Our Rights and to the Rights of Our Children.

We Declare the Family, by its very nature as an institution that predates any government, whose sovereign rights are fundamentally inherent, to be inviolate to government intrusion. We will no longer let the agents of the state meekly into our homes to ~~snatch~~ seize our children. We will no longer cooperate with CPS agencies who lack the experience, the authority or the moral character to judge us as parents. We stand resolute in our innocence and demand that these agencies obey the law of the land in all their doings.

Family Advocacy Center

- Advocating for Families involved with Child Protective Services Agencies

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THE VOICE OF THE CHILDREN

I must preface this by pointing out that a large percentage of children are not removed from their homes because their lives or safety are in danger. They are removed for such things as accidental injuries, dirty carpets, clothes on the floor, refrigerators that are not full, missing school, playing outside without supervision, witnessing their parents argue, parents asking for help from DHS such as respite care or assistance with combating an addiction or food stamps, and more. I deal largely with issues where the parent's problems did not rise to the level of endangering the child, indeed, even posing a threat of danger to the child. But even when children have been abused, they don't deserve what too often happens to them in state custody.

Last November, Clintha (11) and Viola (10) Harris ran away from their allegedly abusive foster home in Arapaho County, Colorado. They left behind two of their siblings in that foster home.

The girls have reported that they were never abused by their parents before the state swooped in and removed them. They also stated that their case worker, Dawn Shields, tried to make them lie and accuse their parents to justify their removal. The girls are adamant about their dislike and distrust of Shields. They stated that they want to go home to their mom and dad.

According to the Harris girls, they had been beaten with a cane by the foster mother, and locked in a room, where they escaped through a window. They made their way across half of Colorado and all of Kansas and surfaced in Kansas City. They accused their foster caregiver of shaking their infant sister, and of hitting them on the head.

They have also alleged sexual abuse in the foster home. Shields reportedly ordered the girl's aunt NOT TO HAVE THE CHILDREN MEDICALLY EXAMINED in an attempt to verify this report, in the event the girls showed up at her house in Kansas City, MO. Such evidence could prove detrimental to Arapahoe County if were confirmed, regardless of the best interests or the safety of the children involved.

The children were returned to Colorado and have been secreted away by Arapahoe County, but not before I obtained their statements on video tape.

The confidentiality laws surrounding child protective services, which, ostensibly are designed to protect the children, have effectively been used as a veil of secrecy to hide the abusive and illegal activities of DHS leaving the children without a true voice about what they endure while under the dubious 'protection' of the state.

You see, while children are being 'protected' by DHS, they suffer abuse and neglect of a nature that is simply not tolerated by DHS if it were committed by the biological parents. We believe that if a child is going to be removed from their parents due to alleged abuse or neglect, that they must be placed in a home that is superior in every way, but especially safety, to their home. DHS does not hold this same opinion. And children are routinely placed in homes that prove to be worse than the homes they were removed from.

As an example: In El Paso County, Sanita Swisher had her seven children removed when she was arrested for allegedly leaving a 10 year-old boy home alone. She was later acquitted during her criminal trial, but her parental rights have since been terminated. One of her seven children, Lea, had an infant who went into foster care with her. During the course of Lea's stay in her foster home, she came home from school one day to find her 12 month old son home alone, unattended in his crib, screaming. The foster parents had left the house without taking the baby. The foster parents still have their foster care license, they still had foster children assigned to their home, and they did not have their own children removed by DHS.

Yet, this isn't the worse example of DHS coverups of abuse and neglect in foster care. Bones and Sandy Evers were the model foster-adopt parents in La Plata County, until their seven-year-old adopted daughter died of asphyxiation in her sleep. As a result of that accidental death, DHS yanked two sisters out of their home who were weeks away from having their adoption finalized. The Evers won their Dependency

and Neglect case, but were charged criminally with Child Abuse Resulting in Death. In their criminal trial, the jury returned a 'compromise verdict' of Negligence, and the Evers were sentenced to jail time. Meanwhile, one of the two babies taken from the Evers's by DHS died in another foster home of a subdural hematoma. Nobody was charged with her murder, and it was not reported as a murder. Yet, clearly, it was murder. And it was covered up.

Terry Campbell's grandson was placed in Rocky Mountain Boys Ranch, where he was confined to a cell for 23 hours of the day. On the one hour that he was allowed out, he wore chains and shackles. He was never accused of any crime. He was abused by the system and his voice was never heard.

Sandra Manchego's fifteen-year-old son has spent four years in La Junta Boys Ranch under a Pueblo County caseworker diagnosis of being psychotic. While there, he endured brutal abuse at the hands of other residents and by staff. One day, he couldn't take it any more and killed some of the turkeys on the ranch. They shipped him to the State Hospital in Pueblo where the doctors said he was not psychotic as his caseworker insisted. The caseworker keeps insisting that the Pueblo doctors include some element of psychosis in his diagnosis in order to keep getting the funding she needs. Meanwhile, he was mis-diagnosed, mistreated, and abused by the system for four years without his voice being heard.

Sanita's son was sexually molested by a child in his El Paso County foster home. Her daughter exhibited bruising from her foster home. When Sanita pushed for her children's safety in foster care, El Paso County caseworker, Marian Percy, retaliated and filed for termination of Sanita's parental rights. She felt that Sanita was not focusing on the appropriate issues and declared that the court-ordered treatment plan had failed to remedy the problems that caused the children to be removed.

Cinnamon Martin's daughters were punished in their Arapahoe County foster home for praying to be returned home, by being isolated from each other and denied meals. Their voices were not heard.

Veronica and Richard Schlosser, in Larimer County, were punished by the foster caregivers for crying. Veronica ran away from her foster home and revealed her situation on a video tape which was aired in New York City. For six months after their return home, thirteen year-old Veronica could not go to sleep unless the light was left on and her mother sat by her bed. She hides when the doorbell rings.

In Adams County, Dorothy C.'s children were returned from foster care to exhibit previously non-existent sexualized behaviors.

Robin Bingham's son was placed in Cedar Springs on the recommendation of an El Paso County caseworker, without any mental health diagnosis, where his life was threatened with a knife by a gang of residents. El Paso County DHS was repeatedly informed to no avail. Chris ran from Cedar Springs for fear of his life. His voice was not heard.

