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PUBLIC HEARING

before

SENATE COMMITTEE ON CHILDREN'S SERVICES

To examine policy issues
relating to investigations by the
Division of Youth and Family Services
of reports of child abuse

September 27, 1988
Room 403
State House Annex
Trenton, New Jersey

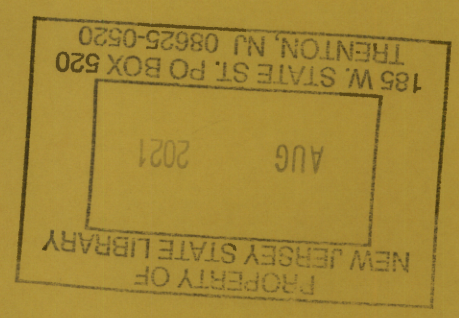
MEMBERS OF COMMITTEE PRESENT:

Senator Catherine A. Costa, Chairman
Senator Gabriel M. Ambrosio, Vice Chairman
Senator Leanna Brown

ALSO PRESENT:

Senator Walter Rand
District 5

Randall L. Currier
Office of Legislative Services
Aide, Senate Committee on Children's Services

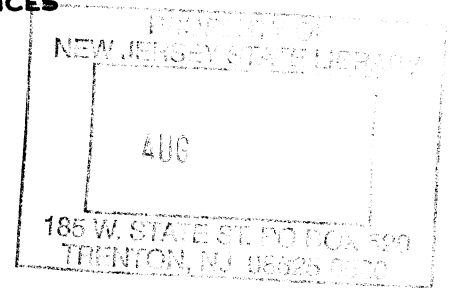


Hearing Recorded and Transcribed by
Office of Legislative Services
Public Information Office
Hearing Unit
State House Annex
CN 068
Trenton, New Jersey 08625



CATHERINE A. COSTA
Chairman
GABRIEL M. AMBROSIO
Vice-Chairman
WYNONA M. LIPMAN
LEANNA BROWN
DONALD D. DIFRANCESCO

New Jersey State Legislature
SENATE COMMITTEE ON CHILDREN'S SERVICES
STATE HOUSE ANNEX, CN-068
TRENTON, NEW JERSEY 08625
TELEPHONE: (609) 292-1646



September 6, 1988

NOTICE OF A PUBLIC HEARING

**THE SENATE COMMITTEE ON CHILDREN'S SERVICES
ANNOUNCES A PUBLIC HEARING
TO EXAMINE POLICY ISSUES RELATING TO
INVESTIGATIONS BY THE DIVISION OF YOUTH AND
FAMILY SERVICES OF REPORTS OF CHILD ABUSE**

**Tuesday, September 27, 1988
Beginning at 10:00 A.M.
Room 403 of the State House Annex
Trenton, New Jersey**

The Senate Committee on Children's Services will hold a public hearing on Tuesday, September 27, 1988, beginning at 10:00 A.M., in Room 403 of the State House Annex, Trenton, New Jersey, to examine public policy issues relating to the investigation by the Division of Youth and Family Services (DYFS) in the Department of Human Services of reports of child abuse. These will include the procedures and policies which DYFS employs in investigating reports of child abuse and the procedures and policies which DYFS employs to safeguard the reputations of adults who are subjects of unsubstantiated complaints of child abuse. The committee intends to hear testimony from individuals, agencies and organizations for the purpose of obtaining information and assessing the need for administrative and legislative reform.

Address any questions or requests to testify to Randall L. Currier, Committee Aide (609-292-1646), CN-068, State House Annex, Trenton, New Jersey 08625. Persons wishing to testify are asked to submit nine typed copies of their testimony on the day of the hearing. The chairman may find it necessary to limit the number of witnesses and the time available to each witness at the hearing.

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SENATOR CATHERINE A. COSTA (Chairman): Good morning ladies and gentlemen. I'm Senator Catherine Costa and this is the hearing of the Senate Committee on Children's Services concerning the procedures by which the Division of Youth and Family Services investigates reports of child abuse. This hearing is being held pursuant to Senate Resolution No. 28 of the 1988 term. At this point I'd like to introduce the Vice Chairman of this Committee, Senator Gabriel Ambrosio.

SENATOR AMBROSIO: Good morning everyone.

SENATOR COSTA: I'd also like to introduce the staff. This is the OLS staff representative for this Committee, Randall Currier to my right. To my left is the partisan staff person, that's Paul Anzano, Esq., and Ms. Peoples representing the other party on this Committee.

We have a chart here showing the reported child abuse and neglect cases. If you can see it, in 1983 we had a total of 26,398 cases that were reported, 33.8% were substantiated, 66.2% were unsubstantiated, and it goes on. As you can see in 1985, the total increased to 47,126 reports -- 38.3% which is 18,038 substantiated and 29,088 unsubstantiated, which is 61.7%. And in 1987 we have a total of 50,250 reports of child abuse of which 19,288 have been substantiated to approximately only 40% and there's 33,962 unsubstantiated, which come to about 61.6% These were substantiated by the Division of Youth and Family Services.

Now just in 1987 those 19,000 cases of child abuse are really 19,000 too many. Even one case is a horror which we must work to eliminate from society. Protecting our children is and must, remain the highest priority of public officials and members of the public at large. Yet, we must also be concerned about the nearly 60% of those reports of child abuse which prove to be unsubstantiated. We do not protect our children by removing them from safe and loving homes on the

basis of false reports of child abuse. Unfortunately, false reports of child abuse, whether they are made with the best or the worst of intentions, do occur, and dedicated public servants in their desire to protect the best interests of children, sometimes may be lead to premature or even erroneous conclusions about the safety of the child's home, based upon those false reports.

In this hearing, the Committee will examine the entire process with the Division of Youth and Family Services, law enforcement officials, and others who follow in investigating reports of child abuse, to see if the applicable laws are being followed, and where the laws need to be changed. After hearing from Senator Rand, the sponsor of Resolution 28, we will hear from all parties involved in the process who will describe their roles and offer their own suggestions on how the process can be improved, beginning with the Division of Youth and Family Services, and then the courts, the prosecutors' offices, the medical professionals who treat victims of child abuse, and other professionals who are involved in the process. Then we will hear from members of the general public who will offer their views on the process.

I'd like to remind all witnesses that the purpose of this hearing is to examine the roles played by various persons and agencies in the process of investigating reports of child abuse and to determine what the Legislature can do to improve the existing process. In keeping with that process, the Committee does not need or wish to know the names of any persons involved in any particular incident. Indeed, the disclosure of names only hurts the children we all wish to protect and the reputation of public servants who have committed themselves to protecting children.

So, now the Committee will now call on its first witness, Senator Walter Rand.

S E N A T O R W A L T E R R A N D: Thank you very much, Senator Costa. Good morning to the Committee. I want to thank you for the opportunity to appear before you today, and to tell you that in compliance with your wishes, the three matters that I will refer to are supported by a folder that I have given you, in which all the data is detailed at great length, and which you can refer to -- copies of articles, copies of a letter from an inmate of a diagnostic center which I will refer to. It does make very interesting reading, and I'm sure it will be very enlightening to the members of the Committee.

Why are we here? As an observer of a number of disturbing events, I sponsored Senate Resolution 28 which you reviewed and released, and the Senate subsequently passed. This resolution charges you, the Children's Services Committee, with the obligation of reviewing the current procedures and policies regarding the reporting of child abuse and the conduct of child abuse investigations to continue to insure that the interests of the children in this State are protected and that the rights of the accused are recognized.

I appreciate the interest and dedication of this Committee, as well as that of the Division of Youth and Family Services, who have pledged complete cooperation. It is the primary duty of the government through the appropriate agency -- in this case, DYFS -- to protect the children in our State by investigating reports of child abuse and by encouraging child abuse reporting. There is no question that our first duty is to the child. Who speaks for the children if we do not? Who protects them if our laws, our policies, and our procedures fail?

Permit me to outline one situation reported in a series of articles in the Gloucester County Times which you have in your folder. College students lived next door to a household in which they observed five children being kept in a kennel. They reported this situation a number of times, but

nothing changed. They took it upon themselves to trespass and take photos of the horrors committed on these children. They took the photos to the local police and finally the children the were removed. One of the five, when removed to foster care, unaccustomed to a bed, curled up under the kitchen table to sleep. One youngster was found to have cancer and still later it was determined that the children were sexually abused. A dramatic case indeed. I must ask, why? Why did it take such extraordinary concern on the part of students before these children were removed from their caged existence?

I'm also sharing with you a letter I received from an adult who suffered abuse and neglect as a child who went on to repeat the patterns he learned as a child and is now serving a 20-year jail term for rape. His letter speaks more eloquently than I in describing the tragedies of his life, and it makes very interesting reading. That is also in your folder.

I do not wish to suggest that the individuals working in the child protection system are not dedicated, caring individuals. I am here to question the system within which they must operate; the manpower, the revenues, the rules, the regulations, and the procedures. Reports of child abuse must be investigated swiftly and thoroughly.

That brings us to the dichotomy that is before us. Only 38% of the child abuse cases reported in 1985 in our State were substantiated when investigated. And I understand from the latest, it's up to 40% Yet, no one is cleared. Realizing our first and paramount goal is to protect the children, realizing we have come a long way in doing that since DYFS was formed almost 20 years ago, realizing that the balance between the interests of the children in this State and the rights of the accused is indeed delicate, I suggest that we must scrutinize our rules and regulations to ensure that this balance provides protection for all. It does little good, in our concern for a child, to destroy that child's family and the

trust, the caring, and the sharing that takes place in a family unit.

Allow me to relay one more story, one that graphically demonstrates what I mean. A young separated mother and her daughter returned to her father's home until she could reestablish herself both emotionally and financially. This was a naturally loving family, tactile in nature. The daughter, aged six was exposed to a day camp session on good and bad touches. Being a talkative chatty child, she explained that she received bad touches on her bun. Encouraged, no, pressured to do more, she drew a picture of who did this -- not recognizable. Asked to tell more, she told those concerned adults, strangers for the most part of this girl, that it was her grandfather. The action that ensued was swift, but bizarre. With no corroboration, no investigation, the child's mother was told to take her child from her father's home immediately or the child would be placed in foster care. This all took place in less than 24 hours -- less than 12, in fact. I have given you copies of the articles on this, because the grandfather was so concerned that he could not remain silent, and he is a public figure. Though there was absolutely no truth to this allegation, this charge remains on DYFS records.

We must find a way to remove this stigma. I understand this is private, not public information. But even the CIA has leaks. It is wrong to maintain this information when investigations are concluded and there is no basis for the accusation. We must understand who makes the accusations -- angry spouses, angry friends or neighbors along with truly concerned people. The need to evaluate the accusations and investigate them, is essential. The next steps I submit are the ones to which we need to attend.

And so we turn to you, the Children's Services Committee to weight the issues raised in this hearing and to recommend ways to protect the innocent, be they child or

adult. If new procedures are needed, DYFS should take heed. If it's new laws, you must provide the necessary legislation. If more training is needed for those charged with working for the protection of children and their families, let us have them. We must have a valid realistic response to these concerns.

And I, along with many others, anxiously await the outcome of your meetings and deliberations. We look to you to lead us to a better plateau from which to serve the citizens of this State. Thank you, Madam Chairman. I will be glad to answer any questions.

SENATOR COSTA: Thank you so much, Senator Rand. We appreciate what you have done and your resolution in bringing this to our attention, and letting us have this public hearing today regarding child abuse. You've brought up so many things that are of utmost importance to the welfare of the children of the State, as well as all the people of the State. We certainly do appreciate it, and you are to be commended for it.

SENATOR RAND: Thank you Madam Chairman.

SENATOR COSTA: We hope that a lot of good comes out of this public hearing, and we can all look to you, and thank you.

SENATOR RAND: Well, I just think that you are grappling with a dramatic public question which the Legislature will certainly turn their eyes towards this Committee to really accept the recommendations that you are going to bring forth.

SENATOR COSTA: Thank you very much. Won't you join us, Senator?

SENATOR RAND: Thank you.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Excuse me. We're having a problem hearing you.

SENATOR COSTA: You're having problems hearing me? Maybe I'll put this closer to me. (referring to mike) Did you hear him all right?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Yes, but not you.

SENATOR COSTA: Okay. (adjusts mike) Can you hear me now?

UNIDENTIFIED SPEAKER FROM AUDIENCE: A little bit better, but not much.

SENATOR COSTA: Can this thing be pulled up a little forward? (adjusts mike) Maybe we can get this in stereo. Can you hear me better, now?

UNIDENTIFIED SPEAKER FROM AUDIENCE: Yes.

SENATOR COSTA: That's fine. I'd like to call Deputy Commissioner Odella Welch, Department of Human Services, please.

DEPUTY COMMISSIONER ODELLA WELCH: Senator, I'd like to ask if Director William Waldman to--

SENATOR COSTA: He was going to be the next witness, but both of you can come up at the same time.

DEPUTY COMMISSIONER WELCH: Chairman Costa, Senator Rand, honored members of the Children's Services Committee, and other child and family advocates, good morning. Last year, Director Bill Waldman and I appeared before you, each of us of for the first time -- Bill, as the newly appointed DYFS Director, and myself as the new Deputy Commissioner for Human Services. I told you then of Commissioner Altman's pledge to make the Department of Human Services a more proactive force for both the taxpayer and our clients, and of steps we were taking to meld six divisions into one strong department. It is, and has not been, an easy task, but we have been diligent in our efforts to be responsive and accountable, and to remember that all of what we do is for the ultimate betterment of family life in the State of New Jersey.

The Department of Human Services is comprised of six divisions working toward that common goal. DYFS is without question, the most complex of these divisions. Workers in this Division of 3500 plus employees encounter some of the toughest problems we as a society face. We are the State's social

service agency charged with the responsibility for protecting children from abuse and neglect, and a stated mission to strengthen and maintain families.

When children and families in New Jersey are in trouble, DYFS is almost always the agency called for help. That help could be housing homeless families, protecting the elderly, arranging adoptions, providing day care, providing a safe haven for battered women, caring for pregnant teenagers, or finding a loving home for an infant dying from AIDS.

One of the most pressing concerns I've heard voiced recently involves the basic decision each caseworker in the child protection field must make when interacting with children and their families: What can I do to protect this child and at the same time, protect the integrity of this family? It is all too often not an easy question to answer. The dichotomy of that mission is apparent immediately. But it's never so painful as when we have to make a decision that removes a child from his or her home.

Senator Rand, you have pointedly, and in a way that demonstrates your genuine concern for the families and children that we serve, detailed some of our most heartbreaking cases. In a Division such as DYFS, the job is never done. There are always areas where we can do better. Gray areas that arise when, for example, there are questions about the ability of a family to provide for the safety and well-being of a child if he remains at home, must be resolved through a complex system of checks and balances. New Jersey has such a system. That system is comprised of courts, citizen review boards, criminal justice units, DYFS, advocacy groups, as well as legislative reviews and inquiries such as today's hearing.

If that system needs to be strengthened or changed, all parts of the system must be involved, not only in the call for action, but also by taking action to implement reports. In its long history which dates back to 1899, DYFS's role and

function have changed and evolved with the changing needs of our society. In the past, ours was a reactive mode. We stepped into a crisis only after a child had been abused or neglected. But not so long ago, headlines across this country, screaming horror story after horror story, demanded that we pursue in a more aggressive fashion. The New Jersey Administrative Code indeed states, "As a matter of public policy, that the primary concern of all public agencies involved with child abuse and neglect is to ensure the safety, well-being, and best interest of the child." And sometimes that may put at rest the natural rights of parents.

It is a difficult mission to strike the delicate balance between proper intervention and excessive intrusion. Do we make mistakes? Of course, I'm afraid to say. But in order to address this balance issue and other questions, Commissioner Altman did take steps earlier this year asking the Governor's Task Force on Child Abuse and Neglect to undertake a comprehensive study of child abuse and neglect reporting, investigation, and intervention processes as they are carried out by DYFS. The entire spectrum of interest on this issue is represented there including child advocacy groups, educators, law enforcement officials, physicians, social work professionals, and attorneys.

Commissioner Altman made clear that his request was for an objective review of the process and the policies and procedures applying to it, so as to inform him and other policy makers regarding the child welfare system and any needed changes. The Task Force agreed to undertake this effort and is presently looking at the policies on immunity for persons making reports, malicious reporting, and who must report.

SENATOR COSTA: May I just interrupt you for just a moment. You're speaking into the wrong mike. Could you put that one closer to you?

DEPUTY COMMISSIONER WELCH: This one?

SENATOR COSTA: No, the black one. Could you push it down until the light is lit? (positive response) All right. Now you can use both.

DEPUTY COMMISSIONER WELCH: If the Senator would like, I'll start from the beginning. (laughter) The Task Force is looking at immunity for persons making reports, malicious reporting and who must report -- at questions of how it is decided that a case involved abuse or neglect, the standards for substantiating these findings, and the rights of parents in regard to those decisions.

The Task Force is looking also at information handling procedures that involve confidentiality of records, the purposes of a central registry, and whether or not information should be expunged. Finally, the Task Force will review the overall role of the Division of Youth and Family Services in the child protection system, and whether there is a role for other agencies and individuals as well.

Over the last decade, our philosophy has had to adapt to the changes in society. We are more proactive, and that's because we recognize the connection between the increased stress on today's families and the type and severity of problems children face. The inherent strength in families, and protecting children is one we cannot ignore. And who faces this conflict on the front line every day? Our caseworkers. Thousands of cases the Department is involved with each year, don't make the headlines. A few cases find their way to the front page of the morning news, either because a tragedy has occurred, or a family's peace and harmony has been disrupted through an unfounded allegation.

And I don't in anyway mean to minimize the importance of the pain and anguish suffered in these situations. It is not often news when a caseworker is in the office and is on the phone until 10 or 11 o'clock at night, trying desperately to find a foster home for a child, or trying to find a temporary

living arrangement for a family that has been evicted. It is not often news when a homemaker and a community mental health agency work together to help a single mother with three children or more who is struggling with mental illness and substance abuse, relearn the basic skills of managing a household: paying the bills or coping with stress. Or when a judge has to make that painful decision that the parents of a family are not handling their drug problems, and their children are in danger if they remain at home, even though those children, at some point, may provide the necessary incentive that couple needs to kick that habit.

These are stories of people dealing with problems that plague our entire society. Any system mandated to help people dealing with poverty, homelessness, substance abuse, mental illness, criminal violence, constantly needs to be involved in change. Working to stay ahead of these problems is a full-time responsibility. It is our responsibility, and the science is inexact and destined for imperfection. But it is our responsibility; to keep pushing for that perfection. That is why we're here today.

Seven years ago in the wake of public outcry and criticism, New Jersey's child protection system and other child protection systems across the country were called on to change. Too many cases of child abuse and neglect were going unreported and uninvestigated. The results of the efforts can be seen in the tremendous rise in the number of reports, investigations, and substantiations of child abuse and neglect, here and throughout the nation.

How can we balance the system without putting the children at risk? That is not an easy question to answer. Clearly, the Department of Human Services has a mandate to protect children from abuse and neglect. And the DYFS mission places strengthening of the family and support for the family as a high priority and fully satisfies that mandate.

As Director Waldman will discuss in detail following my testimony, protecting children and strengthening families are common goals, not separate polarized issues. It is my hope that all of us involved in these discussions will remember that common purpose. And Senator, if you would allow Director Altman-- Director Altman (laughter) They just promoted Bill. (continues) --Director Waldman to give you details on some of the practices, on some of the issues that were identified in last year's hearing, and on some corrective active plans we've undertaken, we would be happy to stay for questions after that.

SENATOR COSTA: I'd like to question you at this point.

DEPUTY COMMISSIONER WELCH: All right.

SENATOR COSTA: Thank you very much for your testimony. But you heard Senator Rand speak on this case whereby children were kept in a kennel. How come it took so long before anyone noticed that? If it were not for these students that saw it and tried to do something about it-- How come the Division didn't get to that?

DEPUTY COMMISSIONER WELCH: We are required to respond immediately when an incident such as this is brought to our attention. Neighbors, people who are aware of such situations, are required by law to report to us. There are weaknesses in our system. We are working to correct those. I believe we did respond as soon as we became aware of the situation.

SENATOR COSTA: From what I understood of what Senator Rand said -- and Senator Rand, correct me if I'm in error here -- these were trying to get the attention of the Division and could not. Is that correct?

SENATOR RAND: (speaks with no mike) Yeah. It took quite awhile, so finally they made the local police come in and see what was going on. Then at that time the Division responded to the call from the police.

DEPUTY COMMISSIONER WELCH: It is incumbent upon citizens and police officials to notify us as soon as they are

aware of circumstances such as those. And we do respond immediately.

SENATOR COSTA: Senator Ambrosio.

SENATOR AMBROSIO: I don't want to open up areas that I assume in a moment we're going to talk about, but one of the concerns I have in talking to various people who have had to deal with DYFS -- and it's probably not the people who runs DYFS, it's just the system -- DYFS really is not a community based organization. It really has no roots in the community. It has no contact with the community. So as a consequence, people don't know to call DYFS, because there's no interaction with DYFS and the community. Is that a reason why-- And I know you're smiling because you seem to disagree with me. But from everything I've heard, that's a pretty fair assessment of DYFS's role with regard to community involvement. If DYFS had a better acceptance or awareness by the community and was more integrated in the community life, it seems to me that complaints like this would come to the surface all the more quickly.

W I L L I A M W A L D M A N: Senator Ambrosio, that's a legitimate concern. We have tried very, very hard to integrate our district offices, our field offices, into community life. We now participate in human services advisory councils that are formed in each county. We have also asked each of our field offices to construct what we call citizens' advisory boards -- to get citizen representatives of the entire community to serve in an advisory capacity. We've done a number of public information campaigns. The challenge to us -- and you have a good issue -- is to not be perceived as a remote isolated outpost of a large State bureaucracy, but to get ourselves perceived in such a way to really try to achieve being a community based agency. I think we've worked hard on that, and I think we have made some progress in recent years.

DEPUTY COMMISSIONER WELCH: And Senator, I smiled because it's a conversation that Bill and I often have.

SENATOR AMBROSIO: One of the things that I think you can do to improve that, is to work to a greater degree in cooperation with avenues like community based mental health centers, which I think there is a complete failing on the part of DYFS to do. I don't see DYFS tying into the community mental health centers at all, both in terms of referrals for family counseling, contracting arrangements-- I assume we'll get into issues like that later on.

DEPUTY COMMISSIONER WELCH: Yes, Senator, we will. As a matter of fact, Commissioner Altman has made that a priority of his administration and recently appointed a task force to look again -- and I hate to keep mentioning a task force -- to look again on how those two divisions can work together.

SENATOR COSTA: Senator Leanna Brown has just joined us on the Committee.

I'd like to ask a question on the procedure. What occurs when you get a call, where does it go? Does the police know that they have to get in touch with the Division of Youth and Family Services? Are they aware that they are to do that when someone makes a complaint? What is the procedure? Because a common complaint that's been brought before us is that someone is yanked out of the house as soon as there is abuse noted and whatever offended parent it is, is taken away from the child immediately and therefore cannot see them. You know, anybody can make a false accusation. What is the procedure?

DEPUTY COMMISSIONER WELCH: That's one of the issues that Director Waldman is going to explore in his testimony--

SENATOR COSTA: I'm sorry. I didn't hear you.

DEPUTY COMMISSIONER WELCH: I said it's one of the issues that Director Waldman is going to explore in some detail in his testimony, but he would like to comment at that time.

SENATOR COSTA: Okay.

MR. WALDMAN: Senator Costa, if you wouldn't mind, that's one of the issues that I focused on in my presentation. If it's okay if I can begin, I hope to address many of the issues that were raised earlier.

First of all, good morning. On behalf of Commissioner Drew Altman and as Director of New Jersey's Division of Youth and Family Services, I would like to express our appreciation to the New Jersey Senate Committee on Children's Services, to all of the members of the Committee, to the Committee Chair Cathy Costa, to Committee Vice Chair Gabe Ambrosio, and to Senator Rand for all your interest and efforts to bring about what our purpose is today, and I see that purpose as an examination and assessment of the appropriateness, the effectiveness, the fairness, and the balance of the manner in which New Jersey, through its Division of Youth and Family Services investigates and acts upon reported incidents of child abuse and neglect.

Before you in your packet, you have my written testimony, which is in excess of 50 pages, complete with charts and graphs. I promise you I will not make that full presentation. I will give you a much abbreviated presentation of that, particularly in deference to the many individuals here who have many issues and concerns to present, and I want to give them time as well.

The goals that I set forth in giving you my written testimony and my verbal testimony are several. One, as Deputy Commissioner Welch mentioned, I want to give you an update as to where we are from the issues that we examined last year -- the issue of staffing and caseload. That's not only important for purposes of continuity, but also that bears on the issues we are exploring today.