Joe Fox's daughter was taken by Arapahoe County DHS for a dirty house and has been denied substantial parenting time with her and her infant sister who was taken shortly after birth. Caseworker Lisa Justis has actively interfered with the parent-child bond in order to facilitate the children's adoption. She has denied those children access to their grandparents in Pueblo who have informed me that at the end of their last visit, little Akane begged to go home with her grandparents. This has been denied by Arapahoe County in spite of a Pueblo County home study that the grandparents home was entirely acceptable. Akane and Leda don't even need to be in foster care with strangers. This is nothing less than emotional abuse by DHS; denying them their identity by isolating them from their family. Their voices are not heard.

Christopher Jensen is a ten year-old boy with mild retardation and cerebral palsy. His mother, Rochelle is bi-polar. He has spent a large part of his life with his grandmother and aunt. El Paso County has taken him from his grandmother and placed him in foster care where the best we can determine, the care he receives is at best, indifferent. Chris has a grandmother and aunt who want him, and can support each other with caring for him, but DHS has filed a petition to terminate parental rights. He is unhappy in his foster home and wants to be with his family; he told me so, and I video taped it. If parental rights are terminated, he will have become a throwaway child, in spite of the fact that he has family who loves him and wants him, and for no other reason than his and his mother's disabilities.

Laura Kneis's children were placed in foster care where they had to sleep on the floor in the family room. They insisted the foster mother was "psycho." She called them 'animals' and maligned their mother to them. They complain that they are not allowed to talk about what goes on in the foster home. Their voices are not heard.

The owner of the Stars Group Home in El Paso County is being investigated for breaking a child's arm.

These coverups occur because the agency that is charged with protecting our children, the agency that places our children, is also the agency responsible for covering reports of abuse and neglect in foster

homes and institutional placements. This agency has a vested interest in covering up reports of child abuse and neglect to children in their own custody.

There have been studies which document the rates of abuse in foster care and group homes as far exceed the rates that occur in the general population. For example:

SEXUAL ABUSE

- Baltimore found substantiated sexual abuse²⁴ cases in foster care was 4 times higher
- Indiana found three times more sexual abuse²⁵ in foster care and 28 times greater in group homes
- A lawyer in Florida knew personally of over 50 instances of child on child sexual abuse involving over 100 Broward County foster children, Broward County only reported 7 instances.²⁶
- Casey Family Program alumni survey found 24% of the girls reported actual or attempted sexual abuse in foster homes.²⁷

PHYSICAL ABUSE

- Indiana found physical abuse occurred twice the rate of the general population in foster homes and ten times the normal rate in group homes
- Baltimore study of case records found abuse in 28% of foster homes²⁸
- Various studies have shown that a child has a 10 times GREATER chance of being abused/neglected in foster care/state custody than they do in their own homes.²⁹

NATURE OF ABUSE IN FOSTER CARE in Colorado

- **The guarantee of emotional trauma due to the child being separated from his parents.** This is largely not recognized by DHS and is actually mis-characterized as being a result of the abuse/neglect they allegedly suffered in their homes. It is exacerbated by isolation techniques such as withholding visitation or requiring severely limited and supervised visits with family, by not allowing contact with siblings or extended family members. This trauma manifests itself as acting out behaviors including bed-wetting, destructive behavior, urinating/defecating in inappropriate locations, crying, clinging or self-isolation, poor performance and behavior problems in school, self-abuse and suicidal gestures, running away, physical violence, verbal abuse, and more. Often these behaviors will be mis-diagnosed as ADD/ADHD or other mental health issues which lead to the next step of abuse,
- **Over-medicating children to control behaviors.** Foster homes cannot deal with some of these intense problems and request the child be medicated to control his behavior. Medications and residential admissions have also been used to brainwash children who are resistant to accusing their parents in Colorado. Reference the Miller family in Canon City, whose six year old son was

²⁴Mary I. Benedict and Susan Zuravin, Factors Associated With Child Maltreatment by Family Foster Care Providers (Baltimore: Johns Hopkins University School of Hygiene and Public Health, June 30, 1992)

²⁵ J. William Spencer and Dan D. Kundsén, "Out of Home Maltreatment: An Analysis of Risk in Various Settings for Children," Children and Youth Services Review Vol.14, 1992

²⁶Affidavit of David S. Baserman, Esq. Ward V. Feaver, Case # 98-7137, United States District Court, Southern District of Florida, Fort Lauderdale Division, Dec. 16, 1998

²⁷David Fanseil, Foster Children in a Life Course Perspective (New York: Columbia University Press, 1990)

²⁸Memorandum and Order of Judge Joseph G. Howard, L.J. v. Massinga, JH 84-4409, United States District Court for the District of Maryland, July 27, 1987

²⁹A 1986 survey conducted by the National Foster Care Education Project - Timothy W. Maier, "Suffer the Children," Insight on the News, (November 24, 1997). p. 11. A follow-up study in 1990 by the same group produced similar results. The American Civil Liberties Union's Children's Rights Project similarly estimates that a child in the care of the state is ten times more likely to be abused than one in the care of his parents - Seth Farber, "The Real Abuse," National Review, (April 12, 1993)

subjected to isolation from his siblings and parents and to repeated and lengthy residential admissions which included heavy medications, for his refusal to accuse his father of sexually molesting him. An independent evaluation of the entire family suggested the children had been psychologically manipulated against their parents.

- **Interference with parent-child bonds.** This routinely happens with infants. The courts routinely only allow 1-3 hours of supervised visitation with infants during their most critical bonding periods. These children naturally fail to develop attachments to their biological parents which is used to terminate parental rights. Attachment disorders often develop because of the confusing messages the infant is receiving.
- **Indifferent care by foster care providers** denying the child love, nurturing and security that a parent gives.
- **Inadequate facilities** including beds or bedding, bedrooms, inability to transport children to visitations, appropriate church or other regular activities enjoyed by the child in his home.
- **Physical abuse** including hitting, punching, kicking, slapping, pinching, pushing, hair-pulling, biting, and more. When parents see bruising on their children, they are not allowed to photograph it, and it is minimized by caseworkers as 'accidental.'
- **Emotional abuse** including having their parents maligned, being called names, ridiculed for their sorrow or beliefs, belittled, denied the ability call their parents, isolated from the household, isolated from family and their siblings which denies them their identity and their familial connections, having their personal belonging taken and put into a common pool of belongings for all foster children
- **Sexual Abuse.** Since DHS is the agency that places the child AND the agency that investigates reports of abuse in foster homes, they have a vested interest in covering up cases like Lisa K's 10 year old daughter who was raped in a foster home. She was subjected to intense psychological 'therapy' to convince her she was lying about the rape. El Paso County allowed the rapist to leave the country and did not pursue prosecution. Many children who are sexually molested in foster care have been removed from their homes for poverty related 'neglect' issues and never suffered abuse at the hands of their parents.

TREATMENT PLAN

1. You have the right to participate in the formation of the treatment plan pursuant to C.R.S. 19-3-209 and DHS Volume 7 section 7.301.22 (12 CCR 2509-4).
 - a. C.R.S. 19-3-209 - **Individual Case Plan - required** - An *individual* case plan, ***developed with the input or participation of the family***, is required to be in place for all abused and neglected children and the families of such children . . .
 - i. INDIVIDUAL - existing as a complete and separate entity; of, relating to, used by or intended for only one person or thing; distinctive, strikingly different from others. *Webster*
 - ii. This precludes the practice of 'boilerplate' case plans - and opens them up to objection
 - b. 12 CCR 2509-4 7.301.22 - **Family Service Plan Participants** - The county shall assure that the following parties participate in the development of the Family Services Plan: Caseworker, ***Parent(s) or*** legal guardian, child, immediate and extended family members as appropriate to the family and child's service needs. All parties shall sign the plan . . . If the caseworker is unable to involve both parents, child or provider, the efforts to do so and the reasons for the inability to do so shall be documented on the plan.
 - c. 12 CCR 2509-4 7.301.23 A. . . Outcomes to be achieved as a result of the services provided will be described in terms of specific, measurable, ***agreed upon***, realistic, time-limited objectives and actions steps to be accomplished by the parents, child, service provider and county staff.
2. The treatment plan shall be relevant and appropriate 12 CCR 2509-4 7.301.23
 - a. A That services to be provided are directed at the ***areas of need identified in the assessment***. . .
 - b. B. That services to be provided are designed ***to assure that the child receives safe and proper care***.
 - c. C. That services to be provided are ***culturally and ethnically appropriate***.
 - i. This includes the right of parents to spank or employ other cultural and religious practices (most if not all service plans prohibit physical punishment)
 - ii. Colorado Constitution, Section 4. **Religious freedom**. The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever hereafter be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his opinions concerning religion; but the liberty of conscience hereby secured shall not be construed to dispense with oaths or affirmations, excuse acts of licentiousness or justify practices inconsistent with the good order, peace or safety of the state. No person shall be required to attend or support any ministry or place of worship, religious sect or denomination against his consent. Nor shall any preference be given by law to any religious denomination or mode of worship.
 - iii. 42 U.S.C. 2000bb - **Religious Freedom Act** - state must prove compelling interest before substantially burdening the free exercise of religion, also provides a claim or defense to persons whose religious exercise is substantially burdened by government
 - iv. **Adoption and Safe Families Act** - *Nothing in this act is intended to disrupt the family unnecessarily or to intrude inappropriately into family life, to prohibit the use of reasonable methods of parental discipline, or to prescribe a particular method of parenting.* 42 U.S.C. 671
3. The treatment plan shall define how success is measured
 - a. 12 CCR 2509-4 7.301.23 A. . . Outcomes to be achieved as a result of the services provided will be described in terms of ***specific, measurable***, agreed upon, ***realistic, time-limited objectives and actions steps*** to be accomplished by the parents, child, service provider and county staff.
 - i. Any element that is vague or subjective is inappropriate
 - ii. Any element that is unrealistic is inappropriate
 - iii. Any element that does not have a time frame is inappropriate
 - iv. Any element that cannot be measured, and is not defined how it will be measured **objectively** (as opposed to the caseworkers subjective assessment) is inappropriate

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- b. What to watch out for:
 - i. cooperate with all parties, to include GAL and caseworker
 - ii. Follow all recommendations
 - iii. No way to measure success or measurement left solely to caseworker - why even obtain service providers if cw won't honor their recommendations?
 - iv. No time limits
 - v. No promise of returning the child home when completed
 - vi. No provision for innocence
 - vii. No provision for recourse if retaliated against
 - viii. No provision for child's safety in foster care or requirements/accountability if child is abuse/neglected
 - ix. No guarantee that foster care will be superior to parents' care
 - 4. The treatment plan shall define actions taken by caseworkers to insure the parent's success
 - a. 12 CCR 2509-4 7.301.23 A. . . Outcomes to be achieved as a result of the services provided will be described in terms of specific, measurable, agreed upon, realistic, time-limited objectives and actions steps ***to be accomplished*** by the parents, child, ***service provider and county staff***.
 - b. all service providers and DHS agency representatives, CASA and the GAL, be considered adverse witnesses and that the court order he be allowed to have his own representative (advocate/witnesses) of his choosing observe all visitations and hearings, and participate in mediations and meetings in order to provide him with a witness who can verify or rebut statements made by adverse witnesses;
 - c. be allowed to video tape and/or audio tape record all visitations, hearings, meetings, in order that he may have an accurate record of what occurs and to help him facilitate the successful completion of the treatment plan.
 - d. If caseworkers, the GAL, and other service providers, strive diligently to satisfy the letter, spirit and intent of the Colorado Children's Code by working to facilitate his success of the treatment plan and that they would not engage in any activities that would thwart that success.
 - e. If children are placed out of the home, they be placed with relatives unless DHS can demonstrate a credible reason citing substantive specific safety issues that a reasonable person would accept for denying relative placement; that such things as a disability or illness, or empathy for the respondent parents, or youthful indiscretions that have not been repeated in recent history, or any other specious issue unrelated to the relative's ability to properly care for the children not be permitted consideration as part of the determination
 - f. caseworkers, GAL, CASA and all DHS employees shall be held civilly and criminally liable for any falsified reports, oral or written, in this case; that respondent will notify a party or service provider in writing of the falsification and provide the correction, and that if the party or service provider insists the report was not falsified, that they will provide the respondent with the evidence to prove their report was true and correct; that failure to provide the respondent with that evidence or to correct the report and file the corrected report with the court within 10 days will be prima facie evidence that the report was knowingly and willfully falsified
 - g. DHS employees will not use coercive, threatening or intimidating tactics in order to obtain the respondent's compliance with their unsubstantiated or irrelevant demands; that DHS, service providers, and parties will not hold the children hostage for respondent's admissions or compliance, but only hold them for bona fide, documented, substantive safety issues;
 - h. that the caseworker and the GAL be required to return all of respondent's phone calls by the next business day.
 - i. DHS devise a clear and cogent element which covers the possibility that the parents are innocent of all allegations, and defines how that innocence would be proved (assuming the court finds innocence must be proved rather than presumed) and how he can successfully complete the required elements while maintaining his innocence.
 - j. all parenting requirements be provided to him in writing by DHS so that he knows exactly what they are looking for during his visitations and/or what he is specifically expected NOT to do, and that this element include the provision that if the respondent was not given written instruction covering an activity, that respondent's failure to perform any unspecified activity or respondent's performance of any activity not specifically prohibited, will not be held against the respondent for