I want to present you with a brief overview of the statutory authority in the law that sets our responsibilities and our authority to conduct such investigations and to take

the outcome that we'll discuss in a little while. I'm going to put up on the board in just a few minutes, Senator, very few charts that give you a statistical overview of the extent and scope of activities; to respond to the question of how many kids are taken out of their homes on an emergency basis. Then I want to go through the procedures and protocols that we utilize as a Division; how do we investigate; where calls are received; what other agencies we work with.

To talk about the role of other entities that are critical in the child abuse/child neglect process -- the Attorney General, the Public Advocate, the child placement review boards, and various others. I also want to tell you about our work force. We talk about all these tasks that are very responsible. I want to tell who our folks are, both experientially, both educationally, and what kind of training and supervision we provide them as a backup.

Finally, I'd like to frame for you what I believe to be some of the most difficult and sensitive issues associated with the child abuse and child neglect investigatory process and how we deal with those in practice in New Jersey. These issues include confidentiality, use of anonymous referrals, the real goal conflict in protecting children and preserving families, and the service structure implications of that conflict, the issue of its functions, expunging things from records, and the issue of false and malicious reporting. I would point out that these issues are nationwide in scope and impact, and that legislators and policy makers across our country are examining, as we are today, the resolution of these issues in ways in which to fairly balance the protection of children and the rights to privacy and integrity of the family.

Prior to the beginning of the substantial part of my presentation, I do wish to point out some special considerations about the work of our Division that I believe are necessary to understand the context and the implications of what we do and the issues at hand today.

First, I have been involved personally in my 23-year career in New Jersey in the delivery of public human services. I have served the elderly, the disabled, the mentally ill, the emotionally disturbed, and the economically disadvantaged. For the most part, my clients were always glad to see me, they made me feel welcome and needed. Information was not very difficult to elicit. Some would serve me coffee when I visited their homes or some would correspond with me long after their cases were closed. This is simply not the predominant case of DYFS. We are often the last persons our clients want to see.

Our mere presence initially causes shock and dismay, and we often even have difficulty getting in the door. The bottom line for this is the often involuntary nature of our work deeply affects our practices. This is also the type of business, for obvious reasons, which it is exceptionally rare for satisfied customers or citizens to come forward to proceedings like these and to say what a wonderful job we do. As I will discuss during the presentation of our statistics, we investigated over 50,000 allegations of child abuse and neglect in New Jersey in 1987. I would submit to you that the vast bulk of these were conducted with the degree of balance and appropriateness that we all desire. Yet there are always a number that are not done in this matter, ones that, we wish we could turn back the clock of time and redo. And there are many in which, because of the nature and potential outcome of our work, an affected party is burdened with recrimination and with rage.

These are exceedingly emotional issues. They affect the most intimate aspects of the lives of the families that are referred to us. I do not say to you that the system does not need improvement. I don't say that there should not be additional safeguards to protect both children and families. I don't say, too, that our practice doesn't need improvement, because it does and it has, and we have worked openly and I

believe productively with groups like Association for Children for New Jersey, and the Public Advocate to identify our practice problems and to take corrective action.

I do say, however, and I do ask, that in looking at these issues today, that we keep in mind the balance that Deputy Commissioner Welch spoke of, between protecting children and preserving families. That balance is the core of the mission of our agency. It is not simply a remote philosophical concept. It is something that our work force must apply and maintain on over 50,000 occasions each year -- 50,000 tough judgment calls. This pendulum of balance has sharp edges, indeed, and it cuts either way when it's off-center.

As a follow-up to last year's hearing, I'm going to display a chart on the board now. This chart reflects our current service active caseload as of August 31, 1988, and compares us with the caseload of the period ending December 31, 1982 through 1987. As you can see, there has been a leveling off of the caseload. You can see earlier, there were dramatic rises in the early '80s, but it appears to have leveled off in the last several years.

As you may also be aware, we have not received any additional staff allocation and our basic complement of direct line service personnel -- Family Service Specialist has remained constant. What has changed, however, is the status of our staff vacancies. As you will note from the next chart, we have reduced our vacancies from 120 to 60 in such positions out of a total work force, direct service workers, or allocated positions of slightly over 1100.

In view of the above, although average individual caseload size, determined by comparing allocated position to that caseload, has not changed appreciably to what was reported last year, the filling of many of our vacancies has appreciably alleviated the number of huge actual caseload sizes that you heard testified about last year. You might recall that several

people testified of having caseloads of over 100 and so forth. There are still occasions when that occurs for reasons I discussed last year. But I believe our efforts to minimize that have really reduced that particular fact.

Our turnover rate for 1987 was over 17%. It's running at an annualized rate this year at about 15%. After last year's hearings and taking some of those issues to heart, we set really three goals for the Division to respond to: One was we had to streamline the process for hiring field staff and for filling our vacancies. We had to address the problems that underlie poor morale and working conditions that resulted in high turnover. And we had to enhance our staff competency through additional training.

And very briefly, what we've done and what we're very proud of is, for example, the walk-in testing, that we described as an experiment last year. We've now institutionalized it. We have it at least four, and as many as six times a year. If you remember, office space issues were of paramount concern last year. Since our hearing last year, we moved seven additional offices to a superior location. That makes a total that we've moved and relocated since April of 1986--

The stress program, which we had kind of touted and talked about a little bit -- the stress reduction program -- we now have in every one of our field offices. Paperwork, was a terrible concern last year. We've now designed and implemented a statewide personal computer program, the goal of which is to reduce that paperwork. We have it in every office now. We've also made dictating machines, if you recall, a common item that people can order and utilize even while they are driving in their cars, as we talked about last year.

SENATOR COSTA: They have the typists to type for them after that?

MR. WALDMAN: Yes, we're improving in that area too. So, the final area that we've developed and planned is something that we're very excited about. I think it keys to some of the remarks that Senator Rand made. We have a dream. And the dream is to create a DYFS training academy. And in that academy, we want to be able to offer a full array of required basic and optional advanced programs for field staff. We want to work with area universities and State colleges to get credits for courses that are taken. We want to have the capacity and the vision to develop an individualized career development plan for all of our employees. We think that will help to address the issue of professionalization and training, and not just initial training, but continuing education and training that we find is necessary.

The final issue surrounding staffing and caseload was a question that was asked of me last year: Are our allocated staff resources sufficient to do this job for New Jersey's citizens? The picture is somewhat clearer today as we have begun to fill vacancies, and I have some serious concerns which I have been reviewing with our Commissioner and Deputy Commissioner. Our last major infusion of personnel, as approved by the Governor and Legislature in 1985, brought us to 85% of the standards set by the Child Welfare League of America.

Yet, those same standards were forged 18 years ago. They are going to be revised very soon, and we think they are going to call for reducing caseloads. The policy of deinstitutionalization, or least restrictive environment has also affected our clients. There are many children in our caseload today that a few short years ago would have been confined to State psychiatric institutions or correctional facilities. These children, troubled and troubling youth, place far greater demands on our staff and resources.

The societal problems of AIDS, substance abuse, and the availability of sufficient affordable housing have greatly

complicated our practice. Much greater time and effort must be expended with families experiencing such problems. I do expect the Commissioner and I will be further reviewing our staffing and will be formulating plans and recommendations for future action.

I'd like to give you a brief overview of the statutory authority in which the Division operates. There are generally two statutes that circumscribe our responsibility and action. Title 30 which we refer to as the Child Welfare and Family Support Statute. It requires us to provide care and custody for children, to strengthen family life, to render general welfare services to children, and to encourage the development of private and voluntary agencies. And those would include mental health centers to serve families and children.

It also goes on to authorize the filing of applications by parents to DYFS for services, and set guidelines for acceptance. It also authorizes the filing of complaints by third parties when they view child abuse or neglect occurring, and authorizes the Division to go out and investigate those complaints and to utilize the family court when needed, if cooperation is not received by the individual or family that's subject to the investigation.

Title 9, which is the second title of the New Jersey statutes, is more the Child Protection Statute. Title 9 clearly defines child abuse. It mandates reporting requirements. It says that when citizens see anything, they must report it or be subject to penalties. It also provides for confidentiality and immunity from liability for reporting referrals, and it provides for us in certain instances, where criminal activity is suspected, to refer to county prosecutors, to take certain court actions, and mandate certain services. Title 9 does three specific things that are very pertinent to today's hearings: It authorizes the Division to remove a child from the home without the consent of the parent. It permits

the Division to seek an order of the court to remove the child from the home against the wishes of the parent. And it also provides for -- and this is the question that you had asked earlier -- an emergency removal of children. When the child's health, welfare, and safety are in danger, it does require to the Division to go immediately to the court to file a complaint and seek a full review, or go the next court day if it happens on a weekend or a holiday.

After giving you all of those responsibilities, I want to show you how many times we've done -- how many referrals we've received, and so forth, and I'd like to turn back to just a few more charts. As you will note from the chart now displayed -- and it's very similar to the one you referred to earlier, Senator Costa -- the number of referrals received leveled off from 1986 to 1987 at slightly above the 50,000 mark. The number of substantiations of such referrals, however, increased from almost 18,000 in '86 to over 19,000 in '87. So, we went up from about 35.7% substantiations to 38.4%. Incidentally, the national average for substantiations is about 40%, or slightly under that.

The next chart reflects the types of abuse reported in 1987. As you can see, neglect was the most often reported -- over 27,000 times, and represents over half of all referrals. It was followed by physical abuse which was reported in over 16,000 instances. This same chart also displays the types of substantiated abuse and neglect. Again, neglect was the most often substantiated, over 10,000 times, followed by physical abuse, over 7000.

The next chart is an interesting one. It shows the sources of referrals; where we get our referrals from, the number of referrals received from each source, and the number of substantiations from each source. The largest number of referrals, over 8000, come from anonymous sources, followed by schools and neighbors. Substantiations were made at the

highest rate -- over 2000 of them -- of those referrals received from police departments. Over 58.4% of the referrals received from police department were substantiated. The lowest substantiation rate of 22% -- it does represent 1765 instances -- was noted on anonymous referrals followed by neighbors and parents.

SENATOR AMBROSIO: Excuse me, Director. While you are on that chart, can I just ask you-- The cases that are unsubstantiated, do you in any way analyse them to determine, for example, what percentage of them are unsubstantiated because they either can't be proven, or those that are actually proven to be untrue but there might have been an unreasonable suspicion, those that were actually false and malicious, and maybe those that involved a matrimonial dispute where it was being used as a weapon? The unsubstantiated cases, do you analyze them at all?

MR. WALDMAN: We analyze them on a case by case basis. We find it very hard to fit them into those categories, particularly when it comes to determining motivation. I addressed that in the speech. We've done a search of the literature nationally. The only thing with regard to that we've been able to determine is that one study showed that 4 to 6% of sexual abuse allegations were shown to be false and malicious. That was a national study done. We don't keep those kinds of numbers. We haven't come to a firm conclusion in those areas, but it is an issue that I'll address and it's an issue of deep concern to the Division.

Okay, the next chart, I think, responds to Senator Costa's question earlier. Of the 19,288 instances in which we substantiated child abuse and neglect to have occurred, we invoked our authority under Title 9 of the New Jersey Statutes to make the emergency removal -- and again this is a removal without the benefit of the court order initially, or without parental approval, for 128 children. This represents .66%, much less than 1% of such substantiations.

Substantiation does not by any means always or even usually involve separation of children from their families. The next chart reflects the location of children being served by our Division as of the end of August of this year and compares that to the situation as of December 31 of the years 1982 through 1987. Except for 1982, when our total caseload was only slightly above 30,000, we have the lowest number of children separated from their families as of today. Given the more difficult problems children are experiencing today, given our long-term trend toward deinstitutionalization and least restrictive environment which I mentioned earlier, I believe this shows a little bit of our success in strengthening and keeping families together.

We do place children out of their homes on an emergency basis, as I've mentioned. We also go to court at times through the regular processes and ask for a court order on an involuntary basis to remove them. We also remove many children on what we call a voluntary basis.

The next chart reflects the total number of children who were separated from their families in 1987. There were over 2000 -- 2129 to be exact. Three hundred seventy-five of those over 2000, or less than 18%, were done on an involuntary basis. So, that gives you a sense -- and it also shades in how many of those involuntaries were done on an emergency basis as well.

I hope these statistics, which I've paired down considerably, give you a view of the type of action or response of where kids are in the system that we serve. I'd like to give you a brief overview on how we receive referrals, on how we respond to--

SENATOR AMBROSIO: Excuse me, Director, but when you're touching on a subject, I don't want to go back to it-- When you talk about voluntary as opposed to involuntary removal, my judgment -- that's also a judgment call -- I understand that DYFS's approach on a complaint is to suggest

that the parent whom they want to remove the child from -- that if they don't voluntarily consent to the removal, a court order will be obtained. And they would consent. Do you consider that a voluntary removal?

MR. WALDMAN: Well, that has been a serious question. I think we have an obligation to permit, and we're required to permit individuals to do it on a voluntary basis, but we also, as a matter of course will advise them if we feel the child is at risk, that we will, in fact, if they don't agree, pursue a court order.

SENATOR AMBROSIO: Now, do you consider that a voluntary removal?

MR. WALDMAN: That's how we count them now. I think it's a legitimate issue that many advocacy groups have taken. When I get into the area of clients' rights and responsibilities to counsel, to court, to child placement, that may clarify the issue a little bit more. But, what I reflected there -- and you're correct -- is just the times that we had to go to court and get the order.

SENATOR COSTA: Director Waldman, what I was referring to previously, Senator Ambrosio touched upon and asked you about -- and I'm waiting to hear from you on that -- was how do you decide to take the parent away from the home? Are you going to go into that?

MR. WALDMAN: Yes, I will, and I'll try to touch on it and the other remarks as well. Okay, just to give an overview of our system, how we respond to referrals. There's really three sources. We have, as I mentioned, 42 field officers in the State of New Jersey, at least one in each office. They are open during business hours and are set to receive and respond to referrals. We also are a 24-hour a day, 365-day a year operation. We also have what we call the Office of Child Abuse Control that after five in the evenings, on weekends, on holidays, Thanksgiving, whatever it is, we're set to receive phone referrals.

We also maintain a special unit of on-call caseworkers that are able to respond at these off hours. In addition, we have an institutional abuse unit that responds to complaints about child abuse and neglect in situations like residential treatment centers, schools, and day care centers and other public facilities. When we receive a referral, we screen it. We determine the seriousness of it, we determine how quickly we have to respond. In the case that Senator Rand indicated earlier, that should have been an immediate response. We then determine whether or not we need to refer the case to a prosecutor. In New Jersey, the Administrative Code sets forth the five or six situations where we must refer such cases to the prosecutor. It usually serious injury, sexual abuse, abandonment, and death.

We then go into our investigation phase, and the heart of that investigation phase is what we refer to as fact-finding. That means interviews, both alone and together in some instances as appropriate with alleged victims, alleged perpetrators, with witnesses who may have viewed or have direct material knowledge of the allegation. We look at records, be it at hospitals, physicians' offices, at schools. We have the benefit of inside and outside experts on our staff and the medical profession, and the health care profession. We've even contracted with organizations like the National Burn Victims Foundation which gives us good forensic backup on the ideology or the cause of burns and how they might have occurred.

After going through all of these interviews, gathering all of this information, we then come to a process or a decision point where we have to make a determination as to what happened. We call that determination either substantiating or not substantiating. As you saw from the statistics, we substantiate some, we don't substantiate others. But there's an important point here. Our investigation and the subsequent action, if we go to family court it's conducted on the civil basis of the law, and the criteria for a decision there is the

preponderance of the evidence. Now, that's a much different standard than is utilized in criminal court; for example, when the prosecutor moves forward. That standard is beyond a reasonable doubt. So, you may have the instance, where individuals-- We have substantiated in our investigation that abuse has occurred, a family court judge will concur with us, the individual may be found not guilty under the related criminal charges that are held in criminal court. So, it's an important point to make.

We then get to the point of what we do after we make that decision. Did it occur, did it not occur? We find in many of our families -- that's 60% or so that we didn't substantiate -- that often child abuse may not have occurred, but often they are troubled families or a parent is depressed, someone is unemployed, they need some services -- food or housing. And we offer our services to those families where we don't substantiate others. We think that's preventive.

In any case, with clients that become service active, the heart of our work is to develop what we call a service plan. And that plan does two things. It's an individually tailored package of services to meet the needs of that client. And two -- and this is terribly important -- it sets forth the mutual obligation of we, the State, DYFS, and the family to do certain things to improve the home situation for the child. So, it has obligations and responsibilities on both ends of that.

Anytime, as I mentioned before, we place a child out of their home, we must review that situation before the child placement review board; and that's either for voluntary as well as for involuntary situations. There are instances during the course of investigations -- to respond directly to your question, Senator Costa -- that if an individual is felt to be a risk or a potential risk to a child, sometimes there is a criminal investigation, we or the prosecutor may provide an

option, and that option might be for that person to absent themselves from the home during the course of the investigation. And the option to that is if the worker would supervise the review and in judgment feels that the family isn't cooperating, he will go to court to seek an order to effect that removal. That is only for extreme cases. It should be only for extreme cases where the criteria for the decision is a serious potential risk would be there for that child, of life and limb, if we don't make that separation.

SENATOR COSTA: How long does that investigation take when a decision is made for the parent to return to the household, if unsubstantiated?

MR. WALDMAN: Okay. We make it as rapidly as we possibly can. Some investigations-- (indiscernible; audience disagrees)

SENATOR COSTA: I'm going to ask the audience to refrain from comment at this point. We will ask the questions on this side and you will have your opportunity to testify. The reason we've gotten such a response is because I believe you know that we have received word that some people have been away from their children for two and three years and nothing has occurred yet.

MR. WALDMAN: But, that's a different situation. That's when there's a determination to remove a child, for example.

SENATOR COSTA: Not the child; the parent.

MR. WALDMAN: With the parent, yeah. In that separation, often there's involvement of child custody matters and visitation are also a part of that picture. But, I think what you're referring to are situations where we may have substantiated abuse and neglect that one individual represents a risk to the child.

SENATOR COSTA: Yes, we were getting to that. You're speaking of the risk and my question is how long do you get to

the point that it's not unsubstantiated -- is a parent removed from that child or children for an extended period, such as years, before that happens, you know, at that point when you have them--

MR. WALDMAN: When there's a removal-- That's a good question. If it's unsubstantiated, there should not be any intervention by our Division that would prevent that family from being together. Now, if it's substantiated, and that's why I may have misunderstood you, that provision will continue to exist.

SENATOR COSTA: If it's unsubstantiated, and this is what has come to my attention, it's two and three years and the order is still that they can't come back. Is that so? I want to know that.

MR. WALDMAN: That is not our policy in cases of unsubstantiated evidence. If there are individuals -- and I'm going to stay to the end of today's hearing -- where unsubstantiated case involves that kind of removal, it's not our policy, and I will follow up on it, Senator.

SENATOR COSTA: Good. We may hear from them. Thank you. Senator Ambrosio.

SENATOR AMBROSIO: Director Waldman, one of the problems I'm having with understanding your presentation is that I believe everything you say. I believe that that's the policy that you believe is in effect. I don't know if that's the policy that's in effect. And I'd like develop that by asking the following questions. Do you have these policies adopted by any formal procedure within the Department? The policies that you're outlining -- I believe that you consider these the policies of the Department, but how are they adopted? How are these policies adopted first?

MR. WALDMAN: Well, right now the bulk of them are in manuals, policy and procedure manuals, developed by our agencies and shared with outside entities. But what we are

just beginning to do is to have them prepared for presentation in the "New Jersey Register" and to be adopted in the New Jersey Administrative Code. And that's a big job.

SENATOR AMBROSIO: Well, that's my first point. They are not part of the New Jersey Administrative Code. So, they're internal manuals that only your Department has access to.

MR. WALDMAN: Right. We try to make them available to other outside advocates, Public Advocate, Legal Services, and others; but we plan and we've set as a priority to get all those published in the New Jersey Administrative Code. I know that's an issue.

SENATOR AMBROSIO: Who develops these manuals?

MR. WALDMAN: They are developed internally by staff. We have a separate part of the Division that focuses on policy development and the establishment of manuals. We review those manuals at times. Sometimes we will involve outside entities and consultations, groups like -- and you'll hear later from the Governor's Commission in terms of refining and getting input on those particular manuals.

SENATOR AMBROSIO: And how are these procedures implemented? Do you have training sessions?

MR. WALDMAN: Yes. We have for new workers, for example, we have an initial training period that's 20 days in length -- 13 classroom days and seven field days. Plus, we publish a catalog of advanced and specialized training.

SENATOR AMBROSIO: And who conducts the training?

MR. WALDMAN: We have inside experienced staff as well as outside consultants. We also send many of our staff members to conferences and training events as resources permit. And we have a future plan to pull together all those efforts in terms of developing an academy that would more routinize and systematize that kind of training.

SENATOR AMBROSIO: I've been told that the manual that we're talking about is rather a conglomerate of a whole bunch of different ideas; that the manual really doesn't exist as a manual.

MR. WALDMAN: Well, I think it does. In fact, we have bookshelves full of them for practice.

SENATOR AMBROSIO: Well, that's the point I'm getting at. No one can point to a set of books and say that that's the manual, because the manual -- you may think of as one set of documents and in another office they may think of it as another set of documents and these are sort of informal training procedures that are developed ad hoc, almost.

MR. WALDMAN: Right. I don't believe that's the case. We do have a clearly identifiable set of practice manuals that we issue for training and we also use for reference. In fact, we use them as documentation to go back when issues of our case performance internally arise. They are the standards by which we judge ourselves, both through judging workers' performances and also conducting quality assurance activities and looking at how well we're doing in certain case activity areas.

SENATOR AMBROSIO: Well, for example, do these manuals contain standards for removal, that each caseworker would have available to them?

MR. WALDMAN: You know, what I can tell is the difficult part of it, is this business involves so many intimate aspects of family life and so many decision areas, so many types of behavior to respond to, there's no way that we could ever put in the manual every single situation and have a prescribed response for what a worker would have to respond to. A lot of work, as I get into it, is good. There's no substitute in our work for good, sound, solid common sense. We've tried, and we have a voluminous bookshelf of manuals that attempt to describe performance standards in each and every

area. We train our staff. We go back to them for reference. We do plan to publish them in the Administrative Code. That is an area we always need sharpening on.

SENATOR AMBROSIO: You were explaining the procedures, and one of the procedures that I didn't hear you comment on is provided for in N.J.S.A. 9:6-8.35 on the preliminary procedures calling for allowing the Division to negotiate adjustments. For example, the Division may confer with any person seeking to file a complaint, potential respondent, and other interested persons concerning the advisability of filing a complaint. And it provides a whole series of things that you can do, and you can make an adjustment which may include a preliminary conference held by the Division at its discretion upon written notice. In other words, work the situation out without filing a formal complaint. I didn't hear your comment on that as a procedure that you would try to implement.

MR. WALDMAN: Yes, it is. I guess it was in the written testimony. I was going briefly over it. Incidentally, on those service agreements, for example, that are voluntary that you questioned before, a client has the right to terminate that agreement and requires us to take them to court at any time. So, we do give clients also a client's handbook that is a description of their rights, which I believe I distributed to the Committee.

SENATOR AMBROSIO: You and I have talked about some of these things in the past and I want to just put some of them on the record. The voluntariness of some of these agreements are really suspect, especially in area of the poor and disadvantaged, because they are basically submissive to the State bureaucracy to start with. And when somebody with some kind of credentials appears and even makes a suggestion, the tendency is just to go along with that out of fear, if nothing else. My understanding is that a large percentage of what you consider to be voluntary removals are really involuntary and

just submission out of fear or ignorance or lack of knowledge of what your rights are. So, one of the questions that I have is what do you do to advise an individual before consenting to have a child removed from their home as to what their rights are and what avenues of appeal they have?

MR. WALDMAN: There should be an explanation given by the worker. Those rights should be reflected in that handbook that I have here today that I believe I passed out. Also, the service agreement itself that I referred to earlier, set out the rights and responsibilities of each. I've gotten around to almost every field office in the State -- 42 of them. I've made that point clear, Senator, that we have to balance the protection of children more carefully with the rights of children. It's an area that I'm concerned about and have been attempting to address in the Division.

SENATOR AMBROSIO: I guess I really have no problem or concern about your concern with it. My question is how do you assure yourselves that that's being done? What quality control assurance do you have that those policies are being implemented on a fair and rational basis?