- the purposes of any assessment of the respondent's parenting abilities; that these written requirements shall not conflict with his religious, personal, and cultural beliefs;
- k. all parties and service providers be required to provide the respondent with a written letter, within 24 hours of any incident which gives rise to any concern, detailing exactly what action on the part of the parent caused concern, why it caused concern, and a detailed explanation of alternative behavior required to alleviate the concern, and that in the absence of this written letter, that there would have been no cause for concern which could be presented in court as evidence against the respondent;
 - l. that DHS provide the parent with appropriate responses in writing to the children's questions; such as "when can we come home?" and other questions that might arise which could cause concern for the service providers; and that said prepared responses will not require the respondent to lie to the children, or mislead them or misrepresent the facts as such subterfuge would undermine the children's trust in their parents;
 - m. DHS, GAL, CASA, and other service providers be ordered not to engage in any activity that would have the effect of undermining the parent-child bond or relationship between the respondent and the children; including but not limited to allowing or encouraging the children to refer to the foster parents as 'mom' or 'dad'; providing inadequate and/or poor quality parenting time; withholding visitations (i.e. as a punishment for the child's behavior after seeing the respondent); badmouthing, maligning, slandering or saying anything negative to the children about the respondent; limiting physical contact (such as hugs) or verbal content (such as forbidding the singing of songs or professing love); lying to the children about the respondent ('your mom doesn't want you or she'd be working harder on the treatment plan,' etc.) Or any act that would reasonably be construed to undermine the parent-child relationship
 - n. the children not be prevented from reporting abuse or neglect or in any way be denied the right to make positive or negative statements about their foster homes or foster families to their parents; the children's right to freely make allegations, complaints or comments about the care they are receiving to be in the best interests of the child.
 - o. the children be given free and unfettered access to an **independent** contact to whom they can report abuse, neglect or other complaints; that the children be given oral and written instructions about this contact in front of the parents; that said complaints shall be forwarded by the contact for investigation, and that reports of complaints from the children be independently (this means NOT by DHS OR OCA OR CASA OR El Paso County Court) investigated promptly
 - p. to insure the children are placed in a home that is superior in safety, nurturing, comfort, morality, etc, than their own home is in keeping with the mandate that the only time a child is removed is to insure his safety; and that if the home the child is placed in is in any way inferior to the home they were removed from, that the children be returned to the parents home immediately and that the return of the children to their family home from an inferior placement would be in the best interests of the children; for certainly, it is not in the best interests of the children to take them out of a home that is not proven to be injurious or unsafe only to place them in a foster home that is not superior, where, according to studies, they are 10 times more likely to be abused.
 - q. the caseworker be held personally liable and accountable for any trauma, suffering, abuse, injury, death or other detrimental effect to the children based on the caseworker's choice of out-of-home placement of the children and/or refusal to place the children in relative placement or a home that is superior in safety to the respondent's home
 - r. DHS, GAL, CASA, and any other parties or service providers be ordered that they will not cover up any allegations of abuse perpetrated against the respondent's children in the foster home or alternative placement, and that the foster parents will be held to a standard of care and protection over the children at least as high as or higher than the standard that the respondent parents are held; that the respondent parent has a right to demand that the level of care their children receive while in the custody of the state fulfill the statutory mandate of being protective, rather than abusive or neglectful, (including emotionally abusive), and that the children already suffer severe emotional trauma at the separation from their parents and to inflict a lower standard of care and safety upon them is unconscionable and abusive; and that ANY report of abuse or neglect in the foster home be investigated with the same diligence and vehemence against child abuse as the respondent parent has been subjected to

- s. DHS and GAL respect the family's beliefs, culture and lifestyle, and not demean any family member or hold any of the family member's legal activities against any family member as required by Volume 7 and the Colorado Children's Code.
- t. the parents be able to choose all of their own service providers AND the service providers for their child(ren) or DHS will provide service providers whose teachings are compatible with this family's religious, personal, and cultural beliefs.
- u. the respondent will not be compelled to sign releases of information to the GAL, CASA or DHS, and that this exercise of this Fifth amendment rights will not be used against the respondent to deny him/her the custody of the child(ren).
- v. increased visitation including overnight visitations and that absent any **evidence** of abuse/neglect against the child(ren) perpetrated by the respondent, that said visitations be frequent, lengthy, and unsupervised.
- w. the respondent demands that immediately, upon the completion of all elements by him, the child(ren) be returned to home and the case be closed.
- x. that DHS nor the GAL are NOT permitted to provide any service provider with **their version** of his family's history (or any version of the family history) prior to or during any evaluation or treatment other than providing the specific allegation that instigated this case/investigation. This practice of providing inaccurate histories has the effect of tainting evaluations and treatments and rendering them invalid and/or inaccurate to the detriment of the respondent and the children; that all histories to service providers must come from those who know it best, that being the family
- y. that requirements and appointments for treatments and services scheduled do not interfere with the respondent's ability to keep or obtain employment. This means the prohibition of scheduling excessive (more than 1 per week) appointments during scheduled work hours lest the respondent risk losing his/her job which would jeopardize the treatment plan.
- z. respondent demand that all interviews and therapies with the child(ren) be videotaped in their entirety, with all parties present being visible on the tape, face front to the camera, and that said conditions be sworn to under the penalty of perjury, and that an unedited copy of these recordings be made available to the respondent immediately.
- aa. respondent demands that if any party or service provider attempts to tamper with the statements made by any of the children, by coercion, threat, duress or other manipulation, that the court will order them held criminally liable to the fullest extent of the law and find that they are severed from any immunity protections for civil liability
- bb. the children be ordered to attend their own school as required by statute; and that the foster parents be ordered to permit the children to attend church and religious training which is approved only by the respondent parents; and ordered to facilitate the children's attendance to school and religious services and training without fail; and that the children not be forced to attend the foster parent's church or practice the foster parent's religion if the respondent parents object
- cc. the respondent's expert be allowed to conduct a forensic interview with the children to determine whether or not inappropriate interview techniques or unethical practices have been employed in an effort to get the children to make false disclosures and/or to determine if DHS is attempting to validate a false disclosure rather than endeavoring to determine the true status of the children's safety in the home
- dd. respondent demands that the foster parents be held criminally and civilly liable to the fullest extent of the law for any and all injury, abuse, neglect, suffering, death, or other injury suffered by the children while in their care

Press Advisory

October 30, 2001

RE: Request for Grand Jury Investigation into Child Protection Practices

Is DA Jeanne Smith Lying?

POINT: October 25, 2001 Gazette article states "Smith. . . said the Rantz case is not related to Cloer's request for an investigation." (See attached article)

POINT: October 17, 2001 Letter from attorney Anjanette Wayman, distributed as part of the press packet at Rep Cloer's press conference, and included in the packet to DA Smith, references Geoff Rantz, "When the Colorado Springs Police Department contacted me about Mr. Rantz, they disclosed that Mr. Rantz had disappeared with my client's teenage son." (See attached letter)

CONCLUSION: Either Jeanne Smith lied to the Gazette about Rantz being a part of the investigation requested by Cloer (in order to falsely state there are no criminal violations in any of the cases presented to her?) -OR- there is another pedophile under the employ of DHS, still at large, preying on the vulnerable children of El Paso County and DHS and Smith are aware of that fact and doing nothing about it.

FACT: DA Jeanne Smith has not contacted the victims named in the report given to her by Rep. Mark Cloer subsequent to the conference requesting a Grand Jury investigation into child protection practices.

QUESTIONS

Is Jeanne Smith going to make a decision about convening a Grand Jury without speaking to the victims?

Has she given the complaints she received to the accused?

Is this the correct way to conduct a criminal investigation?

For Further Information Contact - 749-2971

FOREWORD to Profane Justice

In the pages ahead, you will confront a system that defies belief. If you are one of the millions of victims of America's child welfare system, you are probably still coming to terms with your own astonishment at what has happened to your family, let alone the disbelief of your friends and relatives.

And yet, within this very disbelief lies the key to understanding what is happening. Little more than a generation has passed since similar disbelief permitted millions to die in German concentration camps. It is not a coincidence that the terrorism practiced by today's Child Protective Services is likened to the Nazis. Indeed, the very term the Gestapo used to justify rounding up Jews for slaughter – *Schutzhaft* – means literally "protective custody." Like the German citizens of that day and age, Americans today will not believe what is happening in our midst.

Unfortunately, the parallels do not end with mere disbelief. In a recent episode of the animated sitcom, "The Simpsons", the whole joke was based on the children being taken into temporary state custody. What has happened to our culture when this kind of seizure is so commonplace that it becomes a source for TV comedy? To accept the very concept that the State can seize children without legal process is as distressing as the belief that it is acceptable to annihilate a whole segment of the population.

But let's suppose this can be justified. Suppose that, just as exterminating a whole people could be justified in the interest of national security, so likewise it's a valid exercise of government authority to reassign children from the homes in which God placed them to "better" homes, chosen by the State. Even if your belief system allows such a thing, why must it be done so viciously? It's not enough to simply shoot 100 Jews this afternoon. The job isn't complete until you first pick 5 or 10 of them, make *them* pick which of their brethren will die, then torture them to death. Any parent who has endured the bait and switch game of having their supervised visits repeatedly rescheduled at the last minute, only to be ultimately canceled, or who has had to choose between an innocent spouse and beloved children, understands the concept of torment imposed for the sheer sake of torment.

Finally, and perhaps most inexplicable, is the single-minded determination with which these programs are carried out. Just as the Nazis *intensified* their macabre slaughter even as their imminent defeat was assured, so caseworkers, judges, and all the federally-funded functionaries in between tenaciously hold onto our children, notwithstanding all law, evidence, publicity, common sense, and human decency to the contrary.

More ominous than the parallels, however, are the differences. In exercising the age-old trick of whipping up an "us-versus-them" mentality, the Nazis relied on the rather crude distinction of race. In contrast, America today is being divided between rich and poor, between educated and non-educated, between parents and children, and so help us, between "functional" and "dysfunctional." It's been going on a lot longer than the Nazis' brief moment of glory, it's far more pervasive than anything they ever attempted, and the sheer scale is beyond anything they ever dreamed. Of all the forces working to undermine America today, none is more devastating than the destruction of our own families by our own government.

The struggle to save this nation is not a question of economic or foreign policies, of who sits in the White House, or of what intrigues take place in Washington. The struggle to save this nation is being fought each day by families as they discover that due process of law has ceased to exist in America. It is this legal and spiritual battle, fought family by

family, child by child, without money and without public attention, that will determine the fate of this nation. In that battle, this book is a powerful weapon for Truth. God bless that it may serve that mission well.

Michael L. Humiston, January 30, 2001
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THE DESECRATION OF THE FAMILY from Profane Justice

"Resistance to tyrants is obedience to God." Thomas Jefferson

There is a war raging over the control of our children. The cry of outrage is spreading across this nation, as increasing numbers of children are wrongfully ripped from their loving parent's arms and secreted away by the unscrupulous agents of the State. Many good parents are branded child abusers, and in their naivete, are abused and manipulated by a system that transcends any preconceived notion of injustice. Their trusting children are deceived and coerced into "disclosing" nonexistent abuse, unaware that they are being exploited by the very people who profess to protect them. Christian parents are especially at risk of prosecution.

"Not all child abusers are Christian and not all Christians are child abusers. But a surprisingly high number of cases of reported child abuse occur in Christian families."³⁰

This quotation, by a domestic violence center director, Marie Fortune, is frightening, because many Christians employ the "rod of correction" on their children, and spanking is considered by many so-called experts to be child abuse. This is often the only basis for removing children from the homes of loving, concerned, non abusive parents. Because they only want to raise righteous, responsible children, their families are at risk. In spite of the fact that spanking is universally legal, false accusations of child abuse abound, even against parents who spank responsibly

When charged with child abuse for a non abusive spanking, . These families are routinely sacrificed on the unholy altar of the "child savers." A large percentage of these child savers who make decisions for families are childless. The evidence shows that these so-called professionals care more for their jobs and their personal agendas than protecting children from child abuse. The agencies they work for are more interested in receiving Federal funds and expanding their bureaucracy. Under the holier-than-thou guise of child advocacy, they have forgotten the children they purport to protect. Consequently, the child savers have little concern for the truth surrounding an allegation of child abuse.