MR. WALDMAN: We have a unit that's separate from our field operation within the Division that conducts quality assurance. Prior to my coming on as Director, that quality assurance focused primarily on the intake phase of how quickly we responded to investigations, how quickly we disposed of the findings and dealt with it. We've done that year after year, and we've had some subsequent improvement over the years in our case performance.

In order to balance that, I've now directed our quality assurance staff to look at the post-intake phase of our practice: What happens in those service agreements? How well are the rights and responsibilities of people are withheld? What's the quality and timeliness on our performance in those kinds of issues? And we're conducting that round right

now. We started several months. It was reinforced by some work study that ACNJ did that may be referred to later in today's proceedings. But, we do a rigorous and ongoing quality control--

SENATOR AMBROSIO: You actually have written reports on quality control?

MR. WALDMAN: We do establish-- We're preparing right now a summary of all the rounds that we did for public distributions.

SENATOR AMBROSIO: Have those reports been made available to the Legislature?

MR. WALDMAN: Not to my knowledge. I would intend that this report that was published on what we've completed over several years -- the intake phase of our practice would be available as soon as it's completed.

SENATOR AMBROSIO: How about the previous reports? Do you have any problem submitting those to the Children's Services Committee?

MR. WALDMAN: I would have to confer with the Commissioner on an issue like that. I want to make sure that they are in the form -- that they are understandable and usable. I'm aware of your concern about statistics and how we present things.

SENATOR AMBROSIO: But, you have no philosophical problem of having us have access to the--

MR. WALDMAN: No. In fact, when we conclude, to present them in a way that's usable but understandable, we'd be delighted to do that. We have them in certain areas. I wonder, Senator, if I might just sum up. There were four or five issues--

SENATOR COSTA: Yes, then Senator Rand has a question and I have one too.

MR. WALDMAN: Okay. If I could, because I haven't quite finished yet. There are a number of issues and difficulties in our work that are troubling issues; issues that

trouble all people in the child welfare and child protection areas -- issues that people of good conscience and good faith can disagree on. One is confidentiality.

We in the Division are often accused of hiding behind the so-called cloak of confidentiality to avoid accountability to the public, the media, and elected officials on individual case situations. Yet, confidentiality, as we practice it, is required by Federal regulations. Yes, it's true. Confidentiality not only protects innocent children and innocent parties, but it does shield the Division from public case accountability and having to admit mistakes in certain cases.

Some time ago, prior to my tenure as Director, the Division wrote to the Federal government to seek a waiver on the part of the confidentiality requirements. We asked to be permitted to go public with the facts of a particular case when one of the parties directly involved in that case situation voluntarily went to the public first with that information. Our desire was the ability to correct the public record when necessary. This request was denied.

The issue here is an exceptionally important one. On one hand, as Director, I want the ability to correct the record. I want to be accountable, and most importantly, I want to maintain a level of public confidence in our agency that is so vitally important to us. On the other hand, as a parent and as a social worker, I'm not sure, for example, I would want to say publicly in a particular case, "No, Mr. Jones is wrong. We did in fact substantiate through physical examination that his daughter, Mary Jones, was repeatedly sexually abused." I am most concerned what impact that public disclosure would have on the fictitious, in this instance, Mary Jones -- how her friends and family would react to her, and what impact the public disclosure would have on her emotional growth and development.

Again, we need to lay the balance here very carefully, indeed. And we need the guidance and good judgment of our elected officials and the expert advice and recommendations of yourselves and the Governor's Task Force on Child Abuse and Neglect. Anonymous referrals is another issue. As I indicated earlier, referrals from parties who choose to remain anonymous represent the largest single source of abuse and neglect referrals received by this Division. As you might recall, over 8000 referrals in 1987 were received on an anonymous basis. And they were the lowest number of substantiation, from these sources -- only 22%. There are those who say that we should not accept anonymous referrals. But clearly, none of the false and malicious ones fall into this category.

Yet, if we did not accept such referrals, I would be concerned, for example, with what would have happened last year to over the 1700 children that were substantiated to have been abused or neglected and identified through anonymous sources. Sometimes an alleged perpetrator seems potentially violent or dangerous to referents. No matter how much we say we'll keep their names confidential, they are not sure they want to trust our ability to do so.

The national consensus of experts in this field advocates accepting anonymous calls. Some states are attempting to screen and discount certain calls. But I would assure you this needs to be done with great expertise and caution. We're carefully watching their progress.

Another issue I believe Senator Rand raised earlier has to do with what we call expunction. Our manual and computer files do contain the names, for example, of alleged perpetrators, even when the allegations concerning these individuals prove to be unfounded or not substantiated. Even with our maintenance of strict confidentiality of these files, there is the legitimate concern that in this instance of unsubstantiated situations, that names in particular be expunged or erased after a certain period of time has elapsed. None of

us wants to have our names in such governmental files. I understand the Governor's Task Force is studying this issue and will formulate some recommendations for action.

I believe, personally, this concern has merit, but in our work, as always, care, caution, and balance are important. My understanding is that in another state, which expunges unsubstantiated allegations, there were numerous -- I've heard as many as nine -- prior reports which were unsubstantiated and expunged in a very highly publicized case which involved the death of a young child. Perhaps, only perhaps, if the worker had known the history, if it were in the file, maybe greater care and concern would have been utilized in the last investigation.

Just a couple of more issues. Agency structure: Our agency does experience an inherent goal conflict in our work. Two sides of the pendulum -- child protection and family preservation are difficult to balance and some would say cannot effectively coexist within the same organizational work structure. This is certainly a legitimate issue currently being studied by numerous states. The options are difficult ones. The creation of new bureaucracies or even separate work units within an existing bureaucracy often create turf and communications problems with children and families falling between the cracks.

Practice, which is overly intrusive to families, might be more difficult to guard against in an agency which is solely responsible for child protection. Often the goal conflict helps balance the approach of the worker, and when we get pressure and expectations on both sides of the equation, I believe it helps abate overzealousness.

Finally, our experience is that families are often confused, and services get fragmented when we have lots more workers involved. The issue, obviously, has no easy answers.

We continue to explore internal workload distribution and structural improvements. This is not a change that we would even consider without a broad level consultation with outside groups and others. These are the kinds of issues that DYFS should not decide alone. They should be decided in a broader context.

The final issue -- false and malicious reporting. I believe this is one of the worst abuses that occurs within our system. There are times when divorcing spouses with an eye towards enhancing their property settlement or child custody position, uses this Division as a tool, as a club, as a bargaining chip to unfairly achieve their ends. There have been times when students play out vendettas against teachers with false report of institutional abuse. What starts out as a neighbors' dispute over fences or pets will sometimes culminate in a false or malicious report to DYFS.

This is an outrage. It not only robs us in the Division of critical time and resources that could be productively devoted to serving families and children with legitimate needs, but even more importantly, it has a devastating emotional and social impact on the individual who is unjustly accused. No matter how discreet, no matter how professionally or appropriately we conduct an investigation of this type, it often leaves a legacy of pain, suspicion, and doubt. From our perspective, it would be exceptionally difficult and dangerous to attempt to screen such referrals. For example, dissolving marriages will bring to the surface abusive behavior long held secret, as it also brings to the fore the rage and anger that often culminates in false accusations.

I believe it's time for New Jersey to balance its laws. We provide in the law's penalties for not reporting child abuse. Now is the time to balance that law with the setting of similar penalties for false and malicious

reporting. Such legislation would need to be carefully crafted, indeed. We certainly would not want to put a chilling constraint on those citizens who would legitimately want to come forward and report something that would concern them, and we need to reconcile this concept with our ability to continue to accept anonymous referrals. In any case, we must send the message that false and malicious reporting is not to be tolerated as it is a waste of taxpayers' money. But most importantly, it's an assault on the privacy and dignity of the individual.

In closing, I've tried today to provide you with an overview of how the child protective system works; to frame some troubling issues in a fair and balanced way. I hope this will assist you in your deliberations, in your examinations and analysis of our laws and policies and procedures. We will continue to strive to improve our practices, to work with outside organizations that I mentioned before, too that give us constructive criticism that we respond to. We eagerly await the recommendations and actions of the Governor's Task Force on Child Abuse and Neglect, and your recommendations and actions as well, on the issues presented today.

In my judgment, all of these actions I would hope will be directed to helping us better achieve that delicate balance I've constantly referred to and Deputy Commissioner Walsh has referred to throughout our presentation. This balance constitutes the core of our mission as an agency -- the balance between protecting children, and preserving and strengthening families.

On behalf of Commissioner Altman, I would again like to express our appreciation to the Senate Children's Services Committee for all of the time and effort that has been put into this hearing, for the opportunity to tell our story, a little bit of it -- the DYFS story -- in a prestigious public forum; the chance to communicate some our issues, our thoughts, our aspirations, our problems, our experience, and to specifically

thank you, Committee members and Senator Rand, for your obvious and ongoing commitment for the well-being of the families and children our great State. Thank you.

I would be pleased to respond to any additional questions, and I'll be here till the end of the day to listen to all of the concerns that I'm sure will be expressed to you today.

SENATOR COSTA: Thank you, Director Waldman. You responded in that last paragraph regarding the malicious reporting, and that was what I was referring to before. We have discussed it many times and I've spoken about penalties for those who are unscrupulous, and my question though was toward what you do, in length of time, when someone is innocent and yet has been forcibly restrained from ever seeing their child or children because of a malicious accusation? You said before that, "We'll try to get to it immediately -- as soon as possible." Yet there are those who've come to me and said that it's been two years and three years. I'm going to hold you until later when someone will testify and perhaps you could respond at that time.

MR. WALDMAN: You know what that gets to, Senator, and I may have missed the intent the first time. There are individuals that may have been found not guilty in criminal court proceeding, but where abuses and/or neglect may have been substantiated by both our agency and the family court of New Jersey.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Is that double jeopardy?

SENATOR COSTA: Did you say substantiated?

MR. WALDMAN: That's the law right now. Pardon?

SENATOR COSTA: Did you say substantiated by--

MR. WALDMAN: Substantiated by our agency, and a family court judge has made a determination that that existed. The individual may then be tried on separate criminal charges

and again a different standard -- a different legal standard as to the burden of proof is used, and those situations, yes, do happen.

SENATOR COSTA: Perhaps you can respond better when we have someone to testify to that effect. Senator Rand would like to ask a question.

MR. WALDMAN: Perhaps so.

SENATOR RAND: Thank you very much, Madam Chairman. Director, let me just ask you-- I don't get a chance to speak to you on the internal difficulties or the internal problems. You appear before us on Revenue and Finance, so we speak money all the time. This gives me a chance to really come in from another direction.

If a church or a day-care center or a camp or a school or a social agency wants a speaker, can they come to your Division for a professional speaker?

MR. WALDMAN: They surely can.

SENATOR RAND: Then why do some of our agencies go out-of-state? The reason I ask you is, do you have a cooperative effort, or is there a procedural difference? One of these cases that I referred to happened to a speaker out-of-state, and I don't know how familiar that individual was with our procedures, with our regulations, and so forth. Can you respond to that?

MR. WALDMAN: Absolutely. There is a difference for example, in laws between states as to what constitutes child abuse as well as the procedures that you mentioned. We fully offer speakers to community groups on issues of what we've discussed. There's really not a need to go out-of-state. We have enough people in our Division to respond to that. However, what I suspect happens in certain instances is that board members or leaders in not-for-profit agencies, camps, or schools, may have a friend or relative or a parent of a child that practices out-of-state that makes them an offer. I think

we can do a better job of it here in New Jersey. As a matter of fact, because of the law differences, it would be better for us to do it with someone knowledgeable about New Jersey's procedures -- someone from the law enforcement community or others to do it.

SENATOR RAND: Can we get that information to the respective agencies if possible in some manner? I don't know whether it's a communication--

MR. WALDMAN: Yes we could. We could certainly do that.

SENATOR RAND: I think that might clear up the situation a little. Is there an appeals process without a client going to an expensive attorney? I've just been made aware that Senator Leanna Brown has a bill in for an ombudsman which I'm prepared to support if it represents what I expect. Can somebody who can't -- even if they can afford it -- come and speak to somebody from the heart. You know, yours is a human heartache Division.

MR. WALDMAN: It sure is.

SENATOR RAND: Not a hospital in the sense of curing. You come here with broken hearts, broken minds, and everything. Is there somebody that somebody can sit down with and literally pour their heart out, or is there no such thing?

MR. WALDMAN: We have several mechanisms within our process within the Division itself. Now, this is just inside and I would respect some of the other--

SENATOR RAND: Yeah, not an appeals process.

MR. WALDMAN: Right. We have something that we call the Citizens Action Line within the Division that has a toll free number. We have individuals that are not in the line of field operations, not from the district office that might have sent out a worker where an individual can pour their heart out and express their concerns about how an investigation is going. We have about 700 of those.

SENATOR RAND: Mechanically, over a phone.

MR. WALDMAN: They can do it over the phone.

SENATOR RAND: But you don't have an individual that they can literally come and sit down like this and talk one on one with.

MR. WALDMAN: At times people from our Citizens Action Line, based on the nature or severity, will make home visits. It's not regularly done but it can be done. We did several hundred complaints or concerns or needs for heart-to-hearts last year. We responded to all of them. I can't tell you how many we did on the basis that you just mentioned. But we find the Citizens Action a helpful balance, in a sense. And that reports just about directly to me, so I can look into them as well.

SENATOR RAND: I would hope that one of the recommendations out of this Committee is maybe we do need some type of ombudsman in the Division or in the Department where somebody could literally come in and sit down and pour their heart out. I'm not talking of an appeals process; I'm talking about the ability to express what they want to express, whether it's disappointment of something, a broken home, anything. I just think that an expression of that opens up a door to maybe some communication that is certainly far better than a formality. Maybe Senator Brown's bill will do that or the Division will.

One more thing. There were two networks yesterday besides the Olympics that carried programs on foster homes. Now this is no attempt-- Certainly there are foster homes that are good, but there are foster homes that are not good. What do you do? Are there really intensive checks on these foster homes? From the viewpoint of the child, not the viewpoint of the people in charge-- And I do that because as I was going back and forth from Greg Louganis' diving -- I turned these channels on -- I had a couple of television sets there -- and I

saw the other end of the spectrum. What does the Department do on that to protect the child?

MR. WALDMAN: What we do is we have an extensive, what we call, home study or review of the potential applicant to be a foster parent. That involves everything as extensive as even a criminal history records investigation, to determine if that individual were convicted of a crime previously. It involves working at the home. Someone will physically go out to the home and make sure there are no fire hazards.

SENATOR RAND: Are there any unannounced visits for somebody to come and watch that home and see, without people being notified that the Department is coming?

MR. WALDMAN: There are times when we do, particularly, if there are allegations of abuse and neglect, for example. Unannounced visits are generally the time that we do it, and checking happens periodically. Monitoring-- We've designated some staffing in our district offices to just work with foster homes. But our issue in foster care is we just have not been able to recruit and retain a sufficient number to meet our needs. As children get more difficult, there are more problems. And you said, "From the point of view of the child--" It's been a real struggle for us to--

SENATOR RAND: Is it problems of the child or money?

MR. WALDMAN: Well, we have some bills--

SENATOR RAND: I mean, because we've had some money asked for foster homes. Is that correct, Leanna? (positive response)

MR. WALDMAN: There are some bills before the Legislature now that would increase the rate of board payment that are made to foster parents. I can't say to you that people will come in running for it and we'll have lots of new parents, because it's a relative modest adjustment, and it just puts us on par with the surrounding states. That's certainly an issue. It's the type of children that we're placing today

-- kids that years ago would have been in - in a few years ago -- would have been in a State psychiatric institution; we're living that policy of deinstitutionalization, least restrictive environment. Those children who are in foster care today and in our caseload, yes, they present a real challenge to us -- a real challenge. It's not just finding foster homes, now, it's finding homes that have a capacity and a commitment to take care of children who are very disturbed, and those include children with AIDS as well.

Our foster parents are wonderful in the State, and I hope the Legislature will consider that particular legislation as well as others that provide for more mandated training, some respite care for foster parents -- to give them a break from the intensity.

SENATOR COSTA: Director Waldman, I really appreciate you being here all day long, because we learn so much from you and that's what we're trying to do, but we have quite a roster of people to listen to. I'm glad you're going to stay here, because perhaps we'll get you back up again and you can respond to some more of our questions.

SENATOR AMBROSIO: Can I ask just one or two questions?

SENATOR COSTA: Yes, Senator Ambrosio? I don't want to cut anybody off.

SENATOR RAND: No. Thank you. I'm through, Madam Chairman.

SENATOR AMBROSIO: I could spend the whole day questioning you, but there are just a couple of things that I would like to ask you. You mentioned, and it's in your written report, that in situations involving possible criminal activity the prosecutor's office is notified. Who makes the determination as to what referral should be made to the prosecutor's office, and what standards are used?

MR. WALDMAN: Okay. The caseworker makes that decision in consultation with the supervisor. The standards

of the allegations includes anything about sexual abuse, if it's something more than a surface injury where bones are broken or a child has needs that require emergency room type treatment, those are cases that the worker will review with the supervisor, and if it meets that standard -- those standards are spelled out in the Administrative Code -- then the referral gets made to the prosecutor.

Now, the prosecutor has discretion as to whether or not to accept that referral, or whether or not he or she thinks it's a serious thing to act on.

SENATOR AMBROSIO: I note that in the statutes that were passed about ten years ago, DYFS: I'm reading from 9:6-8.36a -- "The Division of Youth and Family Services shall immediately report all instances of suspected child abuse and neglect as defined by the regulations to the county prosecutor of the county where the child resides." So, I was wondering, the statutes are in all instances, but you are saying that there are regulations that--

MR. WALDMAN: There were regulations that were published in the New Jersey Administrative Code in consultation with prosecutors and others that define those situations. There are some that would not be appropriate or would not constitute-- Some of the referrals that we get, for example, of neglect, we get one where the child is not dressed properly in the winter. That's not one that most prosecutors will want to get involved in.

SENATOR COSTA: Thank you so much. We appreciate it. For those of you who are in the audience, I'd like you to know this Committee is trying to obtain as much information and an overall picture as it can to better be able to come up with some suggestions for legislation. So, our next speaker will be Ms. Joyce Munkacsi, Esq., the Assistant Prosecutor in Middlesex County and Co-Chair of the Governor's Task Force on Child Abuse and Neglect. And after that is the Honorable Judge Page, Judge of the Family Part, Superior Court.

J O Y C E E. M U N K A C S I, E S Q.: Good morning, Senator Costa. Good morning members of the Committee and Senator Rand. I am here today wearing-- Can you hear me?

SENATOR COSTA: The black one is the microphone where everyone can hear.

MS. MUNKACSI: Fine. I'm here today wearing two hats.

SENATOR COSTA: Excuse me. I'd just like to ask Judge Page to come along and sit there too, so that we can get through a little more rapidly. I'll have two at a time, one after another. Okay? Thank you.

MS. MUNKACSI: Okay. I'm here today wearing two hats. Prosecutor Alan Rockoff of Middlesex County has asked me to represent the County Prosecutors Association because there will be no other representatives there and he asked that I answer any questions or concerns of the Committee insofar as law enforcement is concerned.

At this time, I just wanted to take one second to respond to one of Senator Rand's concerns about that egregious incident -- the kennel incident, if you will. I think in that case, we must not forget that police officers have a responsibility to respond as well as DYFS, because child abuse is a crime. And in that instance, if in fact those students had called the police, the police were mandated to respond immediately and to also notify DYFS at the same time. The Governor's Task Force has worked long and hard to educate the people of New Jersey as to their responsibilities for reporting. We have particularly worked with police officers. Police officers have the same obligation to report to DYFS as does anybody else. So, one call to the police, one call to DYFS should have sufficed. I have no personal knowledge of that incident and I can't tell you what went wrong insofar as DYFS is concerned, but there is no excuse for the police not to respond.

SENATOR RAND: They did respond. They were the ones who responded.

MS. MUNKACSI: They should have responded immediately.

SENATOR RAND: They responded immediately when they were notified. It was DYFS that didn't respond. In this particular case, the police responded. And in fact, the police came there and released the children, then called DYFS, and DYFS responded to the police. Now, let's not criticize the police. They were responsive, responsible. They came. If I have to criticize the police, I'll criticize, but in this particular case, absolutely not.

MS. MUNKACSI: And the police should have called DYFS.

SENATOR RAND: They did. That's when DYFS responded; when the police called DYFS. This was a period of about 10 days to two weeks. These childrens-- These school kids called DYFS and then they got no response, then they called the police and the police immediately responded.

MS. MUNKACSI: Fine. I'm glad that that happened. I also have for the Committee a letter from Prosecutor John Kaye who is the Prosecutor from Monmouth County in which he spells out for the Committee this fine working relationship between his office and DYFS. I would also like to say that that same thing holds true in Middlesex County where we've had a good working relationship between all aspects of law enforcement and the Division of Youth and Family Services.

I think one thing that this Committee ought not to forget -- I know that the focus is on DYFS, however -- DYFS is but one component of the child protective system in New Jersey. There is law enforcement. There are the courts, both family and criminal. And the courts are not mentioned often enough, because I, too, have watched television and I have heard the complaints of various members of the public that DYFS has committed various acts and nowhere does anybody mention that, in fact, the courts also are a component in the child

protective system and the courts oversee what DYFS is doing, and that people who feel aggrieved by what DYFS is doing, do have access to the courts, both family and criminal.

Also in the child protective system are educators, mental health professionals, and the medical community -- to name just a few. So, I'm giving you sort of a mix of law enforcement and what the Governor's Task Force on Child Abuse and Neglect is addressing. First of all, I would ask whether any member of the Committee or indeed Senator Rand, has any questions concerning law enforcement involvement with DYFS?

SENATOR COSTA: My concern is at the expediency of getting things accomplished when something is reported. You said if you had access to the courts -- and if you went to the courts for help, how long would it take before you get to the problem? And in that time, you know, a child's span of remembering may diminish with a lot of time in-between. The question is time.

MS. MUNKACSI: I agree that in some cases access to the courts may be delayed because of the large number of cases that are there. I think also people must have access to the courts. By that I mean they should have access to attorneys. Often, people are told that they can go into court, but if in fact they don't have the resources to hire attorneys, then they may have some problems there. People don't always know.

SENATOR COSTA: Other than the social worker that's called under DYFS, is there any other way that you can get some action or be heard in a short time?

MS. MUNKACSI: You're talking about a civil matter and not a criminal matter.

SENATOR COSTA: When it involves a child, the child being abused, you said before, the police should be called in

and do something immediately, and then you spoke of the courts--

MS. MUNKACSI: Yes. I spoke of the courts, but there are criminal actions taken--

SENATOR COSTA: So, actually I'm saying it's DYFS, the social worker, who has a responsibility right away.

MS. MUNKACSI: Yes. It is DYFS who has that responsibility. If, in fact, that matter is referred to the prosecutor's office, DYFS often makes their decision in conjunction with an assistant prosecutor who is also overseeing the case, if, in fact, as I said, the child abuse is of a criminal nature, and indeed many of them are. This Committee has before them also a summary of what the Governor's Task Force on Child Abuse and Neglect is doing at the present time. I believe that the Deputy Commissioner Welch alluded to that fact.

The Task Force has recognized the need to review certain policies and procedures of the Division of Youth and Family Services so that we can identify problem areas and we can make recommendations for improvement. The working group since the time that I gave that document to the Committee has met several times and the working group has divided into four subcommittees. I want this Committee to realize that the Governor's Task Force working group is a blue ribbon working group of members of the Task Force and distinguished members.

The four subcommittees of this working group are: 1) Reporting and Screening. This committee is chaired by Mia Andersen who the Committee will hear from a little later on. She's on the schedule. Mia Andersen was a former member of the Governor's Committee on Children Services Planning. She is a member of the Child Care Advisory Council, and has a great deal of expertise in this matter. What her committee will be looking into will be what about the problem of the failure to report suspected maltreatment, particularly failure to report by other agencies or professionals; and what to do about those

repeat anonymous calls that Director Waldman alluded to a short time ago -- I mean, harassment of a family by the referrent as well as the embarrassment and humiliation. And of course, also the fact that those referrals take away from very precious DYFS resources; how can DYFS address that problem? That's just one of the areas that the Task Force will be looking into. How does false reporting impact on the client's rights? Should DYFS take anonymous referrals? In some states they don't. They say if you're not willing to put your name on the line, we're not going to take the referral. I don't agree with that. I think they have to look into all referrals, anonymous or not.

What is DYFS's responsibility in regard to obviously prank referrals? Should DYFS be able to take action when it discovers that an individual who is mandated to report fails to do so? There are laws on the books. It's a disorderly person's offense if, in fact, you have knowledge that a child is being abused or suspect that a child is being abused and you don't report it. That's a law that's honored more in the breech than in the observance.