A disproportionately large percentage of these "child savers" are emotionally damaged. They claim to have been abused as children. Some actually have been abused. They cannot conceive of a normal, healthy family; of parents who discipline out of love rather than react abusively out of anger. They have made it their mission in life to protect all children from the abuse they suffered, whether those children need their protection or not.

They are not necessarily motivated by altruism. And they are not all caseworkers. A child saver can be a Guardian ad litem (GAL) or a Court Appointed Special Advocate (CASA) or a child psychologist or therapist, a judge, or a foster caregiver. A tremendous multibillion dollar industry has emerged out of the battle cry "stop child abuse." For every child removed from his home, there is an average of **25 service providers who derive their livelihood from that child's removal!** There is powerful financial motivation to keep that child out of the home as long as possible. And the ultimate results? There are as many

³⁰ Fortune, Marie. A commentary, Center for Prevention of Sexual and Domestic Violence, Seattle, WA. As quoted in A Manual for Clergy and Congregations by The Spiritual Dimension in Victim Services. David & Anne Delaplane

children dying of abuse or neglect in 1997 as in 1974 when the Child Abuse Prevention and Treatment Act (CAPTA) was passed. The only difference today is that 50% of those children are now dying in foster care.³¹ The laws governing child protection do not apply to foster caregivers or to state agencies or to the stranger on the street, they only apply to parents.

The greatest outrage is that these foster care deaths are often covered up by the investigating agency. This agency just happens to be the same agency that placed those children in that dangerous home in the first place. If a child is removed from his mother and his lifesaving medical treatment is withheld so the child savers can prove his mother faked his illness, and he dies two days later, is that not child abuse? If an infant dies of a mysterious and unexplained subdural hematoma, is that not murder? These are just two cases out of hundreds every year where a child's death occurred under suspicious circumstances in foster care and was determined to be 'accidental.' As you can see, the foster caregivers and caseworkers can almost literally abuse a child with impunity.

In 1965, scientist and science fiction author, Isaac Asimov, bravely wrote an article containing his predictions for the future that was published in the January issue of The Diner's Club Magazine. Among his many predictions about what life would be like in 1990, he touched on the subject of children and family and the societal evolution of the family. Referring to increased pressures to reduce population and the subsequent decline in the birth rate, he wrote, "... by 1990, ... it will have reached the point where the percentage of individuals under 21 will be markedly smaller than it is today.

"This should bring about a change in the social attitude toward children and family, though this change might not be uniform everywhere. In some areas and among some segments of society, the relatively small number of children may increase the value of those who do exist, thus making that society more child-centered. In other areas and segments, the recognition of the population explosion as the prime danger to man may make children unpopular and parenthood seem vaguely antisocial. Family bonds may tend to dissolve and marriage may lose ground to other less formal types of personal union."

In spite of the fact that we are seeing these predictions fulfilled a few years past the date he gave, I find his predictions to be remarkably accurate in hindsight.

What he couldn't have possibly known, however, would be that the government would play a major role in influencing these changing attitudes toward children and family. Or that there would be an increased incidence of infertility that would contribute to the problem by creating a greater demand for adoptable children. He could never have imagined that the government would be so immoral as to contrive to legally steal children to meet this demand.

Yes, children today are more valuable than in 1965. Today, special interest groups are pushing for 'Children's Rights.' There are increasingly invasive and oppressive laws 'protecting' children from their own parents, undermining the integrity of the family unit. Family bonds are being dissolved and rearranged according to government dictates. Increasing numbers of children are casually being shuffled from birth families to foster homes to adoptive families without any evidence of abuse or neglect.

An entire industry has sprung up around children. Service providers hover like

³¹U.S. Department of Health and Human Services

vultures around these vulnerable children, who have become commodities to be exploited for their personal gain.

Lest the reader think I am too cynical, I'd like to take you through the child protection process. I'll take, as an example, a news story that could be from any town in America.

A mother, carrying her three-week-old infant was walking behind her car in her driveway. One of her other children got into the front seat and moved the gear shift. The car started rolling down the driveway. Mom tried to stop the rolling car, dropping her infant. The car rolled over the infant, crushing it. It died later of the injuries. The Child Protective Services agency (CPS) swooped in to take her other children. Presumably, she was not providing adequate supervision which placed the children in a dangerous situation. Therefore, they must be protected from this mother and placed in foster homes.

The intake caseworker for CPS is paid a salary, as is her supervisor, the Child Welfare division supervisor and the Director of CPS. There is administrative staff, secretaries, janitors, etc. who also are paid.

In this jurisdiction, all foster homes are licenced by private child placement agencies (CPAs). CPS pays the CPA an agency administrative fee per child of \$435 to \$1025 depending on the case. The Director of the CPA assigns a caseworker and the County Agency (CPS) provides a case monitor. The foster homes will receive payment in the amount of approximately \$850/month per child, which can be negotiated upward depending on the needs of the child. If the child is placed in an adoptive home, the CPA gets a \$1800 bonus. If the CPA is the adoptive agency, when the adoption is complete, they get another \$1800 bonus. If the adoption is finalized with three months of termination of parental rights, the CPA gets another \$1800 bonus.

The children will be appointed a Guardian ad Litem who will be paid approximately \$900 with another, similar, installment when the petition for termination of parental rights is filed. The mother will require an attorney - court appointed attorneys are paid an approximate \$700 flat rate for the entire case up to termination. He will be paid another \$750 when the petition to terminate parental rights is filed. Dad will also require an attorney at the same rates. If the parents don't qualify for a court appointed attorney, private attorneys will charge much more.

The case will be placed on the court docket for a magistrate whose salary depends on these types of cases alone. This magistrate has a clerk and a court reporter and a bailiff who must also get paid. This court ONLY hears child abuse/neglect cases.

There will be a Court Appointed Special Advocate (CASA) appointed. This person is a volunteer, but the CASA agency needs these cases in order to obtain their operating funds in the form of grants. The director of CASA is paid.

The children will require medical and dental examinations within a couple of weeks under state law, usually paid for by medicaid, even if the parents have insurance. They are often referred to specialists for more intensive treatments, such as speech therapy, physical therapy, and more depending on what else they can find to treat the child for. At the very least, hyper-vigilant child savers use these providers to find any evidence, no matter how minute, that the parents abused or neglected their children.

When mom appears in court in 72 hours for the temporary custody hearing, the caseworker will ask that mom be required to obtain a psychological evaluation (\$1200 and up), attend parenting classes (\$15/session and up), obtain drug/alcohol evaluation (\$500?), and be only allowed supervised parenting time (\$15/hour and up) and will

recommend treatment.

When the children are adjudicated, the treatment plan may also require Early Head Start, Daycare, Nurturing classes, anger management (mostly because the caseworker is uncomfortable with the parents' anger directed at her), random drug evaluations, therapy for mom to deal with grief issues and anything else the caseworker diagnoses, therapy for children who have now begun to act out in the foster home due in large part to separation anxiety, behavior control medication prescribed by a specialist, family therapy so the children can deal with 'having been abused/neglected by their mom,' play therapy, and more.

As you can see, we already have well more than 20 direct service providers per child who derive their livelihood from this single tragic accident which has been turned into child abuse/neglect.

Meanwhile, there has been a complete disregard for the needs of this family. The children have just lost their baby sister. They need to grieve with their mom, they need her comfort, but they can't; CPS has taken them away from their mom. Mom has not only lost her infant to death, but all of her other children, also. In many ways, the death of the infant will be easier to deal with than the loss of her living children. With the death of a child, parents can achieve closure. When the children are taken by CPS, closure never occurs, even when parental rights are terminated.

Being under five years old, the children of this family are very marketable. Prospective adoptive parents prefer children under six. And when they are adopted, the adopting parents, who value these children greatly, will be able to negotiate a monthly adoption subsidy. In fact, they can renegotiate the subsidy as the children grow. Asimov could never have imagined that our children would actually be kidnaped, bartered and sold. That children would become very valuable commodities to be exploited under the guise of 'protecting' them. That the state would *pay* strangers to be parents for the children in this new artificial family.

This is the result of our 'child-centered' society. It's far uglier in reality than could have possibly been predicted. We are too 'child-centered' at the expense of the family. We are turning out a generation of children who have attachment disorders, who are on prescription drugs to control their behaviors, and who exhibit a myriad of other antisocial problems as a direct result of their exploitation by the government. One CPS service provider, who provides intensive treatment for young sex-offenders said, "There is no hope for these children."

These are the throwaway children. They have often been victimized while in state custody, and, in turn, perpetrate on others in state custody. These are the children who have been guinea pigs for the so-called "experts'" pet theories about child abuse and neglect; who are warehoused as embarrassing failures of those pet theories. These are children who were never abused in their own homes, whom the state has removed for their 'protection.' And when the state has traumatized them beyond repair, they lock them away as hopeless.

Are our children valuable? We are comparing apples and oranges when we try to compare the value parents place on their children with the value the state places on their children. Parents see their children as valuable in a non tangible sense, a sense that has nothing to do with money. To most parents, their children are the most valuable things in their lives and they couldn't begin to place a dollar amount on that value. It is self-evident that virtually any parent would die to save his child.

Conversely, the state has no problems placing a dollar amount on our children. But I've never found one child saver who'd lay their life on the line for any child they've stolen. It should make the reader wonder; who really have the best interests of the child at heart?

As you can see by this account, spanking is not the only excuse used by the system to take our children. There are documented cases of children being removed because a healthy mother breast-fed her baby, because a child suffered the common affliction of a bloody nose, and because a mother properly rushed her child to the emergency room for accidentally ingesting Tylenol. Bible reading and home schooling are targeted as emotional abuse. Extended nursing is interpreted by dirty-minded professionals as sex abuse. Disabled children or developmentally delayed children are being kidnapped in droves and separated from their loving parents based solely on their disabilities. They are profitable commodities because many come with a monthly SSI check. Poverty related abductions are soaring, and these children are placed in more affluent homes because the professionals declare that it is in the "best interests of the child." If the home wasn't very affluent to start with, the adoption subsidy can substantially increase the standard of living in the new, artificial family. As an added bonus, the subsidies are tax-free income.

Evidence of unsafe conditions is planted in homes. Caseworkers have taken cat feces to deposit in homes during their "investigation." The fact that the family does not have a pet cat is irrelevant to the professionals and the courts. This morning's dirty dishes in the sink are reported to the court as moldy and reeking of sour milk. Mail and magazines stacked in the living room become "piles of unsanitary filth." If bed sheets are in the washer, the caseworker reports the children are forced to sleep on dirty mattresses without any bedding. The biggest complaint around the country is that caseworkers, Guardians ad litem, and Court Appointed Special Advocates (CASA) falsify reports to the court. This is how they convince the courts to take the children.

Since the passage of the Adoption and Safe Families Act (ASFA) in 1997, increasingly high percentages of these cases actually involve the permanent termination of parental rights without the state ever proving the child was abused or neglected!

Everyone is at risk of illegal intervention. The criteria to be an abuser includes people who are reluctant to have the government run their lives, people who believe in corporal punishment (spanking), and people who are 'overly involved' in religion. Modern day risk assessments target families with more than three children, single parents, stepparents, low-income families, parents who were abused as a child, and parents who are 'uncooperative' with caseworkers. These criteria affect a huge segment of our society, probably even you and your family. The time to act is before your family is victimized by this overzealous and corrupt system, because once they have your children, it's often too late.

Forewarned is forearmed.

In the four years since the first edition of *Profane Justice* was published, I have received literally tens of thousands of e-mail, telephone, face-to-face and snail mail contacts from parents and child savers. The overwhelming majority - more than 98% - are from families sucked into this despicable system. I will share their comments with the reader throughout this book.

In stark contrast to the desperate agony of the parents who have lost their children, the contacts from caseworkers contain the coldest, most unsympathetic and hardhearted

messages I have had the misfortune to endure. I am not alone in this observation. Many parents forward similar caseworker messages to me. I sincerely hope to shame these caseworkers by publishing the statement of one who so aptly characterized the sentiments of too many of her 'professional' colleagues when she wrote to me, "I am sorry for your problems with the system, but it happened many years ago. Get over it."