A second subcommittee of the Governor's Task Force working group is on decision making. This committee is being chaired by Mary Beth Pavelec, who's Executive Director of the National Committee for the prevention of Child Abuse, New Jersey Chapter. Now, Ms. Pavelec's subcommittee will be addressing how DYFS makes its decisions. I know that has been addressed by Senator Ambrosio. He's very concerned. Does DYFS offer adequate and appropriate protection for the client's rights? Do they allow enough objectivity in decision making? Do they allow too much objectivity in decision making?

The case that Senator Rand talked about where the grandfather was patting his granddaughter on her bottom, and is there a grandparent who has not done so? I mean, a decision

was made by a DYFS worker that, indeed, that may be child sexual abuse. That worker made a decision that impacted on that family. Another DYFS worker may not have made that decision. There has to be clear-cut guidelines for DYFS workers. I mean it's recognized that often a decision made in one DYFS office may not be made by someone in another DYFS office -- perhaps someone more experienced, perhaps someone more mature, perhaps someone with better judgment. I don't think that you can eliminate the human element in making decisions, but perhaps we can set up some better standards.

We've recognized that all clients must be advised or somehow be aware that investigative information will become part of agency records. We're going to look into the areas or the possibility of expungement when there has been a finding unfounded. And if such findings will routinely be expunged, then perhaps an appeal eligibility notice should be sent only to clients whose case findings were substantiated or uncertain.

That committee will also be looking into who is responsible for notification declination and how can that be documented or monitored? We must also discuss staff for handling appeals requests. I know that Senator Brown is concerned about an ombudsman. I think that that might be helpful and is one of the areas that the working group will be looking into. I don't think it's the end-all, be-all, because I, in fact, have acted as an ombudsman for many people who felt that that they were aggrieved by DYFS procedures.

I, indeed, have acted as an confidante and as an advisor to DYFS workers. I think I can see both sides of it. I think it's always helpful to sit down and talk to somebody, have a heart-to-heart on a person-to-person basis. I don't think that that's going to resolve as much as perhaps some people think it will, because sometimes people are just plain not objective about the situation, and I know when people complain to me about what they consider to be on-toward behavior by DYFS towards them, that they are not being

objective about the system or indeed the role they played in the matter. They choose to put all the blame on DYFS and accept no blame on their own. So, while it's helpful to discuss this at all times, I don't think that it's going to make everyone happy in the long run. Nobody wants to be told, that perhaps there is another side to this story and perhaps they are not being objective about it.

A third committee of the working group is that on information handling. This committee is chaired by Professor Jim Boskey. He's a law professor from Seton Hall, an acknowledged expert on family law in the State of New Jersey, also a former member of the Governor's Committee on Children Services Planning. Professor Boskey's subcommittee will look into consistency in substantiating cases of abuse and neglect. His committee will also look into the expungement policy and procedures for safeguards for the release of information. That's a very, very important issue.

The fourth subcommittee is the child protective system. This committee is chaired by Peter Gold.

SENATOR COSTA: May I interrupt you at this point?

MS. MUNKACSI: Yes.

SENATOR COSTA: Because what we really want to find out from you is what the prosecutors do? We received your letter, and I want to commend you for the work that the Task Force is doing. You did send it to all the legislators and we have that. So, what we really want to do at this point is find out what the prosecutors do regarding this whole situation. Senator Brown does have a question for you. I'm going to ask her to ask her question. If you would please proceed on that point--

SENATOR BROWN: Yes. First of all, Madam Chairman, let me just say, one, how important this hearing is today, and I commend you, Senator Rand, for taking the initiative. Senator Rand mentioned that there was some television shows on

last night. I was also very interested that The Christian Science Monitor is running a series this week and the headline yesterday states, "State Care: It Can Hurt As Much As It Helps." So, certainly this is very important that we're doing this now.

My question is you were talking about the police -- and I had the chance to read the clips that Senator Rand had about the situation with the young people in the kennels. I was interested that the young people involved were college students. One of my constituents said to me recently that one of the problems out there is that teenagers and young adults do not have the rapport with the police that they should have in order to have healthy communications back and forth. Now, I'm really interested in this case of why the police weren't immediately called in this situation? I guess no one's here who would know. But the point that I'm trying to get into the record is that I think a component that we have to try to encourage is that we've got marvelous police forces in this State that work very hard and do a lot, particularly for the young people. They have programs, you know the PAL and so on. But when you get to some of these college students, is there a tension there that prevents them from ringing up the police in cases where they should?

MS. MUNKACSI: I don't know of any. I don't know whether I'm really competent to answer that because I think it depends on the individuals. Eventually, these students thought of the police, and they did call the police. So, I don't know how much of the tension there was. I don't know how promptly they called the police.

SENATOR BROWN: My general question is if I notice something -- and I'm asking this as a citizen, and I see on the chart here that most of the calls come from the school and then the help of the police -- if I'm a neighbor -- and I believe that all of us as neighbors are going to have to sharpen our antenna in this area -- so, if I suspect abuse next door to me, do I call the police first or do I call the DYFS first? My

inclination would be to call my local police and have them take it from there. Is this the proper protocol?

MS. MUNKACSI: I think that's fine. Although, the Legislature has mandated that DYFS is the agency that goes out and investigates child abuse, there are some people, despite our best efforts, who do not know of DYFS, who do not know whom to call, and whose instincts are to call the police.

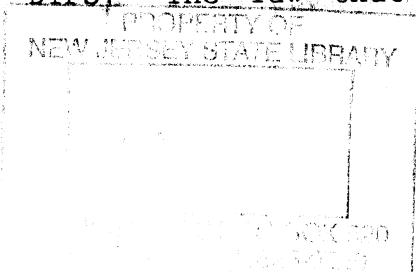
What we have done, particularly over the last five or six years, is to make sure that the police understand their responsibility in assisting DYFS, their responsibility in investigating child abuse allegations, and the recognition that child abuse is indeed a crime. I think that there has been almost a revolution insofar as the police have been concerned in the last six years, because I think before 1982 the police were very content to leave these matters to DYFS. Looking at it as just a social services issue, not a police matter, I think the whole thing has changed drastically.

SENATOR BROWN: Brutality to the little ones?

MS. MUNKACSI: Well, you're talking about a really egregious situation. Yes, I think actually before 1982, the police were sort of hands-off on the matter, thinking that child abuse was a social problem, not a law enforcement problem. I don't think that is the situation today, in part because of the training of police officers. There are joint training sessions that are conducted down at Sea Girt at the State Police Academy, between law enforcement -- and that's your local law enforcement; your law enforcement agency and mine -- the local police and DYFS workers, so that law enforcement does recognize its responsibility.

SENATOR COSTA: Senator Ambrosio.

SENATOR AMBROSIO: If I might, Prosecutor Munkacsi, I'd like to just explore the role of the prosecutor's office in handling child abuse complaints and their relationship with DYFS. The law that I referred Director Waldman to, provides



that: "The Division of Youth and Family Services shall immediately report all incidents of suspected child abuse and neglect as defined by regulations of the county prosecutor. The regulations shall be developed jointly by the Division and the county prosecutors approved by the Attorney General and promulgated by the Commissioner of the Department of Human Services." Do you know whether that's been done?

MS. MUNKACSI: Yes. It has been done. It's updated, I believe, every five years. It's been recently done. There are six categories of cases where DYFS is mandated to report to the local prosecutor.

SENATOR AMBROSIO: And those regulations define child abuse and neglect that should be reported to the prosecutor's office?

MS. MUNKACSI: Yes. And I must say that especially in our county -- I can't speak for all 21 counties, although I think that it is in this situation also -- that those categories of cases are liberally construed. By that, I mean that DYFS is encouraged that if they have any doubt whether a case is serious enough to be presented to the county prosecutor, they should always err on the side of the reporting.

SENATOR AMBROSIO: Now, once that's done, it's my understanding that that does not relieve DYFS of the responsibility of dealing with this case from its human services jurisdiction. They would continue to have jurisdiction in the case. The prosecutor's office would also assume jurisdiction, so in effect, you have two parallel investigations going on at the same time. Wouldn't that be true?

MS. MUNKACSI: Not completely parallel. Those investigations may merge. In other words if there are interviewings to be done, it would be joint interviews by DYFS and law enforcement whenever possible. I, as an assistant prosecutor, have considered the needs of DYFS many times.

For instance, if somebody is charged with the criminal act of an aggravated sexual assault upon a child, I will make it a condition of bail-- I will insist that the court make it a condition of bail that if that offender is released or the suspected offender is released, that he not return to the home and that he not have any contact with the child unless that contact is monitored by the Division of Youth and Family Services. We work hand in hand.

SENATOR AMBROSIO: And you see no conflict-- Conflict is the wrong word. You don't see any divergence of interest between the prosecutor's office pursuing a child abuse complain from a criminal standpoint and DYFS dealing with a child abuse complaint from the standpoint of what's in the best interest of the child? You see no divergence of interest there?

MS. MUNKACSI: I don't see any conflict. We work together so the child will be better protected, but we approach the problem from different angles.

SENATOR AMBROSIO: Well, what if DYFS takes the position that intervention by family counselors would be appropriate in terms of what's in the best interest of the child, and that could run afoul of the prosecutor's office pursuing the criminal aspect of this? What I'm really saying here is who is the general here, who has jurisdiction, and who makes the ultimate judgments as to whether they should pursuing this as a criminal matter or whether there's some hope of salvaging this family by not pursuing the criminal aspect of it?

MS. MUNKACSI: The prosecutor must make that final decision, because the prosecutor, who is the chief law enforcement of the county, is mandated to enforce the law. However, we do take into consideration DYFS's needs, responsibilities, and their recommendations.

Sometimes a crime or some type of abuse may be of a minimal or a one-time nature. Suppose there has been excessive corporal punishment in a case that technically fits within the

guidelines of endangering the welfare of a child, that sort of thing, where the prosecutor could conceivably sign criminal complaints or take the case to the grand jury. We will sit down with DYFS. We meet with them daily. I know just about every DYFS worker in my county by name. They have access to us. They can make such recommendations that it would not be in the child's best interest; it would, in fact, be divisive insofar as the family is concerned and that the family is remorseful, the family is amenable to social intervention, and it would not be in the best interest of the family to get law enforcement involved. We listen to them.

SENATOR AMBROSIO: That's the way it should work, and I'm happy it works that way in your county, but is there an institutional process that directs that it works that way, or is it just that each county is left on its own to develop its working relationship with DYFS?

MS. MUNKACSI: Well, the County Prosecutors Association talks about the situation and they try to make recommendations, but I do believe that there is a certain amount of autonomy among the prosecutors. The prosecutor from another county may not feel as strongly as perhaps Prosecutor Rockoff and I do in Middlesex County about the close affiliation with DYFS, and respecting DYFS's particular expertise in the social services area. So I can't say that it's absolutely uniform across-the-board, but based on my experience, I think that the prosecutors are very enlightened in this area.

SENATOR AMBROSIO: When is the court brought into the process?

MS. MUNKACSI: The criminal court is brought into the process once a complaint has been signed. Once a criminal complaint has been signed, the court must set bail. The prosecutor's office usually has input into that. We make the recommendation as to the amount of bail and any stipulations we want to put on it as a condition of bail, such as what I mentioned before -- that the suspected offender not return to

the home and the suspected offender have no access to the child except under the supervision of DYFS. Things of that nature.

SENATOR COSTA: Senator Brown would like to ask a question.

SENATOR BROWN: Senator, I think Senator Ambrosio is right on target with this whole question. I sit on the Juvenile Justice Commission, and the challenge of whether justice is the same in all counties is something that will be with us, I sure, for a long while.

My specific question is, is there any difference between the way your office -- the prosecutor's office -- treats cases of abused children versus abused spouses?

MS. MUNKACSI: Yes. I think I have to say yes, because abused spouses are adults -- emancipated; if not adults, emancipated minors or people who express their own wishes in a matter. For instance, if a child has been abused, and a child has been influenced in some way that they do not want a criminal prosecution to ensue, that would be a different matter from an adult -- a battered woman, for instance -- telling us that she wants to proceed in the prosecution of her husband for that battering. So, there seems to me that there is a big difference. Although I do recognized that in many, if not most cases, of domestic violence, children are involved -- and to the detriment of children. Obviously, if the mother in the family is battered and abused, that impacts on the children tremendously.

SENATOR BROWN: Madam Chairman, maybe for those of us on the Committee that are not attorneys, it would be possible for somebody to just give us a general guideline of the various steps that are gone through from the child who is abused, eventually through the prosecutor's operation. I guess your remarks about how we're evolving as a society being more sensitive to some of these challenges and abuses interests me, and I just wonder are we still maybe less protective of the

children, because we knew of that problem long ago? Domestic violence is the current swinging issue as far as family problems are concerned. I'm just wondering, again, the relationship between how we handle cases of abused spouses versus, you know-- Because I don't believe that the Division-- Does the Division of Youth and Family Services get involved in cases of battered women?

MS. MUNKACSI: No, they do not. Not to my knowledge--

SENATOR BROWN: Thank you.

MS. MUNKACSI: (inaudible comments from the audience) Do I hear somebody correcting me? (continuing) --although as I said, I think this is a direct correlation between women who are abused in the family, and children who are abused when indeed there are children there.

SENATOR COSTA: I'd like to pursue something that you are on track with, Senator Ambrosio, regarding the bail process. How long does that carry on before it's resolved?

MS. MUNKACSI: Well, bail is set almost immediately. Then the next step in the process is that the matter is investigated thoroughly and prepared for presentation to the grand jury. At such time, of course, if the grand jury declines to indict, the person would be released, and that would be the end of the case. Of course the bail would not be an issue. The person would be released from jail if they had not been able to make bail, or if they had made bail, then bail would be returned. If, in fact, the grand jury decided that there was sufficient evidence to indict someone, then usually there is no change in the bail status.

SENATOR COSTA: Does that come into play -- you heard me ask this question of Director Waldman -- where someone has been restrained from seeing their child or children for a number of years and it goes on for years that they cannot see them, and yet at the end of a certain amount of years it has been shown that the sexual abuse has not been substantiated?

Where does that come into play as far as the court system is concerned?

MS. MUNKACSI: I frankly can't imagine a situation that would go on for several years and then find out that the sexual abuse had not been substantiated. Insofar as the criminal matter is concerned, indeed, it may take a year to get a cases to trial, because of the heavy backlog. At that time, if in fact the defendant is acquitted of the criminal charge, that doesn't end the case. That doesn't (sic) say that there has been no crime committed, but it doesn't mean that that suspected offender should then be reunited with the child, because as was pointed out, our burden of proof is completely different.

The State, in order to convict, must convince 12 jurors beyond a reasonable doubt that the defendant committed the crime. That's a heavy burden of proof. That is the highest burden of proof and we may fail in that burden of proof. That does not mean that the child was not abused. This is when the family court takes over, because their burden of proof is much lower. The rules of evidence are different in family court. Indeed family court may be completely convinced within the meaning of their burden that the child has been abused despite the fact that the offender has been acquitted in the criminal courts.

So, that's where there are parallel investigations and they do not converge. It is not double jeopardy, as somebody suggested.

SENATOR COSTA: I want to thank you, Joyce Munkacsi, and also Peter Gold and Dr. Finkel, and the other members of the Governor's Task Force on Child Abuse and Neglect for all of your efforts, and I'm looking forward to the report. In fact, when I read you letter to the legislators, I wondered when will the report be final, because I think we complement each other on this task.

MS. MUNKACSI: Yes. Our goal is to make our report

final in March of 1989. It will be presented to the full Task Force, to the Governor, and to everyone who is concerned.

SENATOR COSTA: I hope this hearing will also help you.

MS. MUNKACSI: At that time I anticipate a full report. This, in no way, is a whitewash of DYFS. DYFS has indicated to us that we have their full cooperation. We may look at whatever we want to look at, and I think this report will be an excellent one. I just want to say that Mr. Peter Gold, who is a member of this working group and is chairing one of the subcommittees, will be here all day. He will be listening to the concerns of everyone who testifies.

SENATOR COSTA: Thank you very much. We appreciate it.

MS. MUNKACSI: Thank you.

SENATOR COSTA: Judge Page. Thank you so much for coming. Next on our agenda will be Dr. Martin Finkel, if you'd also would like to come up and be prepared.

J U D G E R O B E R T W. P A G E: Madam Chairman, I learned a few days ago from the Director that I was invited -- or would I speak on behalf of the judiciary to this Committee, and I'm very honored to have this opportunity. I just wanted to share a little bit with you of my background. I've been in the family court for 15 years now -- 14 of them in Camden County. In the last 13 months, I've been on special assignment for the Chief Justice visiting all of the counties in the State and writing the bench manual for all family court judges. I hope to return to the active bench as soon as I can finish the manual and the report. I'm the chairman of the committee called the Pathfinders, which is studying the family court in all aspects, including child abuse and neglect.

I also have other hats that I wear. I'm responsible for teaching new judges. Next Monday and Tuesday, as a matter of fact, we will have all the new judges in the State or judges who have been recently assigned in the family court for two full-day sessions in family court which will involve in

addition, child abuse and neglect training. I also teach at the National College in Reno, Nevada. One of the courses that I teach is Violence in the Families, among others.

I would only indicate to you that there are only two things-- I haven't had an opportunity to prepare any written remarks, but I'm certainly willing to answer any questions, and so forth. I'll give you my personal opinions. I've never been known to hedge on anything. Those are my personal opinions after 15 years. I'm not necessarily speaking for any of the judges. I did within the last couple of days try to contact and did succeed in contacting most of the judges who hear child abuse and neglect cases initially -- and emergency removals, as to their concerns and as to their opinions, and I can share my brief conversations with them.

Generally speaking -- as a matter of fact 100% -- the judges indicated to me that they felt that when DYFS came before the court at the point of emergency removal on involuntary placements, that they generally had a substantial case, that there were sufficient grounds, and they had no complaints with the matter as it proceeded at that point. But one area of concern of my own and of several other judges has been that from that point on to our hearings, the area of visitation.

We hoped that DYFS would have sufficient resources to provide for full visitation between children who are removed from their parents and families and extended families, other than at the office for one hour of the week. We would hope that these resources would be available so that visits could be as extensive as possible; certainly after nine to four and on weekends and as often as we can, to maintain the relationship during the pendency of that case. We have no legislative recommendations, or recommend no changes in the legislation. We feel that there is very substantial law on the books that will protect the interests of all, including the parents.

Let me just say, while I have no prepared remarks, one of the things that I have been doing, as I told you, is writing a bench manual for judges. We have a chapter and a rather extensive chapter which I have in the rough -- which I haven't finished completely, but it's 45 pages. I have about a page and a half of introduction on child abuse cases which I'd like to read to you, because I think it'll set it out generally:

"Child abuse and neglect cases involve the exercise of the 'parens patriae' power of the State as parent of the country. The Division of Youth and Family Services of the Department of Human Services in the executive branch of government has the primary responsibility by statute for the investigation and presentation of the abuse and neglect cases to the family court. Throughout the proceedings, the burden of proof remains with the State. A preponderance of the evidence is the standard of proof and the rules of evidence apply with some liberality and to specific exceptions for the admission of certain reports and the reception of testimonies of children.

"The power of the court in DYFS on abuse and neglect cases is very substantial. Injunctive authority to order persons and agencies to act or refrain from actions is based upon both broad statutory authority and the inherent chancery powers of the court as parens patriae.

"The exercise of this authority must always be limited to that which is necessary to protect the child from harm and achieve the desired result. Court orders impact very significantly on the lives of children and their families. Emergency relief is frequently sought for court approval of the removal of children from their homes, parents, or persons in loco parentis.

"Due process of law requires that all parties have notice and an opportunity to be heard with counsel whenever possible. Parents are entitled to be represented by counsel of their own choosing or court appointed counsel if they cannot

afford to retain a private attorney. The children have their own attorney or law guardian by statute. Since this is a civil proceeding, parties who choose not to appear after notice may be defaulted without unnecessarily delaying the scheduled proceedings.

"The sociological principles involved include the necessary protections of children from the effects of abuse and neglect while preserving as much as possible the family bond between parent and child, siblings, and extended family. The trauma of separation of a child from others and the familiar surroundings has the lasting effect on the child and on everyone else involved. That trauma can be substantially reduced by carefully limiting court orders to measures which are absolutely necessary to protect the child and utilizing extended family members -- grandparents, aunts, uncles, brothers, sisters, friends, and neighbors -- as a resource in those cases where out-of-home placement is unavoidable.

"In these cases, the goal is the safe return of the children who had been placed outside of their homes and to stop the involvement of DYFS and the courts in the lives of each family. In this respect, child abuse and neglect cases should be distinguished at the outset from guardianship matters where complete termination of parental rights is sought.

"The statutory definitions of abused children are very broad and comprehensive and even include a catchall phrase of 'every other act of a similar serious nature requiring the aid of a court.' Generally, abuse involves acts committed upon a child while neglect involves areas of omission or failure to provide. Children are rarely abused in public, but most often in times of crisis out of the view of neutral witnesses. The effects of abuse and neglect are frequently first noticed by school personnel, the police or other agencies dealing with the family as well as other family members, neighbors, and anonymous callers.

"The court not only reacts to allegations of abuse or neglect, but also protects children from risks of future harm, even before full adjudicatory trials. A constant balance between the protection of children, versus the unnecessary interference with parental relationships and authority must be maintained. While the statutory authority is extensive, the court must always determine the solid legal basis, before" -- and that's underlined -- "imposing its well-intended judgments on the lives of others.

"At the same time the phrase 'to do nothing is to do something' is relevant in describing the response of the family court in child abuse and neglect cases. Whenever the legal basis for intervention is appropriately established at a point in the litigation, the court must carefully determine and mold its protected waters."

That's what I've written as a part of the manual as an introduction to judges who are hearing this. That's just the introduction. We do go on and analyze all the cases and laws and so forth.

I would say to that there are about five or six different types of high priority cases in the family court, and this is certainly among the highest. With that I'd like to answer any questions. I must advise everyone that you know I cannot comment on specific facts of any case or the actions of any particular judge and so forth. That would be unethical and improper for me to do so.

SENATOR COSTA: In your experience, Judge Page, have you had many cases of unscrupulous spouses where in order to rid themselves of their spouse, they have used sexual abuse of a child as a weapon just to use it?

JUDGE PAGE: Senator Costa, I wouldn't say many cases, but I've certainly had some. There are a number of incidents. One of the things that I list in the manual are a number of factors for judges to consider. I point out that none of the

factors in and of itself is determinative one way or the other as to whether or not a child has been abused. But one of them certainly is dependency of a domestic dispute, a divorce, or a custody visitation battle; that is a factor to be considered, but one of a number of factors.

SENATOR COSTA: Do you feel that there should be a law that would give penalties to those who lied just to rid themselves of their spouses?

JUDGE PAGE: Well, I have mixed feelings about that. Certainly anybody who could prove that somebody maliciously did that, should be subject to penalty, because the one thing that bothers me the most is that these children are at risk, whether or not the allegations are true. If somebody is so obsessed with the idea that they are going to put their child through this, like the prosecutor talking to them and the interviews and so forth, that child is at risk whether or not the allegations are true, and certainly that has to be dealt with.

My problem is that I also think that it might have a chilling effect on people who have legitimate observations. You know the Legislature has provided for immunity and so forth. You know DYFS and police and schools and even neighbors are somewhat caught in the middle here, because it's a situation where there is no best interest to the child. It's what we called the least detrimental alternative. If they fail to act and then the child gets hurt or is found dead, everyone will say, "Where were you? You heard about this. You saw that. Where were you? Why didn't you bring it to somebody's attention?" And yet if they act, it has a very detrimental effect on the parent/child relationship and the ability of the agency to work with the family. When the agency brings the family into court, they destroy a lot -- their caseworker relationship.

SENATOR COSTA: Senator Ambrosio.

SENATOR AMBROSIO: Judge, I first want to commend you on that bench manual. I think it capsulizes the law and procedure that should be followed, and I certainly hope the judges in this State read it very carefully. I was interested in trying to compare the role of the judiciary and the role of the DYFS caseworker in making judgments. I asked Director Waldman whether there are standards for removal that DYFS applies and apparently there are, by some internal regulations. I would be curious to see how those standards for removal match up with your standards that you're directing judges to use and whether they match up on the key points?

JUDGE PAGE: We use statutory standards, Senator, and it talks about eminent risk and eminent harm. We try to teach judges that it's very serious for the child on this point of removal to the point where they have to have significant grounds. I have to tell you, Senator, that in talking to these judges in the last day or so, they didn't come up with any instances in which they felt that DYFS didn't have enough to file the papers and come into court. There's a general rule. The judges said, "We feel that they are doing their job at the point at which we get it." Now I have to point out to you, of course, that that's a very small percentages of the cases.