We, the parents, will never 'get over it.' We will go on with life, but we will never 'get over it.' We are not speaking about the loss of a pet or a house or a job or a limb. Nothing in my experience approaches the quality and intensity of my feelings for my children and the value I place on their presence in my life and my relationship with them. Nothing can make up for my anguish at watching the unnecessary emotional pain they suffered and the preventable failures imposed on them as a result of the destructive influence of these incompetent do-gooders. Nothing can give me back the day-to-day minutia from those lost years with my sons, the missed milestones and rites of passage. Nothing can reclaim my stolen hopes and dreams of watching them grow and of participating in the milestones of their life. Nothing will restore the peace of mind that comes from the delusion of the greatness of this country, that the judicial system works and that truth will prevail. And nothing will convince me that some stranger cares more for my children than I do, especially since it appears quite easy for them to 'get over it.'

I won't 'get over it.' So, dear caseworkers, watch out. You picked on the wrong mom . . . And I'm not alone. My friend, Shane from Iowa relates his pain:

Jacob turned 18 June first. [It was] a long four years without him. He comes over on his motorcycle (yep he rides) for supper, for camping, for talking cars. He knows it was all BS so we are making up for lost time. The scar NEVER goes away and is always visible.

I feel that in place of my family that used to be there is a wound, a deep wound, that is slow to heal.
Judith in California

I can't forgive . . . this agency has ruined my family, my kids aren't innocent anymore, they worry about things kids shouldn't have to. I can't forgive. I don't think my kids can either.
Ccisco

We will never forget this experience. In the beginning we believed that justice would prevail, but after eight years we realized that there would be no justice, only pain and terror and hardship, and that we had to protect our children from this mindless bureaucracy, even if it meant fleeing like refugees.
Kid in Minnesota

I too have been without my beloved daughter for over a year now, and mourn the loss of her every day. There is, in my heart, a hole that only she can fill, and I too have done my share of crying myself to sleep. How can they expect us to 'get over' something that is not over!! Sad
Mom

Like many victimized families, I have chosen to direct my outrage into productive activism. In the past four years, I have publicly urged the redefinition of the issue from children's rights vs. parents rights to **Family Rights**. As long as the state can artificially separate the rights of the child from the rights of the parent, they can physically and legally separate children from parents much easier. If you are pro-child, you are anti-family.

Many of the child savers don't get that principle, but it's very simple to define. If the rights of the child are artificially separated from the rights of the family, those rights can and will come into conflict. When they do, whoever's rights you decide should take precedence is a clear indication that you are against the rights of the opposing party. There is the key. By the device of artificially separating those rights, you have now made parents

and children adversaries competing for supremacy of rights. The government pits child against parent, and the integrity of the family is destroyed.

The child savers believe that the child's rights are paramount. They disregard the right of the child to live with his family, to have his family protected from destructive influences, to enjoy privacy from government nosiness. They dismiss his right to associate freely with his family, and to enjoy the love, affection and protection of his parents. This is his family, too, and he has a bond with his family members, siblings included. Child savers don't think that bond is important. They think a child comes into this world as a stand-alone entity that can be plugged into whatever slot the state chooses. As a result of arbitrarily snatching children, massive numbers of children who have been 'saved' from their parents suffer Attachment disorders, Anxiety disorders, Post-Traumatic Stress disorders, behavior disorders and more. And the child savers, with self-righteous blinders firmly in place, don't even recognize that they caused those problems by tampering with the family bonds of these helpless and vulnerable children.

The family is an institution which predates any government. No single family member's rights should supercede any other family member's rights. If they do, it will destroy the family. When the family is destroyed, it harms every member of that family, and ultimately harms our society. The practices of child protection have proven to be nothing more than a systematic attempt to destroy the family in America.

I have also initiated the principle of trained advocates - usually other parents who have been through the system - to assist families through this devastating and traumatic process more effectively. Based on that, I founded the American Family Advocacy Center which is designed to train advocacy groups how to implement proven strategies that protect the rights of the family - parents and children alike. I was National Spokesperson for ParentsMarch 98, the nationwide rally in Washington, D.C. and the author of the *Petition to Congress* which details the grievances families have about to the child protection system and which defines sixty-one specific demands for the reform of child protection laws. I am also producing a documentary on this subject.

Like me, many other pro-family activists have come under severe personal attack for our proactive efforts. I have personally faced judges on contempt of court charges by violating gag orders and defiantly publishing videos of runaway foster children who disclose the truth about what's happening to them. I have been subpoenaed to testify and I adamantly refuse to reveal my sources under the first amendment press shield protections. I have been slandered in open court, on the record, by attorneys who are threatened by parents who demand they present an effective defense. I have been called from the courtroom gallery to the podium to be interrogated by judges on cases I am not a party to. Since I have no minor children for them to seize, I am currently under investigation for the Unauthorized Practice of Law - a potentially jailable offense. They will stop at nothing to shut pro-family activists down.

We all operate largely without funding, political support or media coverage. But that is changing as more innocent families are victimized in the name of child protection. And like me, most of them agree; the child savers picked on the wrong family. For a growing number of families, a single false allegation is becoming a lifetime, multi-generational crusade against the abuses of the system. The system is building our army for us, one family at a time.

This is not to say that all caseworkers are bad. I will admit there are good ones out there, thank goodness. But as long as these few good caseworkers witness abuses being

perpetrated against innocent families and remain silent, they are as guilty as those who perpetrate and support those abuses. If you want to convince me you are one of the 'good' caseworkers, start blowing the whistle and risk your job to save our families. It's a smaller price than any of us have paid.

We can afford to be patient. The illegal, heartless and abusive actions of the child savers add dedicated activists to our ranks every day. They are their own worst enemy.

CPS alters our beliefs, forever, about law and justice and due process, and about what we think are our rights in the United States. I belong to my local Rotary Club, a respectable, mainstream group (and I'm not the only Rotarian in that group victimized by CPS - can you believe it!?!). Every week we pledge allegiance to the flag. It wasn't a conscious decision, but about two years ago, I just couldn't do it any more. I could stand there, and put my hand over my heart, but I couldn't utter the words. I think most of you can understand this.

What freedom? Why is so hard to convince people, and legislators, of the abusiveness of CPS? Why is it so hard to convince people that this is an agency with power, run amok, immune from the restraints of other legal entities? How do you explain how this agency can act without regard for constitutional concerns? How do you explain an agency that is exempt from privacy laws (in New York, it is)? The police can't do what they do. Why can someone with a 2-year degree wreak such havoc on a family? Lynne N.