SENATOR AMBROSIO: Yeah, Judge, that's exactly the point, because they only come to you for involuntary removal. The standards that they are looking to apply should apply to both voluntary and involuntary removal. We're not reviewing the judgments that are being applied in voluntary removal cases; they don't come before the courts.

JUDGE PAGE: There is one way in which they do, but that's through the Child Placement Review System. We now have system for external review of all children placed outside their home. It's a wonderful system; perhaps in my experience, the most important piece of legislation in family law in which all

children who are placed outside their homes must be reviewed. I think-- You know, we all have horror stories, but I'm hopeful that the number of horrors that occur are cut down by this external review system that New Jersey has and we should be very proud of.

So, to a certain extent, even voluntary placements are reviewed. You have the situation where they must file a notice of placement.

SENATOR AMBROSIO: What's the time period for that review?

JUDGE PAGE: The first review is 45 days. Actually, there's a review within 15 days on the papers.

SENATOR AMBROSIO: I was curious to know why in framing a removal order, you don't direct judges to deal with the issue of visitation rights?

JUDGE PAGE: Oh, I do, very much so.

SENATOR AMBROSIO: Oh, maybe I misunderstood you.

JUDGE PAGE: No, no. My one concern about DYFS was the position that they want visitation -- they frequently put in front of courts to be between 9:00 and 4:00 in the DYFS office for an hour a week. We believe that that is detrimental to the parent/child relationship. They point out that they are short staffed, that they don't have enough resources, that they can't be open on weekends. In Camden County they visit on the weekends by court order or at night and in a lot of other counties too. I've talked to a lot of experienced judges within the last couple of days who said, "I don't play by those rules."

SENATOR AMBROSIO: Don't most counties have structured visitations?

JUDGE PAGE: Supervised visitation programs?

SENATOR AMBROSIO: Yeah.

JUDGE PAGE: As a general rule, they are not, for the DYFS matters. They are for basic custody visitation situations. I would have no problem with supervised visitation

being extended to DYFS cases, but we're already overloaded in that program and if they have the money to provide for situation, I don't want to take it away from people who are not involved in State agencies and its resources. It's generally a matter involving two people that have a custody dispute, and somebody's made an allegation that somebody's not properly treating the child or they are drunk or something, so we use the supervised visitation program.

If the Legislature would expand the supervised visitation program with all kinds of resources, it obviously could be made available for that. I believe, for example, in visitation that where the allegations were not of physical abuse, were not of sexual abuse, or something overtly happened, if it's one of neglect -- substantial failure to provide education or improper housing and things like that -- there's no reason why the child can't visit with the parents without supervision and maintain as much as possible a parent/child relationship. What we object to is this one hour a week in the office part. We think that's detrimental to the ultimate plan in all child abuse cases -- the return of the child.

SENATOR AMBROSIO: But you deal with that in your directions to the judiciary.

JUDGE PAGE: Absolutely, very much so. As a matter of fact, we're bringing in from Nebraska Dr. Ann Cohen to talk about bonding. She'll be with all the new judges for about four hours on Monday afternoon talking sporadically about how you can maintain parental bonds even when you have to remove the children. And that's one of the points we hammer at.

Now, I have to say that again, judges don't have independent resources. Like I said, we can't use a supervised visitation program most of the time, because it's usually backed up as it is. We don't have the ability to create visitation resource centers and things like that. I would just

urge again -- most often DYFS is receptive to this -- I believe that the effort should be made whenever a child is removed to have the visitation as normal and as easy and as open as possible. Now, if the child is being physically abused or sexually abused or something like that, you're not going to put them in a situation of danger. But other than that, I think you ought to try to maintain the normal relationship.

SENATOR AMBROSIO: Thank you.

SENATOR COSTA: Senator Brown.

SENATOR BROWN: Just first let me say I've had the privilege and I'm very pleased that you made the effort to come here today, and I just think the fact that you devoted 15 years of your life to what I consider one of the most important areas of the judiciary area--

Question: Do your colleagues look upon you any differently now than when you first started specializing in family court? What I'm trying to get a barometer on is whether the judicial system has given the proper prestige and weight to those judges that do specialize in family matters?

JUDGE PAGE: We've come a long way, Senator. When I first started 15 years ago, I think you could count on one hand, or at least on two hands the number of judges that wanted to stay in the family court. They told me, "Bobby, when you get there, do your time and get out." In six months, Governor Cahill called, and I said, "Well, if you don't mind, I'll stay for awhile." And I'm still here.

But I will tell you now, that that list has greatly expanded. The Chief Justice is very committed to upgrading the family court. He has started policies to make sure that every judge has an opportunity to serve on the family court, particularly among the new ones. I know from the many times that I've talked to him that he's very committed to making it have a stature that he considers our most important court. Now, we have come a long way.

The training I was telling you about, for two days I've got to teach -- on Mondays and Tuesdays. When I first started teaching the stuff several years ago -- and I've been teaching ever since -- I had two hours for the entire subject of family law. We're talking about divorce, equitable distribution, child abuse, domestic violence, juvenile delinquency. Now I have two full days, and money to bring in experts and things. We have a family court retreat. We are trying and we're making considerable progress. I believe that with the new rotation policies and the fact that people will be exposed to this, that the court will achieve its place as it should as our most important court.

Family court judges are very powerful people. This is what I keep them telling them. It's hard to tell judges -- you know, most of the judges are super achievers anyway and have a big ego -- that they are very important. The point that I'm driving at is not personally, but the impact of these decisions, and you know, in that way you can encourage people to show them what's at stake and the things that they can do. I think we've made a lot of progress.

SENATOR BROWN: How, as legislators, though, can we be assured that the attendance rate from judges to your classes is what it should be? I mean, it just seems that--

JUDGE PAGE: They are mandated to be there.

SENATOR BROWN: Okay. They are mandated.

JUDGE PAGE: They'll all be there on Monday and Tuesday next week, everybody who's new on the bench or recently assigned. I have some judges that will be there who have been on the bench for 10 years but just assigned into the family court, and they are ordered to be there.

SENATOR BROWN: Okay, so everybody that's assigned has to come.

JUDGE PAGE: That's right -- at least the new judges' orientation. We also have, by the way, a family court retreat

which involves a day and a half or two days where they stay together. We've never had that before. That's come up in the last couple of years. We urge them to attend the National College every summer. We urge a lot of programs. We're making a lot of progress, and I know the Chief Justice is committed to it, because I've talked to him about it.

SENATOR BROWN: My last question involves what I was asking the representative from the prosecutor's office, as far as society-- How do we treat in our court system violence to somebody under 18 versus somebody over 18?

JUDGE PAGE: There are different purposes in civil and criminal proceedings. As was pointed out, the difference in standard approvals, you know, beyond all reasonable doubt before the criminal penalty. I would urge the team approach. The last speaker from the prosecutor's office talked about that. I would say to you that it does vary from county to county; there's no question about that.

Several years ago in Toronto, they came out with the doctrine of the Toronto Protocol which has been a model for the team approach in approaching particularly in child sexual abuse cases: Were there joint interviews? One of the things that bothers me is retraumatization of children that are involved in child sexual abuse by constantly being interviewed and brought into court and things like that. We have good statutes in New Jersey. The Legislature has been very protective of child abuse witnesses. I would like to see more effort, as the last speaker spoke of, on team approach, on not continually hounding the children and so forth.

I have to tell you my own experience with the prosecutor's office in Camden County. I remember a case in which the young lady who was the assistant prosecutor in charge of the Sexual Abuse Unit came to me in a custody case and she said, "You know, we were involved in this case, and I have to tell you that I believe that the words were put in this child's

mouth and I want you to see the videotapes." Now that shows to me a great deal of commitment to the protection of children and making sure that people who had maliciously brought or perhaps put somebody up to making allegations -- that that was of greater concern to her than the prosecution, or the successful prosecution of a case.

SENATOR COSTA: Unfortunately, not everyone is that sensitive. Judge Page, I'm so pleased to have you here and I'm so proud to have you in my district. (laughter) Keep up the good work.

JUDGE PAGE: Thank you, Senator.

SENATOR COSTA: I'd like to state at this point that this Committee will not be just stopping for a lunch break. You'll see one or the other go out at one time or another to have some lunch, but we're going to continue, since we have a long list of people who want to testify. We have Dr. Finkel. Why don't you come up here? The next one will be Dr. Lawrence Spiegel. Okay? Thank you. Dr. Finkel is the Acting Chairman of the Pediatrics Department of the University of Medicine and Dentistry of New Jersey in Stratford, and a member of the Governor's Task Force. Thank you.

D R. M A R T I N F I N K E L: Thank you very much, Senator Costa and Committee members for the opportunity to address you today. My primary area of expertise is the medical evaluation of the sexually abused child. I am the primary medical consultant for evaluating alleged to be sexually abused within the State. My comments will focus on this form of child maltreatment for which the Division of Youth and Family Services investigated 5092 cases in 1987.

During the last year I have personally examined over 500 children of the Division and various offices of the prosecutor throughout the State. For six years I have shared a concern over the significant and complex issues which are involved in validating an allegation of sexual abuse both from

a mental health and a medical perspective. The allegation of sexual abuse is a serious one. A timely, thorough, coordinated, and objective evaluation of an alleged victim protects both the child the accused. Without validation there cannot be appropriate intervention, and without intervention there cannot be therapy.

Children are most commonly victimized by people who they know, love, and trust and have strong dependency and emotional bonds with. When a disclosure occurs either accidentally or because of a conscious decision by the child to tell, all professionals must be ready and available to intervene in the crisis.

When a child discloses, there is a limited time interval in which the historical validation can be completed. Failure to complete a thorough initial historical validation and provide the appropriate mental health support, frequently leads to recantation by the child and a perception that the allegations were false. Family members frequently gang up on the child victim when intrafamilial abuse surfaces, and mixed allegiances may be apparent by the non-offending caretaker.

The front line interveners who might make the most critical decisions are the caseworkers and law enforcement officers. They set in motion the sequence of events which follows. Their responsibility is an awesome one. We have asked and expected these professional to have the following skills:

- 1) Have a full understanding of the spectrum of varying developmental cognitive skills of children of all ages and be able to modify their communication skills and information gathering according to such.

- 2) Have the skills to assess the credibility of the child and parents' statements. Create a safe and therapeutic environment for the child to disclose without betraying their confidence. Assess the whole picture with having access to

only one or two pieces of the picture frequently within a hostile environment. Evaluate the impact of the child's victimization, and prioritize their mental health needs without standardized assessment tools.

Shuttle the child between the place of disclosure, the Division office, the prosecutor, and possibly a psychologist. Expect the caseworker to arrange for an appropriate and timely medical and mental health assessment. This assessment must measure the emotional impact of the victimization and identify physical indications of abuse.

Unfortunately, there is a scarcity of qualified physicians in emergency rooms or private offices who are knowledgeable and equipped to complete the comprehensive, sensitive, forensic evaluation that these children require and deserve to document the acute, but also the more commonly noted subtle chronic residuals of sexual abuse.

Interpret the medical, psychological, and psychiatric reports, and integrate recommendations into the case. All of these tasks are expected to be completed with exceptional accuracy and efficiency by caseworkers in a system already overtaxed.

Evaluating an allegation of sexual abuse requires a multidisciplinary expertise. Caseworkers must have access to this expertise. I would like to provide to you some insight into some of the difficulties that caseworkers have in obtaining a medical evaluation which is an essential component of the validation process. A medical examination is necessary because it not only documents abnormality, but also normality. Besides the obvious forensic value in the examination, it should encompass the important therapeutic task of addressing a child's alterbody image and feelings of being damaged goods, which frequently follows abuse.

Physicians have increased their comfort level in addressing the issues of physical maltreatment of children, but continue to have considerable difficulty in dealing with the

distasteful subject of a child who is alleged to be sexually abused. The skills which are utilized to identify bruises, lacerations, and abrasions are not readily applicable to sexually abused children.

It is painful to listen to children tell their stories. It is difficult to create the emotionally safe environment for them to disclose details of their abuse. Relating to children with an understanding of the conceptual framework in which children are abused, is essential to create a safe environment for an interview which must be conducted in a non-judgmental, non-leading, empathic, and facilitating manner. If the physician has these skills, then he or she is a real asset for the child and the validation process, but unfortunately most do not. Physicians who are willing to evaluate these children should do the following:

They need to speak to the caseworker to obtain details of the allegations and assess areas which need clarification: They obtain a history from a non-offending parent, in cases of intrafamilial abuse concerning observations of the child's past medical and family history; develop rapport with the child and interview the child alone; complete a head to toe forensic examination; discuss the results; formulate a detailed report which synthesizes the diagnostic impressions, therapeutic recommendations and follow-ups; be available and prepared for possible court testimony.

As you can see, this process is laborious but essential. It will usually require between two to three hours depending upon the complexity of the case and the skills of the examiner. Even if professionals were appropriately compensated for completing what I just outlined, few such doctors with the appropriate expertise are available in this State.

Hence, I do not believe that the private sector will ever be able to provide the coordinated, timely, and comprehensive assessments necessary to validate an allegation

of sexual abuse, appropriately. Failure to validate has significant consequences for the child, family, and society. I believe a better job can be done, but we need to develop a network of regionalized diagnostic and therapeutic centers with full-time professionals throughout the State who will work with DYFS and the prosecutor's office to improve our intervention and validating process. These regional centers should also provide training for physicians, child welfare workers, and law enforcement.

These centers with multidisciplinary teams will be able to:

- 1) Improve coordination and offer better decision making and comprehensive diagnosis of mental, medical, and social needs in a timely fashion.
- 2) Provide more effective intervention and services to families.
- 3) Improve our fairness within the legal system on behalf of victims and the accused.
- 4) Rapidly identify false allegations and expediently deal with unsubstantiated cases.
- 5) Provide greater support to caseworkers in an environment of shared responsibility.

When children disclose abuse, all they want is for the abuse to stop. Our system of intervention should not make the disclosure more painful than the abuse itself. Appropriate intervention minimizes the traumatic sexualization, stigmatization, sense of betrayal, and the powerlessness that children can experience as a result of their abuse.

The children of New Jersey need to know that when their abuse is disclosed either accidentally or purposely that empathic professionals will be available to quickly intervene and objectively determine the facts of the case and provide the therapeutic support services that they need.

Citizens of New Jersey need to know that resources are available to quickly identify false allegations, and

expediently and judiciously deal with those who molest our children.

SENATOR COSTA: Thank you very much, Doctor. That's heavy stuff. Senator Ambrosio.

SENATOR AMBROSIO: Doctor, I think your point is well taken. Obviously, the average practitioner doesn't come across a case like this very often, so he hasn't developed the expertise to deal with it. Are you suggesting that these centers be regionally located in conjunction with hospitals, I would assume?

DR. FINKEL: Well, the hospital is not necessarily the ideal environment. Kids are frequently taken to an emergency rooms which in my opinion is, except for rare circumstances, inappropriate. It creates a more crisis environment to something which is a psychosocial or mental health crisis under most circumstances because the sexual victimization of children does not generally follow the rape model. So, most kids who are sexually abused are not going to show up with the kinds of injuries that you anticipate in rape.

SENATOR AMBROSIO: What do you anticipate? I assume you're talking about a State-funded regional approach where we-- Well, let me hear what you have in mind.

DR. FINKEL: Okay. Currently, at the School of Osteopathic Medicine of the University of Medicine and Dentistry we have the nidus for what we believe will be a model program in which we have physicians who are capable in identifying both the acute and chronic residuals to trauma, that we have the clinical child psychologist, the skilled MSW, and the Department of Psychiatry as a support to identify the impact of victimization helping the validation process provide another opinion or work closely with DYFS in this whole process.

SENATOR AMBROSIO: Where's the setting for it?

DR. FINKEL: The setting-- My personal recommendations would be to be associated with each one of the three major university centers, one in the south with the School of Osteopathic Medicine, one in central New Jersey with

Robert Wood Johnson, and one in northern with New Jersey Medical School. The university environment provides a variety of expertise that would be available that would be very difficult to coordinate in any other way. I mean, there are other models that for doing it, but the point is that a child needs to be able to go to one location where they need to get all these resources in a timely fashion. It is not sufficient to deal with the child's mental health needs two or three weeks after the disclosure. It is important to deal with it, you know, that day, and to begin that process of healing the mental trauma that results from sexual victimization.

SENATOR AMBROSIO: Okay, thank you.

SENATOR COSTA: I appreciate you coming very much, and I appreciate your recommendations. You don't think of it until it's brought right to your attention and there is that overall picture that has to be taken care of mentally, as well as physically and socially. One of the things that hits children the most is to be embarrassed, especially among their peers when they know something about them. I guess that's what keeps most children from revealing the abuse they are getting. Do you find that so?

DR. FINKEL: Absolutely. Children are embarrassed by the experience of sexual victimization. They are forced or coerced into maintaining the secret. The secret is very powerful in children. There are many studies that indicate that the average duration of secrecy prior to disclosure in intrafamilial abuse is 3.8 years. Many people hold that secret their whole life and never disclose it. Senator Paula Hawkins of the National Conference on Sexual Victimization disclosed for the first time in public that she had been sexually abused as a child. These are things that occur by people who have opportunity and access to the child. These people who abuse children are "me first" people. They will commonly say to children, "If you tell anybody, nobody will love you. If you

tell anybody, somebody is going to take you away," and so on. These people will use very obvious threats or may make many more subtle threats and tell that child that they must keep this activity a secret. It becomes very difficult, because if we fail in our intervention process, and the allegation is true, where does that child go? He goes back into that home environment.

SENATOR COSTA: What you suggest, I think, is great because you're taking care of the mind at the same time you're looking at the body. And that's of extreme importance. As I recall, and I don't know if you still do this or if it's still done, where when the child was abused, the child was punished. They were put in a juvenile detention center instead of-- They were the victims and yet they were the accused. I appreciate very much what you have to say. Thank you.

DR. FINKEL: Thank you very much.

SENATOR COSTA: Dr. Spiegel. And next will be Ms. Trudi Thornton. Come up, please.

D R. L A W R E N C E D. S P I E G E L: Thank you. I also don't necessarily have prepared remarks, but I do have a number of points that I would like to make and just to follow up on what the doctor, the previous speaker, mentioned. One of my primary recommendations, with respect to new ways of handling these kinds of problems would be also an interdisciplinary approach where we have a number of experts from the various fields as was elucidated. However, I would also caution that these experts not be tied to the Division of Youth and Family Services in any formal manner.

SENATOR COSTA: May I interrupt you at this point, please?

DR. SPIEGEL: Sure.

SENATOR COSTA: Forgive me, but I do want to give your title. You're a clinical psychologist and you've been an expert witnesses in child abuse cases and a former subject of a DYFS investigation. Is that correct?

DR. SPIEGEL: That's correct.

SENATOR COSTA: All right, thank you.

DR. SPIEGEL: I'll just add a bit to that. I'm the author of this book, "A Question of Innocence." I don't know if anyone on the Committee has read it. If not, I'll be happy to provide copies. It details my ordeal which began in 1983. I'm not going to spend a lot of time on it today -- I'll use it as an example just once or twice. I'm going to very quickly run down a number of what I consider to be very important points for this Committee to look at and then turn the microphone over to the other people in this room who I think can provide some current and graphic examples of the points I'm going to touch on.

The first point which comes out of my own experience is that I believe that in the State of New Jersey as well as across the country -- and I have testified and consulted now in 43 different states across this country including New Jersey in cases of alleged child abuse -- I think we have an agency that is out of control. I think we have an agency that is so autonomous, so closed within itself and not accountable that we have an unbridled group of people who may or may not be well-intentioned, but who are wreaking havoc on families throughout the State.

My sense is that not only is the Division a closed entity -- and when I say closed I mean in the sense of not being accountable to anyone -- their files are closed, there's nobody seemingly supervising, no one to call them on the carpet when cases clearly are not handled properly. I think there has to be some external control. I think the kind of system that the previous witness was mentioning wherein you have independent professionals, perhaps groups appointed by the Legislature -- I don't know where the funding would come from either -- but what I do know is that too many of my colleagues are too closely tied with the DYFS organization; closely tied both in a professional sense and in a financial sense.

I know that there are in each region of the State of New Jersey, clinical psychologists -- and it saddens me to say this -- clinical psychologists who are on retainer with the Division of Youth and Family Services, who rely upon them for a major portion of their practice, and who sadly seemingly put a clinical rubber stamp, if you will, on allegations that have been inadequately investigated. They are fearful of making independent evaluations because they'll lose their contract the following year. (applause)

In my case, I think, just briefly, it was a graphic example of where the Division failed. And I don't mean to be just accusatory without trying to make some constructive suggestions. I'm not sure that I have the answers, but I do know the points that need to be addressed.

In my case, during the divorce and custody dispute, my ex-wife contacted the Somerset County Division of Youth and Family Services. They in turn sent her and my two-and-a-half year old little girl to the Morris County Division where I live. The worker in Somerset County saw my ex-wife and my little girl for about an hour-and-a-half, and made an instant referral to the Morris County Prosecutor's office. I was arrested one day later without any further investigation or collaboration.

Now to me this, this kind of egregious event is absolutely unacceptable. We have manuals inside DYFS which I managed to get ahold of. I find that very few people within the organization know what they say and even less seem to care. They seem to do things in an arbitrary manner, which varies greatly from worker to worker, from office to office. It's hard to know whether their actions come out of good intentions, or whether they come out of maliciousness. The end result, however, I think is the same.

Number one: We're not protecting the children that need protection. We are just destroying families that never

had a problem in the first place. In my case, the Division-- I heard before, several witnesses talk about supervised visits and wanting to keep families together. I wish that was what I see, but it isn't. What I see is exactly the opposite. For over two-and-a-half years I was not permitted any contact whatsoever with my child. I was not permitted to send her a Christmas card. Granted, this was a condition of bail imposed by the criminal court, but when I turned to the DYFS organization for help, there was no one there. They were only there to make the referral without an investigation and no one ever came to my aid in seven attempts within the court to try to get a supervised visit with my little girl.

In 1986, I was found not guilty on the charges. I then had to go through a subsequent hearing in family court as Judge Page talked about, and finally joint custody was reinstated. However, at that point and time my little girl was almost five years old, and she and I were strangers. We've had a very, very rough time trying to reintegrate that relationship ever since. And all of this happened on the mere accusation of an ex-spouse in the midst of a custody dispute.

So, I want to point out the human factor here. And I'm just going to make a couple of other points and then turn over the microphone. The business of advocating for the family I think really needs to be looked into, because I'm not sure if that's happening at all.

Secondly, I'm very concerned about the credentials of the workers upon whom we lay the burden of making the determinations about separating children from parents. I've been a clinical psychologist for 16 years. I would be very reticent to make a determination like that on my own, based on the kind of information that a caseworker normally has. When we ask a caseworker to make that kind of judgment, to me it's similar to asking a plumber to do heart surgery. And I sincerely mean that. I don't believe that there's any coordinated effort within the State to educate people in a multidisciplinary fashion as was recommended before.

I've been asked by several different State legislatures and committees, several different states, and the Division of Youth and Family Services to conduct workshops. I've never been asked by the State of New Jersey. I noticed Judge Page mentioned he was bringing in experts to speak to the judges. He mentioned a name that was not familiar to me, from a state out west. No one's ever called me. I'm not asking on an ego level to be the one to do this, but what I'm saying is we need different points of view. We need people who have seen the inner workings of the system. I think the experts that are on retainer with DYFS should be off retainer with DYFS, and I think the Legislature has to take the initiative to somehow, somehow, in some fashion set up the kind of centers that the previous witness was talking about.

I also have just a couple of questions. And I don't know, because trying to get into DYFS files is similar to trying to get into the FBI. So, I don't know what the statistics are. But I can tell you that my office receives somewhere between thirty to seventy calls per day; this from across the United States, not just from the State of New Jersey. But many of them are from the State of New Jersey by parents whose homes and whose families have been just completely destroyed by the introduction of the Division of Youth and Family Services. And it may be a well-intentioned effort. Someone -- probably a lot smarter than I -- once said that very often the road to hell can be paved with good intentions. And I think that that's very, very often the case.

So, my questions are this. Why so often the calls that I receive and other professionals receive-- Why are they coming from poor families? Why are they coming from families who are immigrants and have a poor grasp of the language? Why are they coming from minorities? It seems to me that it's these people who don't understand what's happening when a DYFS worker comes in on somebody's accusation and sticks a piece of

paper in front of them and says, "Sign here, otherwise, we're going to take your children away." And so they do, thinking that they've got somebody who's going to help them. And I'm not going to tell you how many people have called my office saying, "You know, in the midst of a problem, I've called the Division of Youth and Family Services because I thought they were there to help, and it was the worst mistake I've ever made in my life." I don't think we can afford to have our agency that is supposed to help and preserve the family-- I don't think we can afford to have that kind of reputation.

I'm not sure, as I've said before, that I have all the answers, but those are the points; especially the points that I wanted to make. I think in dealing with the broad issue, we've got to concern ourselves with not only the rules, the guidelines, and the services that are available, but the attitudes. There is a cavaliness amongst the Division of Youth and Family Services when it comes to taking a child away from a parent and vice versa -- a cavaliness that I don't think anyone should bring to a football game, because it seems to me that these decisions which impact families for the remainder of their lives-- And I can tell you that my little girl and I will never, ever be the same no matter how hard we work at it. Once that move is made, there's very little that can be done as an afterthought to rectify it.

So, my point is this: That in addition to some coordinated central training about regulations, diagnostics, and so on, some training about attitudes is necessary as well. There are too many workers that either don't have children of their own or don't understand what that bond is like and don't know what it's like to have a child that you love, that you raised, just ripped from your arms and never be able to even speak to that child until some judge somewhere finally takes the bull by the horns. And it's a very rare occurrence.

So, essentially that's what I've come here to say and I would certainly be happy, if you have any questions, to answer them. (applause)

SENATOR COSTA: (to audience) I'd appreciate it if you don't have any demonstrations. Thank you, Dr. Spiegel for coming and testifying. You did give me some insights. I kept asking all morning and nobody told me, but I was wondering how anybody can take the parent away from the child? But I just finally got it. You consented -- it was part of the bail. Is that correct?

DR. SPIEGEL: Well, in my case, I didn't consent, but very often parents do.

SENATOR COSTA: Well, you said it was a condition of bail.

DR. SPIEGEL: It was a condition of bail. So, the court in this case was the one who separated me from my child.

SENATOR COSTA: But you had to consent to not seeing that child.

DR. SPIEGEL: Actually, I didn't, Senator. But in most cases or in many cases, parents unwittingly do consent, because they're given misinformation about the form that they're signing, and they don't understand it. So, oftentimes the parent does consent. They are faced with the contingency of a worker saying, "If you don't consent, we're going to take your child away."

SENATOR COSTA: What was the-- You know, we didn't want any names mentioned here to protect the children, but of course you've written a book on it and I believe you've been on TV many times, so I'm not doing anything that has not been done already. In your case then, first you said it was a condition of bail; now you say that you didn't give consent. I don't understand that?

DR. SPIEGEL: Well in that case, because the Division failed in its responsibility to do an adequate investigation and they simply referred the matter to the prosecutor's office, it became a criminal charge, and as a condition of bail, when I had to pay the bail to be released from jail after I was

arrested, one of the conditions that was set in my case which is a normal condition of bail, is that the alleged perpetrator will not have any contact with the victim.

SENATOR COSTA: Was there a time limitation?

DR. SPIEGEL: It was supposed to be a "temporary" condition of bail which was set by a judge on the telephone at 11 o'clock at night. But it remained in effect for well over two years despite seven different court appeals and a personal appeal to the Governor of the State of New Jersey.

SENATOR COSTA: Was that because the case had not come to trial?

DR. SPIEGEL: Yes, because it was tied up in the legal machinery. For over two years I was not even permitted to call her. So, the last thing I said to my child -- I said, I'll be happy to supply copies of this book to anyone who wishes it -- I said to my child when I saw her for my visit, "I'll see you on Wednesday, honey." And the next time she saw me was some three years later in a criminal courtroom.

SENATOR COSTA: Senator Ambrosio, do you have any questions?

SENATOR AMBROSIO: Yes. I don't want to discuss your case, but I'm concerned about the procedures. Do you have any specific recommendations that you can make to prevent that from happening? What I see happening, and I have a hunch we're going to hear this all day, is that there was a failure of a DYFS worker or someone employed by DYFS or authorized by DYFS to follow the law or the procedures that are in place--

DR. SPIEGEL: I think that that's very true, Senator. Yes.

SENATOR AMBROSIO: --and that's very difficult legislatively to deal with, because the law is apparently sufficient to protect the interests of all parties. The question is, is it being implemented properly?

DR. SPIEGEL: Well, not only the law, but the DYFS procedures themselves, and we have no safeguards to determine whether or not procedures were followed, because all of the records are confidential. That's why I'm advocating and suggesting and even begging that this Legislature set up some kind of independent body that does have the power to look into DYFS files. You see, right now there's an Internal Affairs Division. They did us a big favor and they set up a consumer complaint hot line or something similar. But that's all taken care of internally within the agency, and no one ever gets to know when procedures have been followed or when they have not been followed. When a complaint is filed, we don't know what follow-up there was. And each time you look to find out, "We're sorry, that's confidential."

SENATOR AMBROSIO: Are you saying that in your criminal case, you were not able to get information concerning your prosecution?

DR. SPIEGEL: Actually, I was not. I did finally manage to get it, but not through legal means. And even the courts had difficulty getting access to DYFS records in a case where I was facing a possible 15-year jail term and where the welfare of a two-and-a-half year old child was at stake. The Division's confidentiality somehow superseded all of that.

So, my only suggestion in that regard, Senator, is that some independent body that perhaps could be very interdisciplinary, with a judge, a lawyer, a psychologist, a physician, but not -- and I'll just reiterate this -- not those professionals who are on retainer with the DYFS organization, because if we're going to do that, we're just setting up another pink elephant, and another bureaucratic process that's going to be impossible to get through.

SENATOR COSTA: Thank you very much for your testimony.

DR. SPIEGEL: I appreciate the opportunity. Thank you.

SENATOR COSTA: Ms. Trudi Thornton, Associate Director of NJEA and after her, Ms. Ceil Zalkind.

T R U D I T H O R N T O N: Madam Chairman, members of the Committee, good afternoon. I was going to start off with good morning, but it's a little bit beyond that. You do have copies of a written statement. I would like to take you not only through this, but at some point in time make other clarifications, hopefully for your benefit.

I welcome the opportunity to be here this afternoon to share NJEA's concerns about this critical topic issue. A lot of what I am going to be sharing with you will probably be pulling together from a lot that we have already heard discussed, primarily because it is in public schools that so many of the issues of society really come to light.

NJEA has been in support of Senator Rand's resolution and we do feel that it is time that the procedures and the policies in regard to the reporting and the investigations into the cases of child abuse be revised for everyone's sake. NJEA has long been an advocate for children. There are attached to the written statements that I'm making, copies of some of the brochures that we have disseminated statewide to people in public schools.

Our policy calls for educational programs designed to combat child abuse. We have specifically in our policy, advocated that student instructional programs dealing with child development and parenting skills be instituted in schools. We have also called for programs that will in fact prepare school staffs in identifying the abused child, so that reports can be made.

NJEA itself has sponsored numerous programs and workshops throughout the State to provide such training. We have distributed material encouraging our members to report cases of suspected child abuse and telling them just how to go about that. Some of what I will be sharing with you will be

to point out why, in fact, we believe that some cases of child abuse have not been reported.

A recent report from DYFS identified schools as their major source of references, and statistically they're the most accurate. Clearly, school employees are fulfilling their legal obligation to report child abuse and neglect, and clearly, school employees are in the best position to identify child abuse as they are the ones who see children on a daily basis and could, in fact, notify the authorities when there are changes.

Why then do we agree with Senator Rand that a review of policy and procedures is necessary? Because too many of our members have faced frustrations. I want to share with you the kinds of problems they have, in fact, met in trying to protect children.

In some cases, DYFS investigators have failed to maintain confidentiality. This has been brought out earlier. When it comes to a school setting, we have particular problems. You can imagine the impact of such disclosure.irate parents have threatened school employees and the children have been needlessly removed from classes where, in fact, they had been receiving assistance. There have been instances where guidance counselors are no longer able to work with children who depend upon their help. As one member recently shared with me, the decision that she had to make was breaking a confidence that she and a child had, in order to get help for the child whom she knew was being abused. Her concern was that by not having her to turn to, what might this child end up doing -- referring to a senior in high school who had, in fact, threatened suicide and was just so happy to have someone who she could turn to.

One school nurse received threatening phone calls from a parent and her car was bombarded with eggs. She had specifically requested that her name not be revealed. However, it was revealed, and being someone who knew the family and the family knew her, she did suffer.

Of course the most compelling reason to guarantee confidentiality is to encourage people to report suspected cases. However, children will suffer needlessly if caring adults are intimidated into silence. At this point, I would like to share a concern of actual reporting in schools.

When we ask school employees to individually make reports to DYFS concerning cases of child abuse or neglect, we are asking them in many cases to circumvent school policy. The majority of the administrators in this State would like to be involved in that reporting. The current law does not allow for that. The current law does not allow for a school employee to do any kind of research, see a school nurse, to check with a social worker who may have been involved with the family for years, to turn to guidance from individuals who may have counseled the child, such as the school psychologist. We believe that we have within our schools' structures the team effort that is necessary to insure that the reports are done in a better fashion.

SENATOR AMBROSIO: Are you suggesting that the school system must simply turn this over to DYFS and then step out of the picture?

MS. THORNTON: Yes. What I'm suggesting is that the way the current law reads is that every individual is responsible to report. This means that anyone within the school who has reason to believe that there is an abuse taking place, is to make that report. They are not to first report it to an administrator. They are, in fact, to make the report.

SENATOR AMBROSIO: And you're suggesting that the school system couldn't develop the procedure for channeling those reports to DYFS through an individual to the school administration? You're saying that can't be done?

MS. THORNTON: I'm not saying that it's not being done that way. I'm saying according to the law it's not supposed to be done that way.

SENATOR AMBROSIO: I'm not sure I agree with you that that's the case, but that's something we certainly will look at. It seems to me that within a school setting, that where complaints arise, there's nothing that I see that would prohibit those complaints from being channeled through the administration through the proper channels. I don't see any requirement that the complaint be made directly.

MS. THORNTON: When I specifically ask, the comment that I keep getting is, "It's every individual's responsibility."

SENATOR AMBROSIO: You know, I guess that means that if the school doesn't do anything about it, then the individual will have to pursue it. But I don't see any problem with reporting that to a superior, to a supervisor, or to somebody in administration.

MS. THORNTON: We have run into problems with that, however, where, in fact, the administration has not reported, individuals have, and then it's all turned around, "You've violated our policy. You are not the one designated to report." We have concerns with implementation in the fact that it's not being done the same, statewide.

SENATOR AMBROSIO: Under confidentiality problems, was anything done about that? Did you notify the supervisor at DYFS that this confidentiality was broken?

MS. THORNTON: Our recommendations, now statewide, have been that individuals who have to deal with DYFS say nothing until they get the name of the person to whom they are reporting, so that should the confidence be violated, they at least have a name. They don't choose to have school employees report anonymously for good reason. They need the school. They need access to records and information. However, in cases where confidentiality is being violated, people are simply saying, "I will never make another report, at least I will never tell them who I am."

Another concern is DYFS's failure to keep the school informed. In following cases where they have actually gone into homes and carried on an investigation and helped the families, they don't always report back to the schools. Consequently the schools which are in need of such information, are not able to follow-up with the children during the day that they are in school and continue to help that child and monitor the situation.

Heavy caseload and lack of staff has limited DYFS's ability to respond to all reports, by their own admission. DYFS has, in fact, said that they don't have the staff to cover all reported cases that involve neglect and, in fact, emotional abuse. That has come to us firsthand from people who have called. There have been situations where they'll simply say, "We're just too busy to deal with something like this right now."

Inconsistent operating procedures on the part of caseworkers and investigators compound the situation. Training, education, and experience vary widely. To that, I might add that there is in some areas a frequent turnover in staff. And too often when caseworkers find families resistant to getting help, nothing apparently gets done. Quite often someone will say to me, "We're making the reports and we will hear things like, 'Well, I can understand what the parent was trying to teach the child,' and then there is no follow-up." Here I would like to emphasize the need for a more cooperative relationship working together to help children.

We also admit dismay at some of the resolutions used in some of the cases. For example, why would DYFS remove a sexually abused child from a household but leave other siblings with abusive parents? And I have heard of this happening on more than one occasion when I've been out either conducting a workshop or just meeting with individuals who are concerned.

Follow-up is essential for proper handling of abuse cases. In some cases children have been more seriously abused

following disclosure and investigation by DYFS. In others, even when our schools have reported that a situation has not improved, or, in fact it has worsened, nothing is done as far as follow-up. They don't often return.

Under current policy, schools are often caught in the middle. School employees have received anonymous calls reporting child abuse. Those staff members are put into a position of having to report the charge without having reasonable cause to believe that it is true. These situations often occur in child custody battles or when neighbors feel more comfortable calling the school to make a report than, in fact, reporting to DYFS. Here again, we have people in schools who, based on calls out of fear that something may happen to a child, have made reports and some of them have been erroneous because they were not reports sent to them were based on facts, or they were not true.

Our review of policy and procedures may not correct all of these problems. Perhaps it can't. But these problems certainly demonstrate the need for revisions in current procedures and policy. Abused children need our help. It is our responsibility to give them that help.

On the other hand, while NJEA wholeheartedly supports thorough investigation of suspected child abuse, we are outraged at the victimization of accused adults -- innocent people whose lives have been destroyed. Lack of due process is also abuse; abuse of our system of justice and of individuals. Lack of due process allows for unfounded charges that damage the personal reputation of innocent people and abruptly end professional careers.

NJEA believes the existing child abuse statute on institutional investigations is unconstitutional. Individuals accused of committing an act of child abuse or neglect in a public school, are assumed to be guilty until proven innocent.

SENATOR AMBROSIO: Can I interrupt you at that point? I don't know what specific statute that you are referring to, but if it's unconstitutional, why hasn't NJEA challenged it and if they have, what was the outcome of it?

MS. THORNTON: As you will see as I continue, there are reasons -- primarily because, quite often in schools we're dealing with children and they are minors for that matter, and NJEA has, in fact, tried to find ways of dealing with it. There is nothing that you can really do to the child who comes up with a malicious report.

SENATOR AMBROSIO: But you're saying that the statute that deals with the teacher-- I don't know any statute that requires a teacher to be removed because a complaint has been filed, and I think one of your examples is that people were suspended or--

MS. THORNTON: Transferred.

SENATOR AMBROSIO: Yeah, I think you said transferred because a complaint was filed. Now that seems to be a contract dispute or a union matter, not a DYFS matter, because the transfer or the removal was not done by DYFS but by the school system.

MS. THORNTON: The recommendation for transfer or removal was by DYFS.

SENATOR AMBROSIO: But the ultimate decision is the school system's.

MS. THORNTON: Exactly.

SENATOR AMBROSIO: And it seems to me that your union should be fighting that, if it's unconstitutional, arbitrary, or unreasonable.

MS. THORNTON: I agree. But I'd like to continue so I can--

SENATOR AMBROSIO: I'm just trying to focus on what the purpose of your testimony is with regard to our jurisdiction, and I don't see that we can get involved in some

of the areas that you're talking about, because I don't think it's in DYFS's jurisdiction -- to deal with a teacher who has been charged with abuse, if the teacher hasn't been proven guilty.

MS. THORNTON: That is one of the things that they are doing.

SENATOR AMBROSIO: What are they doing?

MS. THORNTON: Well, may I continue?

SENATOR AMBROSIO: Yes, sure.

MS. THORNTON: You're a page ahead of me.

SENATOR AMBROSIO: Okay.

MS. THORNTON: An accused murderer is afforded more legal rights. Under America's legal system, accused murderers have the right to legal representation. They have the right to face their accuser and they have the right to full knowledge of the accusation with which they are charged. Individuals accused of child abuse, however, have none of these rights. That's the law in New Jersey.

SENATOR AMBROSIO: Well, that's not the law in New Jersey.

MS. THORNTON: Yes, it is.

UNIDENTIFIED SPEAKER FROM AUDIENCE: Yes, it is.

SENATOR AMBROSIO: Look, that was too sweeping a statement. You clearly have the right to have knowledge of the accusation and you're entitled to discovery. What you're not entitled to have is the accuser face you in a courtroom. The Legislature has seen fit to protect the child from that confrontation, but you are certainly entitled to the procedural due process that a murderer is entitled to. You know, you're making a point, but if you overstate the point--

MS. THORNTON: Well, I'm making a point based on experience. What I'd like to do is point out what has been happening in the schools so that I can substantiate the comments that I've made.

SENATOR AMBROSIO: Okay, but my question also is, you're here testifying on behalf of the NJEA. Is the testimony you're giving something that is based upon your personal experience, or is this something that has been accumulated through a survey that NJEA took of the school systems? Is this widespread throughout the State, or is it only your personal experiences that you relate?

MS. THORNTON: This is widespread throughout the State.

SENATOR AMBROSIO: And how are these statistics accumulated?

MS. THORNTON: Through network attorneys, through individuals who are members, through people who have called, through our field services, people who work out in the school districts, and many many are through my own experiences in providing them with workshops on reporting child abuse.

One New Jersey teacher, accused of sleeping with a student by his former girlfriend, was suspended for five days with pay at the recommendation of a DYFS investigator. And at this point, just to answer your question, Senator, what I am trying to point out for you and for this Committee is the fact that this is a function of DYFS. Institutional abuse investigations is a function--

SENATOR AMBROSIO: Are you suggesting that the DYFS investigator recommended a five-day suspension?

MS. THORNTON: Yes.

SENATOR AMBROSIO: Now, I'd like to know where it is in the law that DYFS would have any authority whatsoever to make that recommendation?

MS. THORNTON: Well, that's what we would like to know too.

SENATOR AMBROSIO: Therefore, whoever accepted that recommendation clearly was acting contrary to law, and that seems to me a union dispute between the NJEA who represents the teacher and the school. DYFS should have no role whatsoever in that dispute.

MS. THORNTON: Unfortunately what we're dealing with when we're dealing with child abuse and allegations within the institution creates a situation under which some people basically can't think. I've had administrators say to me, "They arrive, they never announce themselves, they come into the building, and they make a charge. They want to meet with one of my staff people, they want to meet with my students, and they conduct their own show as if they have total authority to come into a building and to--"

SENATOR AMBROSIO: I understand that. And I don't doubt that that happens. But my question is, that sounds to me like an education problem, not a DYFS problem. If the DYFS caseworker walks into anyplace and attempts to get information and the person cooperates, the DYFS worker is doing his or her job. But if the person doesn't want to give that information or the school system sets up a procedure whereby information is going to be channeled by a particular mechanism and the school system doesn't do that or doesn't adhere to that, it's not the DYFS-- We can't do anything to set regulations on who should talk to DYFS, but you should be dealing with how the school system deals with complaints of abuse. It sounds to me that you ought to be going to the education committee or the school board, and in negotiating your contract next time, that these things should not be handled in the way they are being handled.

MS. THORNTON: I understand. At no time was the individual given any information regarding the investigation and at no time was she allowed the opportunity to respond to the allegation. She was returned to work when NJEA threatened injunctive court relief. DYFS concluded no basis for the complaint after several weeks, and she was directed to continue her job as though nothing had happened. No charge was taken against the student for making a malicious charge.

A point that I would like to raise here is that, in fact, when an individual who is a public figure such as someone

who is working in a public school educating children is charged, especially, with sexual child abuse -- and it is happening. If we brought people in here today to give testimony, they'd be out on the street; there would be that many. The charge is so difficult for people to deal with and so emotionally charged, that, in fact, what they have been doing is asking the individual to remain at home until the investigation can be completed, primarily to keep the individual in an area where they are more comfortable and to make the child or the children more comfortable.

SENATOR AMBROSIO: Now, you've hit on a point that's absolutely something that we should be dealing with, and I agree with you. A charge of sexual abuse, especially against a teacher is a devastating charge. Now, my question is, what should we do in terms of changing the law to prevent this devastation from occurring? We understand that unfounded charges are made, and to the extent that children are disciplined by the school system, that's something that you can deal with. To the extent that the charge becomes public or the charge is used against you, if there is something that the Legislature can do to prevent that devastation from occurring, I'd like to hear that.

MS. THORNTON: Basically, there are some schools in this State that refuse to cooperate at all with DYFS. That was never the intent behind anything that NJEA was promoting. But there are now districts and counties within this State that when DYFS arrives, they simply say, "Put it in the hands of the county prosecutor, so that, in fact, we know that our rights will be protected." As I was recently informed through DYFS, "Of course your members have the right to a legal rep. It's not our job to tell them that."

SENATOR AMBROSIO: Can I ask you how the complaints normally arise? Let's suppose a teacher is accused of abusing a child. Where does the complaint normally come from, the parents?

MS. THORNTON: It varies. Quite often through the children.

SENATOR AMBROSIO: And whom do they tell?

MS. THORNTON: Most often their parents.

SENATOR AMBROSIO: And what's the normal route for the parent to take?

MS. THORNTON: It depends on the parent. If the parent has reason to believe that this may not be a true allegation, I'm sure they will check. There have been parents who have simply reported it to DYFS in the hope that an investigation would take place. There are some parents who would go to a school board meeting. There are some school boards who would immediately want to suspend the individual and do some investigating. Then there are some school boards who will simply say that they have no reason to believe that this is true and they will monitor it, and it's over.

While it's easier to say that this is the way that it should be, just as the individual who preceded me indicated that he was falsely accused and could not see his child, there are laws. And there are laws. When an individual in any institution, whether it be a public school or a private school, regardless of the age of the child-- The emotional charge creates such a situation in which many school boards will simply say, "We don't need somebody like that." Whether it's true or not, their immediate reaction is, "Why didn't anybody else know? We should be getting rid of that person. They shouldn't be working with children."

SENATOR AMBROSIO: There's no question that that happens. My concern is, what can we do to prevent that? You know you talked about a breach of confidentiality, and school systems are notorious for any kind of rumor to spread like wildfire, both through the kids, through the teachers, through the parents, and through the school board. So, it's almost impossible to insure confidentiality when a complaint of any

kind is made against the teacher. And my guess is that if such a breach of confidentiality is made, there are thousands of sources, including DYFS, that the breach can come from. I don't know if there's anything we can do to prevent that from happening. If there were something we can do, I'd like to hear it.

MS. THORNTON: One of the recommendations that I would like to make is that, in fact, school reports should be done by the school. They should be school reports, not individual reports.

SENATOR AMBROSIO: I don't understand what you mean by that?

MS. THORNTON: In other words, the best way to insure that reporting takes place would be for a team effort within the school, where anyone who's involved would have input.

SENATOR AMBROSIO: But doesn't the complaint normally come from parents?

MS. THORNTON: No, I'm talking about school reporting. When it comes to institutional investigation, is that what you're referring to?

SENATOR AMBROSIO: No. Well, you mentioned the breach of confidentiality. Assuming that the complaint is being brought by a child through the parent, it's almost impossible to keep that confidential, and that's going to be out over the community, especially in a small community, it will fly like wildfire. No matter what anybody does about it, it's going to come up to the public's eye.

If you're talking about complaints that come from within the system, there may be something that can be done to insure confidentiality. You're saying that we devise some kind of procedure where all complaints are channeled through an appropriate administrative channel. Is that what you're saying?

MS. THORNTON: Of the reports are coming-- Reports that are coming in about institutional abuse, we don't believe

should be anonymous at any time. We believe that an accused adult should have the right to meet his or her accuser.

SENATOR AMBROSIO: What should DYFS do when they get an anonymous complaint?

MS. THORNTON: On an adult?

SENATOR AMBROSIO: Yes.

MS. THORNTON: Someone within the institution?

SENATOR AMBROSIO: It's anonymous. They don't know who it's from.

MS. THORNTON: I would certainly hope that the first thing they would do would be to contact the superintendent or people who have actually been placed in a position to monitor that particular staff person.

SENATOR AMBROSIO: Okay, but you're saying they should act on this anonymous complaint anyway. They shouldn't ignore it.

MS. THORNTON: As long as they're going to accept anonymous calls, I don't see how they can.

SENATOR AMBROSIO: But do you think they should--

MS. THORNTON: Somebody may be abusing children. We're not saying that none of them are.

SENATOR AMBROSIO: But you're not suggesting that DYFS should ignore all anonymous calls?

MS. THORNTON: Not as long as they're acceptable, no.

SENATOR AMBROSIO: I don't know what you mean by "acceptable"?

MS. THORNTON: In other words, if they're going to accept anonymous calls, they can't ignore them. The only way to deal with that is to do away with anonymous calling.

SENATOR AMBROSIO: How do you do away with anonymous calling? People call DYFS and say, "I want to report an incident of child abuse, but I don't want to give my name."

It's happening at such and such a school, against such and such a person, and that's all I'm going to tell you." What's a DYFS--

MS. THORNTON: They would have to go through the administration, I would think.

SENATOR AMBROSIO: All right. Would you recommend DYFS ignore that call?

MS. THORNTON: No.

SENATOR AMBROSIO: All right, you're suggesting that the procedure should be that they go through the administration. Now, I don't know what DYFS's procedure is, but we'll find out about that, because I agree with you that--

MS. THORNTON: Oh, I do.

SENATOR AMBROSIO: What do they do?

MS. THORNTON: DYFS generally arrives at a school to do an investigation. In some parts of the State when they arrive they will say to the administrator, "I received this call, this is what I was told. I'm here to do an investigation." They will also make sure that NJEA is contacted, and they will allow for an attorney to be present during their part of the investigation. That's in some parts of the State.

SENATOR AMBROSIO: Do you approve of that procedure?

MS. THORNTON: Yes, I do.

SENATOR AMBROSIO: Okay, now what's done that you don't approve of?

MS. THORNTON: What we don't approve of is the fact that DYFS will often just arrive and simply-- And there are as many administrators as there are other school employees that do not know that they can say no to DYFS, or that would even choose to say no to DYFS until someone in writing says to them, "This is what you should be doing."

SENATOR AMBROSIO: But that sounds like an education problem, that you've got intelligent people--

MS. THORNTON: Exactly, and it's a multi one. I'm hoping that the protocol guidelines that will be developed through the Department of Education and the Department of Human Services will deal with these. I wasn't coming in today to ask you to deal with all of these, but to at least raise your awareness to some of the situations that are in existence, because I think it at least establishes a total picture of what is happening.

Reports of injustices come to us from many different sources: our own network attorneys, our members, administrative reports, and in a lot of cases from parents who have had dealings with DYFS. We've seen inconsistent investigatory procedures and a lack of standards and criteria for determining the guilt or innocence of the accused person.

Investigators have recommended that school districts penalize exonerated staff members. Yes, people who have been cleared -- people that they have found absolutely no evidence that would substantiate the charges, have been reprimanded and been transferred. They've had increments withheld. They've been reassigned. In some cases they are told they can never work with certain children again, based on the fact that a charge was made, whether or not the charge was ever substantiated.

Some institutional abuse investigators seem to believe they are on a mission. They judge the accused prior to a hearing. They gather facts and have been known to twist statements to fit their already determined conclusion.

One educator recently told me that at a recent DYFS workshop, the leader said and I quote, "We are out to get you teachers." So much for fairness and professionalism.

The lack of acceptable protocols for investigative procedures and written documents prepared by the DYFS Institutional Investigation Unit, often result in documents that contain unsubstantiated remarks; remarks that have not been proven and have not been made under oath.

These reports become the official documents on which school officials and law enforcement agencies rely upon in the determination of actions against individuals. This information was provided through our network attorneys who have, in fact, been out assisting our members. There have been situations where during testimony, students and other members of the staff have indicated that what is being said they did not, in fact, say.

The DYFS registry lacks safeguards. All reported allegations are recorded without regard to guilt or innocence. NJEA believes that this practice must end. When charges remain unsubstantiated, the name of the accused should be removed from the registry.

Why are so many innocent people being victimized? For a number of reasons. A point that I would like to bring up at this portion of my testimony is the fact that there are children in schools today who have been known to have made charges against, or allegations against, a school employee and for them, it was a cry for help.

What I'm asking this Committee for is in your review of all the DYFS functions, consider the fact that in that cry for help, individual adults have been injured, and seriously injured. Some will never teach again. Some will never be allowed to work with children again, based on the fact that they're in a position where this impacts very, very strongly.

SENATOR AMBROSIO: Ms. Thornton I want you to know that I agree with your thrust -- general thrust of your statement; that teachers are particularly vulnerable to

malicious child abuse complaints because of the nature of the job, that they deal with children, and the damage that can be done to them is particularly severe. My concern is that we don't literally throw the baby out with the bath water here by trying to come up with ways of legitimately protecting the teacher from unfounded complaints and at the same time try to put robots in the way to legitimate recording. That's a very delicate balance that we have to walk.

It sounds to me like a lot of work has to be done both between the NJEA, DYFS, and the School Boards Association to clarify some of the issues you've raised. I think--

MS. THORNTON: I'm not even sure if DYFS should be the party called to investigate an institutional situation. That is something I would share with you.

In the absence of clearly defined acts of child abuse in the school settings, today's school employees are open targets for such allegations. Teachers who enforce rules and insist on structure have been accused of emotionally abusing children. No one really has lineated where, in fact, the normal school procedures and discipline end and where child abuse begins. It seems that today everyone is so aware of child abuse. Anything that is said that's slightly off-color is a form of child abuse. Where we used to talk "conduct unbecoming" we now immediately say it's child abuse.

Anonymity, while it encourages more reporting, poses problems. School employees know that anytime, an anonymous call can be made. School employees also know that this confidential caller -- mind you, rather anonymous caller, not confidential caller -- can, in fact, accuse them of any number of things.

Fear of allegations have resulted in concerns about the consequences of honestly grading student performance. A breaking up of fights, which under code educators must do--

We've now been hearing of individuals breaking up student fights being accused of child abuse based in part on the existing law which indicates excessive restraint. And who's to determine whether or not it was necessary?

Consider the possibilities that parents who envy the relationship between their child and a teacher can, in fact, stop the relationship, by making an anonymous call.

A child upset by a grade can get even anonymously. As a matter of fact, a lot of the literature that we were disseminating, we stopped disseminating because it was falling into the hands of secondary students who realized that they could place calls just like anyone else. A student who wants more affection from a teacher can get even anonymously, also. And this list goes on.

The final insult is that malicious allegations carry no consequences under the present law. Even when students have admitted their allegations weren't true, they have been totally protected. That's the wrong lesson to be teaching our children, and the same holds true for parents. In the cases where they've admitted that they thought maybe it happened but maybe they were wrong, nothing has happened.

Our children suffer in other ways. Many of them seek recognition and affection, and educators must take a "hands-off" approach today for fear their actions may be misinterpreted. Cold learning environments in which no one performs without witnesses and everyone remains stoic don't foster learning, and they aren't healthy for our children.

NJEA wants its members to report abuse and we want investigations to continue, but the way the work is being done must be improved -- improved for everyone's sake.

Child abuse is a highly sensitive, emotionally charged issue. Investigations must be done by competent, highly trained individuals; people who have expertise in

investigating, interviewing, in counseling, in intervening, reporting, and have the ability to work cooperatively with concerned school employees. I can't stress that enough.

There has been little, if any, cooperation between the different groups. And it is important. To allow individuals with lesser qualifications to investigate will only compound the abuse that we all are trying to stop.

In closing, I do welcome the opportunity to work with the Legislature, with any groups that are concerned with making changes to improve the system. I would encourage the Committee when you are, in fact, looking into DYFS procedures and their policies, to remember that it does impact on many, many different facets in today's society. It's not just the parent who's abusive; it's not just the uncle; it's not just the cousin; it's not just the friend.

In schools we're dealing with adult students. How do we handle the nineteen-year-old who is engaged in a fight in school? Do we call DYFS and report that child, or is it still part of the school policy on fighting discipline?

There's a number of issues that I have to raise because clarification is so important for everyone's sake.

SENATOR COSTA: Senator Brown.

SENATOR BROWN: Do you have any idea when the policy started with DYFS coming into the schools to look at -- to a complaint?

MS. THORNTON: When they first started coming in?

SENATOR BROWN: Yes, I imagine was this in the charge of DYFS for starters?

MS. THORNTON: The Investigation Unit, yes.

SENATOR BROWN: So--

MS. THORNTON: The Institutional Investigation--

SENATOR BROWN: --as long as there has been DYFS, DYFS has always responded to a call from a school. In other words,

we're talking about a situation where a youngster feels that there's been some abuse by an adult in school.

MS. THORNTON: Exactly.

SENATOR BROWN: I'm intrigued by your point about why does DYFS have to get into this situation, period?

MS. THORNTON: The question is why--

SENATOR BROWN: It just seems to me that the whole structure within the school, going back to my fifth grade days we had trouble with a teacher who we felt was abusing us physically-- And I assure you, we found situations in the school, i.e. the principal and so on to discuss the matter with. I'm just interested Madam Chairman, in the fact that DYFS, it seems, has enough problems without getting into the schools particularly.

On the other hand it certainly is interesting with the chart from DYFS that most of their good sources come out of the schools, substantiated--

MS. THORNTON: Schools are reporting. The only concerns I hear based on the reporting is the failure to keep names confidential, and to get back to the schools and let them know what is happening with the families and what they possibly can do to assist with the children while they're in school, and the problem of their not always choosing to make that investigation. I've had a number of individuals say, they just don't choose to go, or they'll say, "I don't have time." That's frustrating for somebody who's concerned about a child.

SENATOR BROWN: Thank you very much for taking the time to come today.

MS. THORNTON: Thank you.

SENATOR COSTA: Thank you. Thank you very much for being here. Next is Ms. Ceil Zalkind, the Association for Children of New Jersey, and Mr. Dave Neal will be next. Is Mr. Dave Neal here? (no response)

C E C I L I A Z A L K I N D: Thank you Senator Costa, Senator Ambrosio, Senator Brown. Despite the incredible length of our testimony today where we surpassed even ourselves in testimony, I plan to be very concise; to be direct in my comments and very specific in our recommendations, because I do think we have some specific recommendations to make about a system that we've become increasingly familiar with over the last year.

All of us would agree, we believe that this is a system with enormous responsibility, where the only constant is criticism. Cases that DYFS handles well rarely make the news. And, in fact, you've heard this morning consistently from people who were testifying in support of DYFS, and also people who have very serious complaints to make about the Division.

The Division is faced with an almost impossible task: To intervene in a situation on behalf of a child, to protect a child, and at the same time to be responsible to support and protect the family.

Well, sometimes when the child's right and the parents' interest conflict, that puts the Division in a terrible situation. We're talking not about the Division administration, but the caseworker who's out in the field, who must interview that child, must interview that parent at a time when everyone's emotions are high -- when the case is in crisis and it is very, very difficult to make a decision that can have lifelong and sometimes tragic consequences.

But we also feel very strongly that the difficulties and complexities of this system should not excuse the Division from justifying its actions to its clients and the public, nor from providing adequate services to the children and families in its care.

We said repeatedly and many times before this Committee that if the Division were assessed on the basis of

its policies, its written policies, there would be no need for hearings such as this one. The problem is not in agency policy, but in implementation.

And this year we feel very strongly that our comments are supported by what we see as hard evidence of serious shortcomings in the systems, through the findings of our Federal grant project which examine the foster care system and our recent review of a DYFS internal report which assess the functioning of the Division's institutional abuse investigation units. This is the quality assurance report which Senator Ambrosio referred to earlier in the hearing, which talks about not what the Division is supposed to do in certain of areas of practice, but what it is actually doing.

The findings of our grant project which we published in June in "Splintered Lives" and recently sent to this Legislature were very discouraging. In many instances standards for case practice were not clearly defined, time frames for task completion were absent, and monitoring of case progress were insufficient. The elements of case practice were often late, of poor quality, and ultimately had little impact on case outcomes. The quality of care for foster children was shameful.

To use just one specific example, and I bring this up because Judge Page talked about how important visitations is: In our project, in the 55 records that we reviewed of the Division's, the children who were in foster care saw their parents about five times a year. And we're not talking about weekly visits. We're talking about a child who has seen his or her parents less than two months a year, with the first visit occurring an average of 60 days after placement.

The similarity of the institutional abuse reports in "Splintered Lives" is notable. This is a highly critical internal assessment of DYFS investigation of abuse allegations

in residential settings such as schools, child care centers, group homes, and other residential facilities. It cites the Division's compliance with investigatory time frames as very low.

The quality of investigations are inadequate. One example that is cited in the report is that in many cases individuals who have information in that particular case are not interviewed. For example, in some cases, the child who made the complaint was not seen while the institutional abuse allegation was investigated.

And the quality and timeliness of the Division's report after the investigation was completed was poor. In fact, although the investigation and the report is required to be completed within 30 days, two of the units in this State took over 250 days to finish their investigation and report.

This is a very serious matter when you think of not only placing children, but as a previous witness spoke about, teachers and child care workers who are vulnerable, who wait and see what the determination of that investigation is going to be. The report also found that the standards for substantiating whether or not an abuse had actually occurred were not fully defined, leading to confusion among DYFS workers as to what constitutes abuse, and resulting in very different decisions in each of the five units in the State.

Additionally, although one central Division unit was responsible for the operation statewide, it did not analyze the reports sufficiently to be able to identify patterns of abuse in particular centers or facilities. For example, this report looked at abuse allegations made in 1986. Although a series of complaints may have been made against one facility, the central reporting unit did not say, "Look, we've gotten twelve allegations against this facility. They may be unfounded, there may be difficulty in substantiating them, but this suggests to us that we should go out and investigate the practice in these facilities."

That is not being done, and we have a lot of concerns about that because you're talking about children who are very vulnerable -- children who are living in a group home or a residential facility who may not have anyone to advocate for their rights.

These findings have lead us to conclude that the child welfare system in our State is in serious trouble. For the last several years, the Division has made child protection its primary focus. Considerable additional funding and staff positions have been given to DYFS to respond to reports of child abuse.

Other areas of practice such as foster care, family support, and residential placement have taken a back seat to child protection. Yet, serious problems are evident concerning the adequacy of a basic DYFS practice, one in fact, that they have prioritized.

Our recommendations today involve efforts to fix a system that frankly we have begun to fear cannot be changed. Though our endeavors of the last several months have been strung in this area, we are beginning to believe that only a major system and structural change will improve DYFS and the other State systems that impact on children and families. And we've committed ourselves to exploring that concept over the next several months.

But we are also very strongly committed to the children and the families and the system who need our help right now. Therefore, we want to balance that broad look with specific recommendations to improve DYFS practice. We feel that we must address the continued inability of this system to implement this policy by increasing accountability.

I have to say that I've begun to feel very strongly that public forums like this one are very important to insure accountability of the Division. This is a State bureaucracy. Like many State bureaucracies, it does not want to be open to

public scrutiny. I think it's very important. The only way these practices will be scrutinized, is through this kind of a public forum.

Our four recommendations involve the need to establish clear, consistent practice standards that are understood not only by DYFS clients, but by DYFS staff as well: The need to develop formal mechanisms to protect the rights of parents, the need to expand independent representation to protect the rights of children, and the need to make sure that the service delivery system that DYFS has is really based upon client need.

In summary, and section one are accountability for clear consistent case practice-- As I've said, we have come to believe through the reports we looked at that the DYFS decision making system is highly reactive and crisis oriented, with far too much individual discretion. Basic practice standards are inadequate or inaccessible, not only to the client, but to the staff as well.

In the area of child protection we believe that the standards for substantiating child abuse are unclear in institutions, as cited by the institutional abuse report in foster home placement. I think you'll hear later on from Sue Dondiego from the Foster Parents Association who will talk about this.

In our report "Splintered Lives" we looked at case records, and we discovered that there were a number of allegations made against foster parents by children in foster care. How and when and by whom those are investigated are highly discretionary. They tend to be investigated by staff in the same office who has placed the child, and some reports never get out of the child's record.

The results is what we feel is highly individualized inconsistent decision making that is almost impossible to scrutinize. We offer the four following recommendations to improve case practice. One is we believe strongly that DYFS

must develop and articulate clear standards for all areas of practice. You heard a discussion this morning about the DYFS manual. The DYFS manual does contain every policy that DYFS operates under. The problem is that it exists in seven volumes, and it is not something that every worker routinely uses in the State.

A lot of practice is based on what the worker sitting next to that worker said should be done, and what the supervisor interprets the manual as. The manual in its present form is not acceptable or accessible to workers. Additionally, it's not accessible at all to the client.

As an advocacy organization we have a copy of the DYFS manual. I find it extremely difficult to use. I find that I call people to ask about particular provisions of the manual. I think that it's extremely unlikely that a parent who is working with the Division is going to ask to see the manual, and ask to see the section that pertains to their particular case. We think a more realistic practice guide is needed, particularly in the area of substantiation of child abuse referrals.

Second, we agree with the point that was raised this morning that the practice standards must be promulgated into regulation, not merely confined to a DYFS internal manual. The regulatory process allows for public input and the development of standards and continuing oversight of implementation. Regulations also provide a framework for parents to understand what DYFS can and cannot do. This is a very important function, and if the Division is not willing to promulgate regulations, legislation should be proposed directing it to do so.

Third, areas of practice that present a conflict of interest should be removed from DYFS. I would agree with the

previous speaker from the NJEA that it might be time to look at whether the Division should have the function of investigating institutional abuse.

Other states, other types of agencies have looked at the difference between familial abuse and non familial abuse, and have given investigation of abuse in a non familial setting such as a school or child care center, to law enforcement personnel, feeling that this is more appropriate and it also does not drain the resources of the child welfare agency.

Additionally, we really question very seriously whether the Division can objectively investigate an abuse allegation made by a child against a residential facility in which the Division has placed that child? Children who wind up in residential care often have come out of the foster care system and have had many placements. They are children who are very difficult for the Division to provide services for, and we wonder whether the Division can objectively intercede on behalf of a child if that child makes a complaint against a residential facility that it may have taken that particular worker a year or more to find for that child?

Fourth, we feel very strongly the DYFS Quality Assurance Program should be expanded and strengthened. The Division has a Bureau of Research which conducts independent assessment of case practice in specific areas. We understand that this has been a successful program that has lead to the development of corrective action plans, both statewide and in particular offices. We have not had much access to this information.

We think this program should be expanded. We think some thought should be given to making this program more independent, or at least to involve some public input into this program to make sure that the right questions are asked and that people have a chance to have some input into the answers.

In the area of accountability to protect the rights of parents, a great deal of our thoughts in this area have come about since the release of our report "Splintered Lives." Since June, we have received many calls from parents, social workers, and other individuals describing their experience with DYFS. Although most of these cases varied a great deal, there were some very common themes.

All the parents we talked to were very, very confused about the Division's role in their lives. Their rights and obligations had not been sufficiently explained, and explanations that were offered were given at a time when they were too upset to fully understand what they were being told.

A feeling of powerlessness and helplessness pervaded each of these stories. Many parents expressed the feeling that they had no one who could advocate for their interest and rights in a system that they found at best confusing, and more often, arrogant. Many were fearful of reprisals if they complained or even raised questions.

We believe that this is a very significant problem because as you've heard already this morning, DYFS intervention is based primarily on the voluntary acceptance of services. Now the idea of voluntary services is to engage the family in a cooperative effort to resolve their problems and work toward some better future; either to maintain the family so the child can safely live without DYFS intervention, or to return the child home.

That is the premise behind voluntary consent. I think there is a reluctance to go to court, feeling that the parent will cooperate better if services are voluntary. We have a lot of questions however about the nature of that voluntary acceptance. In the placement area, many people including DYFS workers have told us that the way voluntary consent is signed by the parent is the that parent is told, "Sign this or we'll take you to court." That is not voluntary.

Secondly, it makes a parent wholly dependent on the Division. They are not entitled to an independent attorney. There's no court process to explain their rights and obligations.

So we think it's time for the Legislature to take a look at the system of voluntary consent, both in the placement and non placement area. Other states, particularly in the placement area, have limited the use of voluntary consent to truly voluntary situations, such as hospitalization of a parent and have required the agency to go to court for nonvoluntary situations or to go to court if the family remains under the state department's supervision after a certain period of time.

Additionally, although parents can revoke a voluntary consent, many of them don't know that, or don't understand what that means. And any look at voluntary consent needs to look at revocation as well.

Second, we feel that the Division must develop formal mechanisms to inform parents about their rights and responsibilities, as well as the basis for DYFS intervention in their lives. Earlier today you heard about the parent handbook which the Division developed a number of years ago to inform parents about what the Division's role is and what their responsibilities are.

In our view, the parent handbook just doesn't do it. It's not enough information for parents to let them understand not what the Division is all about, but what the Division is all about in their particular case. We feel that parents should be given, in writing, a statement which identifies the family problems, and outlines a plan to remedy the problem including DYFS and parents' rights and responsibilities. I think this is very important.

Many parents have a lot of questions about what's happening in their case. I have spent the summer talking to parents who are extremely sophisticated, people holding

professional positions to people who are somewhat vulnerable and unsophisticated. The question is all the same, "I don't understand what the Division is doing in my life?" I think some explanation in writing is deserved by the parent at the time that the Division intervenes in a case.

The service agreements have been alluded to here today. The service agreement is a document the Division is supposed to negotiate with a parent around what the Division's responsibilities are and what the parents' role is. That is not uniformly done. This was an aspect we looked at also in "Splintered Lives."

They are not uniformly followed, and those that are done, are often inadequate to any tool at all, much less an information tool. We believe also that a staff person not connected with the case, should be available to review the plan with the parent.

We also feel that the Citizen Action Line should be strengthened to be more responsive and independent. Our own experience with the Citizen Action Line has not been terrific. We found it to be somewhat unresponsive.

In fact, I referred a case to the Citizen Action Line at the end of July, on behalf of some of the relatives who had written to us. I have yet to hear from them. They did, of course, tell me up-front that I was not entitled to any information since I was not a party in the case. I asked them to merely report to me what they had done on this case. I didn't want to know details; I just wanted to know who they contacted and how. I have yet to hear from them.

We think some questions should be raised about the independence of the Citizen Action Line. Parents have said to us that in many cases, calls are merely referred back to the district office in which the complaint originated. And as we've supported your bill, Senator Brown, we think the Ombudsman Bill might be an appropriate method of looking at some of this.

Third, we think clients must be given a greater right to an appeals process. Currently the majority of DYFS clients have no legal right to a review of their complaints by the Office of Administrative Law. There is an Administrative Hearings Unit within DYFS which has the power to determine if a client has a right to an OAL review.

Additionally, there can be an internal administrative review of a complaint by a client. However, again, the Administrative Hearings Unit within the Division and the DYFS Director have the discretion to grant or deny the request. This is not an automatic right of the parents which we think should be included.

In the area of accountability to protect the rights of children, much of this comes from the information we received in our "Splintered Lives" report. We were really appalled to discover that not all allegations of abuse in out-of-home placements are investigated, and in some instances there is almost a presumption not to believe the child.

In certain situations, which you've heard about already today such as abuse allegations on the rise in the context in divorce and custody, the Division is reluctant to investigate, or seems to investigate under a different standard.

We also feel that some of the systems that are already in place to independently represent children are not working. As we noted in our report, the Child Placement Review System has not been fully or effectively implemented. This would require and allow some independent oversight of children who are in placement in the Division. This has not been functioning as fully as it should.

For all of these reasons we believe that it is critical to provide children with independent representation in several instances: One, we think that the Law Guardian Program, which exists in the Public Advocate's office, has been a successful program and should be expanded to represent more

children. Right now the Law Guardian only represents those children who are the subject of child abuse cases, in court. It's a statutory mandate that these children be represented by an attorney.

We feel that this program should be expanded to include other areas: For example, in termination of parental rights cases, which is a subject of a bill by Senator O'Connor and Assemblyman Charles. We also think that it might be appropriate to expand the Law Guardian Program to other areas such as a child living in a residential facility who makes an institutional abuse complaint, or a child who has lived in prolonged foster care placement. In these instances we think it's very important that the child have some independent representation beyond the Division.

I would like to add here, too, that I don't see this fully as the Division's responsibility. There's no reason why the Public Advocate's office cannot put in a budget request to expand the program themselves.

Two, we think a guardian ad litem should routinely be appointed to represent children in contested custody cases or divorce cases where an allegation of abuse has been made against one of the parents. Several other states including Minnesota, Michigan, and Wisconsin have active legislation to mandate independent representation in such cases, believing that the conflict between the parents makes the child more vulnerable at a time when the court and social service systems are often less responsive.

In the last two years we've heard from many parents involved in divorce cases who say that they cannot get the Division to come out and investigate an allegation of abuse, or they cannot get the court to take an allegation of abuse seriously because it's in the context of a divorce and custody case.

Additionally since New Jersey has experienced difficulty in recruiting attorneys to represent children and other clients on a pro bono basis, any legislation in this area should include a funding mechanism, such as that used by the Public Defender's office for pool attorneys to represent indigent clients.

Third, we think that there should be exploration of some expansion of the CASA, or Court Appointed Special Advocate Program. There are currently three CASA Programs: in Union, Essex, and Warren Counties. They provide an independent advocate to act in the interest of children in foster care.

It doesn't have to be an attorney. An interested volunteer will do. The CASAs are unique in that they go out and meet the child and can represent the child's interest in the Child Placement Review hearings. This is the only individual outside of the DYFS worker who has access to the child and can independently advocate for the child's rights.

We believe that legislation expanding this program would be appropriate, and I'd be very glad to share with this Committee the draft proposal which we developed several years ago to provide a CASA program in every county through the Child Placement Review System.

And fourth, we think it's time for the effectiveness of the Child Placement Review System to be examined. As noted in our report, the CPR System has not proven to be fully effective. In fact, New Jersey faces the loss of Federal dollars next year due to the inadequacies of the review system for children in foster care. At a minimum, legislative hearings should be held to examine the implementation, effectiveness, and potential of this system.

The last area I certainly thought a lot about when I saw the Division's statistics on the screen this morning-- We're very concerned that the Division's service delivery system really addresses the needs of clients and does not fit the client as to what services the Division has available.

In looking at the families whose children came into placement in "Splintered Lives," we were very concerned about the high number of neglect situations that are reported to the Division, and that was brought out by the statistics the Division shared today.

We have a lot of questions in this area. Child abuse and neglect have tended to be lumped together in terms of service delivery to treat the family. We would question whether that is an appropriate service delivery system? Are the traditional services that you apply to an abusive family appropriate for a neglectful family?

In "Splintered Lives," we saw the children who came into placement did have a very, very high incidence of neglect in their backgrounds -- parental neglect; but that this neglect was also interrelated with the factors connected with poverty, such as homelessness. We question whether this is penalizing parents twice? Parents who cannot afford to take care of their children are charged with neglect.

Those children come into foster care, and we question whether the Division is providing services to treat this particular problem in the child abuse area? And considering neglect as a significant factor, makes up as I said, over half of the allegations in the State each year are substantiated at a higher rate than other allegations, we think this needs to be looked at.

Minimally, we think the Division should conduct an assessment of whether its child protective services are sufficiently targeted for families who are reported for neglect. We've asked for this before. The Division funds a number of community based agencies, programs, services. We'd like to know if the services that the Division is purchasing through those programs really meet the needs of these families who we think are a priority in our State.

Secondly, we think the Division should clarify its investigative versus its helping role. We agree with other testimony this morning that it is very confusing for families to have the Division come in and say, "I'm here to help you, but I also have the power to take your children away." Again, this might be an area to explore -- separating out some of the non familial abuse from DYFS, such as the institutional abuse.

And lastly, we would support legislation to provide a deterrent to false reporting. We see this as an increasing problem in the State. And although we would always advocate on behalf of the child and in the best interest of the child, we think that some deterrent, some penalties for false and malicious reporting, might make this less likely to be used by parents or others who are not well-motivated in making complaints.

In conclusion, we've tried to be very productive and helpful in our suggestions for you today. In fact we've worked on some of these issues with the Division as a result of "Splintered Lives" and our other advocacy efforts. We are hopeful that the Division has made an honest commitment to act on these problems, and we'll be reviewing a corrective action plan coming out of "Splintered Lives" over the next several weeks.

Again, we firmly believe that the most effective way of holding DYFS responsible for its actions is through an ongoing public forum like this one to discuss problems, review issues, and determine the adequacy of agency functioning. DYFS has been traditionally resistant to such public scrutiny. We believe however, that only a public forum will give DYFS the motivation to account for its practices. We remain committed to keeping that forum alive and to developing a community of caring for these children and families. Thank you.

SENATOR COSTA: Thank you very much. Senator Ambrosio.

SENATOR AMBROSIO: Yes, just very briefly. First I want to thank Ceil for the excellent report she prepared and the tremendous work the Association for Children of New Jersey have done. We rely on them a great deal.

MS. ZALKIND: Thank you.

SENATOR AMBROSIO: I'm intrigued by one of your recommendations, and I would just like to pursue it for a little bit. You suggest that it might be appropriate that DYFS is not to get involved in investigation of complaints in school systems and the like. I can understand a certain rationale for that; the child has parents that he has recourse to and if there's something going on at school, that would be the natural thing for the child to do -- make a complaint to the parent. Also, the role is not a role of someone who is in a family relationship. But the question is, who would investigate those complaints if it were not DYFS?

MS. ZALKIND: Well, I think I would not rely on parents. That's terrible to say, but I do think there has to be some independent investigation. I did not mean to suggest that these reports would be left loosely, that there would be no requirement to report abuse allegations that were made in such settings. I don't think that would be sufficient.

What we were suggesting was that it might be time to explore whether another entity might be more appropriate, such as the police. We're not talking about a family relationship to maintain. When the Division goes out to investigate an abuse allegation, they do so, one, to determine whether the abuse had occurred and, two, to determine the safety of the child. But they do it in the context of the family relationship. They are very mindful that their role is to keep that family together. So it's, one, determine the safety of the child, and two, determine what services should be provided to keep the family together.

Allegations that come out of schools, out of child care centers, and other settings like that don't have that second piece. You're not looking for a family relationship to keep together. This is a lot more appropriate for law enforcement.

Now, four years ago when there were child abuse hearings in this Legislature, we would never have made that recommendation because we believed then that law enforcement was not sensitive to the needs of children, and that a child in an abuse allegation who was subject to law enforcement intervention was often far worse than the child who was investigated by the Division. It was a very traumatic experience.

But, a lot has happened in that area in four years. A lot of the prosecutors' offices, and some police departments have developed specific units to deal with abuse allegations, have done training of their staff, and have developed some expertise in this area. We think it's worth exploring whether law enforcement might not be a better entity.

SENATOR AMBROSIO: At the very least, DYFS should be the investigator of last resort in that case. If all else fails, DYFS could come in. What you're suggesting is there are local appropriate investigating arms that can--

MS. ZALKIND: Right. I think that could be one alternative. The second is the way the current Institutional Abuse Unit system is set up. There are four units within the Division that investigate such complaints, and there is one unit housed in the Public Advocate's office that investigates complaints that are made in DYFS-run facilities. That's another alternative; the Public Advocate, separate from the Division, an independent entity, who can conduct those kinds of investigations. That would be another possibility.

SENATOR AMBROSIO: The other point I wanted to ask you about is your recommendation that there be some deterrent to

false reporting. One of the thoughts that I had, and it just occurred to me today, that if we require complaints to be sworn complaints, we'd have a built-in remedy for false complaints, and that's false swearing. There are statutes on the books now that could be used. Do we require complaints to be sworn? Does DYFS require that, do you know?

MS. ZALKIND: No, I don't believe so. No.

UNIDENTIFIED SPEAKER FROM AUDIENCE: No.

SENATOR AMBROSIO: No.

MS. ZALKIND: I think you would run into problems with anonymous reporting there. If you required someone to file a complaint if they wanted to make an abuse allegation, would they then lose the ability to report anonymously? By "a deterrent to false and malicious reporting," I did not mean to suggest that we would support doing away with anonymous reporting.

SENATOR AMBROSIO: Well, even if we had a statute, if it's anonymous, you're never going to track them down anyway.

MS. ZALKIND: Right, you're not going to reach those people. That's true. You're not going to reach someone who anonymously makes a false and malicious report.

SENATOR AMBROSIO: Okay. Thank you, Ceil.

SENATOR COSTA: I'd like to know if you have a recommendation as to what that recommendation should be?

MS. ZALKIND: In--

SENATOR COSTA: As false and malicious reporting--

MS. ZALKIND: Well, we've explored some statutes in other states which I'd be glad to share with this Committee, that set up a penalty. I think in some states it's a misdemeanor for an individual who falsely and maliciously reports. In other states it's been directed, it's come about primarily as of the increase in reporting of divorce cases. I'd be very glad to share that information with the Committee.

SENATOR COSTA: You spoke of a Citizens Action Line, and who knows about it?

MS. ZALKIND: Well, that's a very good question. I think probably it's listed in the Division's parent handbook, I think probably in information the Division gives to parents and other organizations that they talk about the Citizens Action Line. That would be my guess. They could answer that better than me. We refer a lot of people to the Citizens Action Line.

SENATOR COSTA: All right, then you do give them a number.

MS. ZALKIND: Yes, we get a lot of case advocacy referrals. We're very mindful of the fact that we're only getting one side of the story and we like to give people somewhere to call. We refer them a great deal to this line. We understood that it was a line that staffed by people in Trenton, separate from the district offices, who had the power to investigate complaints and to take action if they felt that district offices had mishandled the case.

SENATOR COSTA: Thank you. You've made many recommendations which we appreciate. I believe Senator Brown wants to ask you a question.

SENATOR BROWN: Thank you Madam Chairman. As usual an excellent report. I'd like to confine my questioning to page 16 and your second recommendation there about investigative versus the helper role of DYFS. As you know, with my Ombudsman Bill this has been a concern to me because generally, I feel that as a State, we're not doing as much as we could institutionally to support our children in a positive fashion.

We have a wonderful network that gives all sorts of support for our senior citizens. When we're talking about our young people, it is all the negative abuse. And whether it's the Division of Youth and Family Services, and I've had discussions with the Division on this-- How do we clarify, and emphasize the supportive role that the Division can give to families?

MS. ZALKIND: Well, I think it's very difficult. It's an area that we've been giving a lot of thought to over the last year, really over the last several years.

There are a couple of ways to approach it, I think. You can look at structurally how the Division is set up. Its investigative and helper roles are all in the same office. Sometimes it's the same worker who comes out and investigates, who follows up with the family. You can talk about structurally separating those functions.

At one time I thought that wasn't an appropriate recommendation. I'm not so sure I believe that any more, because I do think there is a validity in conducting the investigation with the thought to helping and supporting and keeping the family together.

I think that taking out some of the non familial investigatory function or putting them in a separate independent unit that functions well, would be an appropriate way. I think on the other hand -- and maybe this is more of an answer to what you're saying -- I think more attention has to be given to family support.

That's what I meant when I attempted to talk about some of the neglectful families we saw in our case study. What kinds of services are being provided to them? The Division does provide a lot of funding to community based agencies.

What are they getting for that funding? Which families is all that money helping? Is it helping the families whose children will wind up in placement without the Division's intervention? I'm not so sure that is true as a first step; to determine what the nature of the support services are that are being offered. Are they addressing the clients who need it the most? What else needs to be developed? I think before we can look at what other services are needed, you have to determine what's there.

SENATOR BROWN: My last question again gets into this whole area of domestic violence and how that interacts with child abuse, and whether we have a whole other system over here that has evolved in recent years after the Division of Youth and Family Services approach to dealing with parts of violence for young people has been in existence. Do you see any confusion there?

MS. ZALKIND: Well, I think that's a very timely and interesting question. I think that a lot of attention over the last few years has been given to develop recognition of the importance of intervention in domestic violence: To give a woman recourse and access to becoming more independent. And I think much of the focus has been on the parent and not on the children.

I've had some conversations over the last few weeks because of the hearings the Commission on Sex Discrimination has had in this area, about the interrelationship of child abuse to domestic violence. Other states-- There has been recent writing in some of the journals on this issue. I think it's an issue that people are beginning to look at now, and beginning to make that connection and determine if those services -- if you're offering similar services in two independent systems that would be better off being combined, or at least give some attention to the similarities that may be there.

I don't know enough about it to really comment specifically on your question. But I do think it's an area that people are giving much more attention to.

SENATOR BROWN: Thank you very much.

MS. ZALKIND: Thank you.

SENATOR COSTA: Thank you. Mr. Dave Neal. Is he here? (negative response) All right, Mr. Nicholas Andrian followed by Mr. Charles Poekel, Esq. Mr. Nicholas Andrian is the President for the Coalition for the Unjustly Accused and a former subject of a DYFS investigation.

N I C H O L A S A N D R I A N: Thank you, Senator. If you'll permit me to digress, I have a very brief statement to make. During the course of the hearing, I did scribble a couple of marginal notes I'd like to just add which I think might clarify some of the points that have been raised by earlier speakers. Number one is that our statistics show that about 80% of DYFS's cases don't go to court at all, but are handled, rather, in-house.

Regarding the Child Placement Review Board which I believe Ms. Zalkind suggested be revamped, we were in the position to give the CPRB in one count a tape recording and other evidence of sexual advances by a male DYFS caseworker toward a ten-year-old girl in his charge. Their response was to move the girl to another foster home where no further recordings could be made. And as far as we know, this caseworker is still assigned to this child.

Regarding the Law Guardians: The Law Guardians should be selected from an attorney pool, for the Public Advocate's office is too close to DYFS. When a Law Guardian sides with DYFS which is almost always the case in our experience, how can a needy person then turn to the Public Advocate office for any kind of assistance? It's a conflict of interest.

We might also point out that one of the 800 numbers given by the Public Advocate's office for DYFS complaints is a DYFS phone number.

I would like also to begin, with all due respect, with two protests. For once, I think it might be appropriate to place some of these desperate people, DYFS critics, first on the agenda, and have Bill Waldman testify a little later in the afternoon. (applause)

SENATOR COSTA: I'd appreciate your demonstration, but Mr. Waldman is here for the whole time. He will come back again.

MR. ANDRIAN: I do not welcome any applause. I'm not here to posture for anybody.

The other objection I have, and that is the characterization of myself and some of the other parties here as former subjects of DYFS investigation. That in my opinion, is on a par with having been investigated by the House Committee on Un-American Activities Committee back in the '50s, for having written something that didn't fall into the guidelines of what they thought communism was or wasn't.

I would like to just say here for the record that I would welcome--

MR. CURRIER (Committee aide): Excuse me, I apologize for that. I personally did not compose-- I physically put this list together not intending it to make any ill reflection, nor intending to--

MR. ANDRIAN: This is no reflection on you, Mr. Currier--

MR. CURRIER: --and actually I didn't intend to have this distributed to the public, quite frankly.

MR. ANDRIAN: --but, I've been through this before. It appears that the government officials get first crack, and I think we should get away from this and kind of distribute it. I mean, that's a personal opinion.

MR. CURRIER: I apologize, Mr. Andrian.

MR. ANDRIAN: The protest I have is that I've been characterized as a former subject of a DYFS investigation. Let me just tell the Committee and the record that at the current time there is exculpatory evidence sitting in the Prosecutor's file in Essex County in my case, where it's been for three-and-a-half, four years with the complicity of DYFS and the Essex County Prosecutor's office, and I'm having one hell of a time trying to get this through the legal process to supplement a 1983 action. I have a Federal action against the State.

SENATOR AMBROSIO: Mr. Andrian, I have to interrupt you on two counts. Number one, this is a Senate Committee that's meeting for purposes that the Senate has set. Nobody sets the Senate's agenda. The Chairman of this Committee decided to hold these hearings based upon what we need in terms of information. We're not here to review your case or the cases--

MR. ANDRIAN: Oh, I wasn't going to bring my case up at all.

SENATOR AMBROSIO: --and I don't want to hear about the legal status of your case.

MR. ANDRIAN: Okay.

SENATOR AMBROSIO: I want to hear-- I'll tell you what I want to hear about. I want to hear what input you can give this Committee in terms of the activities and the procedures of DYFS that you would like to see changed in the law. That's what I'm interested in hearing.

MR. ANDRIAN: I'm well-aware sir, and I had absolutely no intention of bringing this up. What disturbs me is this characterization of former subjects--

SENATOR COSTA: There's no characterization there. Is that not true? Is it a falsehood?

MR. ANDRIAN: The fact is though, by placing that there Madam Chairwoman--

SENATOR COSTA: All it's saying is whether you have a right to say your part in this. That's the reason you are--

MR. ANDRIAN: Well, when you're involved in something like this, you get very sensitive as to what your status is.

SENATOR COSTA: I assume you do, but really, you're here for a reason. You wouldn't be here if you didn't -- unless you were part of the administration, or part of DYFS, or here as a person who has been unjustly accused at some time or another.

MR. ANDRIAN: Thank you for that characterization, Senator. I appreciate that characterization.

SENATOR COSTA: Okay. Now we'd like to hear your testimony. Because what we're here for, as Senator Ambrosio aptly put and I stated at the beginning of the meeting, is we need information, and that's why we're trying to get a full picture from every source that we can--

MR. ANDRIAN: Well, my apology Senator. But you understand, when you've been through the ringer--

SENATOR COSTA: --in order to make legislation that's proper to help--

MR. ANDRIAN: When you've been through the ringer and your wife and child have been forced to leave the State and so forth, you get very sensitive to how you're characterized--

SENATOR COSTA: I can understand that.

MR. ANDRIAN: But I do appreciate your characterization of "unjustly accused," and I'd like to proceed from that point.

My purpose in coming here today is to tell you that the manner in which DYFS is allowed to operate today is courting disaster for the children of this State, abused and non abused, and for every parent.

What do we have in DYFS today? We have a State agency accountable ostensibly to no one, and possessing police powers which even the police don't have. Despite the idealistic desire of many young caseworkers -- and we have caseworkers within DYFS who have supplied us with information because of their own disgruntled feelings towards what's going on -- despite the idealistic desire of young caseworkers to truly help abused children, the structure of DYFS is such that their hands are often tied because the system pushes them in a certain direction.

Our concern at CUA goes beyond the overzealousness of caseworkers, harmful as that may be. But that's

understandable, and excusably. It goes beyond the catch phrase of "erring on the side of the child," which if you look at it is a nonsequitire, if ever there was one. Or if you make an error in removing a child from non abusive parents, how are you helping that child?

Our concern at CUA is for the routine constitutional, and I must emphasize and I don't mean to sound dramatic, human rights violations which we have seen constantly in the four plus years of our existence. The doctoring of official files, the manufacturing of evidence against an innocent parent, the suppression of exculpatory evidence in the parents' favor, the committing of perjury which is an indictable offense, with the complicity of fearful or indifferent judges in the closed door of family court, are not examples of caseworker overzealousness or mistaken judgment calls, which are understandable because we are all human and make mistakes.

Rather they constitute a declaration of war, as we see it, on the families of this State; a war which the State bureaucrats will lose if the public ever gets to see the true picture of just how much of the sanctity of the family structure the State has usurped, via its creation of an "epidemic" of child abuse which it would be hard-pressed to prove statistically.

That there is child abuse and neglect is not even a matter for discussion. As a teacher and a former R.N. student, I've seen it personally, and I've reported it. I've reported child abuse on several occasions as a teacher in the past. Of course there's child abuse; probably even more than in the past due to the breakdown in the family structure which those of us over 40 -- and I just celebrated my 45th this week -- have witnessed in our lifetimes the changes in our society.

Nevertheless there are ways to deal with legitimate -- if you want to use the term -- child abuse which can protect children, strengthen the family structure, and thus strengthen

society at large, without the heavy-handed, cannonball-to-kill-a-fly effect of a system out of control. What else could you call the snatching of a day-old infant from its mother's very breast in the absence of any abuse or neglect of that, or any previous children, in the mother's care?

And in what other society is the breaking of that sacred bond between mother and baby allowed? We've got the cases. I won't get into them here, because I received your instructions that you do not want to get into specific cases, and I can understand and appreciate that. However, I will make our entire file available to anybody on this panel, and to anybody else in State government.

In what other society is this allowed, this breaking of the sacred bond -- ancient Sparta maybe -- where they used to take kids at eight and put them in the army, or Nazi Germany? And as DYFS is the State's biggest adoption agency, who monitors where these babies go, these infants? Why is the direction of these babies from poor, inarticulate people, to well-heeled childless couples out in the suburbs?

Our founding fathers wisely set up a system of government to include a checks and balances system to keep things under control. They knew from bitter experience that you cannot trust the government to protect the rights of the citizens no matter how lofty the goal, no matter how noble the purpose. And there's nothing more noble than protecting the future of our society, and that's its children.

But, it is our contention that DYFS must be brought under control. In calling for a sweeping revamping of the structure of DYFS, we don't say that DYFS should be just thrown to the wind. We need a DYFS organization, there's just no question about it.

Nevertheless, the Coalition for the Unjustly Accused joins with Communications Workers of America, DYFS caseworkers' own union, which called for an investigation of

the agency in December of 1986. And I quote very briefly from an article that appeared on Wednesday, December 10, 1986, in The Star-Ledger -- written by the late, very lamented Linda Lamendola, I might add -- "'Top officials at DYFS have implemented policies that have created bad conditions,' said union spokesman representing DYFS caseworkers, 'We urge the legislative leaders to act swiftly, as we see DYFS as an agency out of control, that has to be brought under control before more people are hurt by it.'"

This is not the Coalition for the Unjustly Accused, which I'm glad to say appears to be coming more into the mainstream of thought on this particular topic than maybe we were four or five years ago when we got started. To that end, the CUA will continue to seek the appointment of a special prosecutor, with full subpoena powers just to get to the bottom of what's been going on in this State for too long.

We need a prosecutor with subpoena powers that can get into files and can question people in an open hearing where some of these things can be brought up so that we can find ways in which to improve the system. Perhaps then there will be an end to the abuses to the family by this agency.

Then there will be no more instances of the sexual abuse while in State custody of children such as that of a brother and sister taken from the parents because of homelessness. Blatant abuse involving the repeated sexual assault of this eight-year-old girl, as well as the breaking of her arm by her abuser -- evidence of which the Coalition turned over to the Attorney General's office at his request. The entire incidence having been swept under the rug by DYFS, and the chief law enforcement officer of this State.

Or maybe we can get Governor Kean who turns out unfortunately to be the chief cheerleader for DYFS, after he promised us publicly in front of 600 fellow citizens at a town

meeting that he would personally lead an investigation if we could send him the information. We brought it down in a couple of box loads and nothing ever happened.

We will cooperate in every way possible with any organization, any official body of this State. Until then, the CUA will spare no effort to alert the public to the danger posed by an agency whose existence constitutes a good idea gone bad, and to the God given rights under our Constitution.

For the relationship between the people and its government is a social contract. When the government violates its part of the bargain, then there are our Declaration of Independence, our Constitution as well as legal decisions by the United States Supreme Court.

Here's a case, Sankowski v. Kramer, a 1982 Supreme Court decision handed down by the U.S. Supreme Court, and I quote in part: "States may not terminate parental rights based on the standard of the preponderance of evidence, but by clear and convincing evidence."

Children are routinely taken away from parents on what is termed a "preponderance of evidence" in this State. There are avenues now to allow for a redress of grievances and to salvage the entire situation. This is what we're looking for. We're not here to bash DYFS. I admit I have an ax to grind, there's no question about it. But, my ax is going to be settled in Federal court which is where I have a \$40 million lawsuit.

My purpose in being here again, Senator, is not to bring out my own personal case, I just objected to the way I was characterized here; I'm sensitive. But the fact is, we're here to offer suggestions. I'll meet with Bill Waldman anytime he wants to swallow his pride and sit down with me face-to-face. We will make suggestions.

We've already seen the specter of a supposed underground organization calling itself FIST -- Family Independent, or something, Strike Team -- that's supposedly been grabbing kids away from DYFS custody and returning them to parents who supposedly can prove that they haven't abused or hurt the kids in any way.

We should correct this before it gets out of hand, because snatching children from parents under color of law and with the perimeter of family courts system, or whatever else, based on faulty, tainted evidence, which the person has no way of refuting, is not the way to protect the children and the families of this State.

Let me just finish very quickly by reading a very short excerpt from a letter which the Coalition for the Unjustly Accused recently addressed to the Director General of the Center of Human Rights of the United Nations in Geneva, Switzerland: "The purpose of this communication is to alert you and your office to extremely serious human rights violations" -- I'm sorry if that sounds dramatic, I can't think of another way to characterize this -- "currently being committed by official agencies of various state governments here in the United States, most particularly in the State of New Jersey." And we're very quick to cast aspersions on other societies such as South Africa, Soviet Union, regarding human rights violations. But they're taking place here.

Let me just mention three articles of the U.N. Declaration of Human Rights, 1942, which the United States is a signatory, which we invoke against South Africa and other countries all the time: Article 10, "Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal in the determination of his rights and obligations of any criminal charge against him." Child abuse is on the statutes as a criminal charge.

To this day in my own case I would welcome an indictment. The statute of limitations hasn't run out. Anytime the Essex County Prosecutor wants to file charges, I'll be glad to appear in court.

Article 12, "No one shall be subjected to arbitrary interference with his privacy, family, home, or correspondence, nor to attacks upon his honor and reputation." How does the existence of a hit list of people who have been falsely accused whose names are never expunged-- Doesn't this violate this article of the Universal Declaration of Human Rights? Everyone has the right to the protection of the law against such interference and attacks. And finally Article 16.3, "The family is the natural and fundamental group unit of society as entitled to protection by society in the state."

Senators, I submit to you that it not enough to pay lip service to the concept of trying to keep families together when in fact the impetus -- and it's not Bill Waldman's fault; it's not any one person's fault -- the system has developed and has taken on a color of its own, which is out of control.

I thank you for the opportunity, and I again apologize for the earlier protest, but again you can understand my sensitivity. When you're fighting for your reputation, two careers, your wife, your child, you get pretty damn angry. Thank you again.

SENATOR COSTA: We appreciate your being here, and we also can understand your sensitivity. And you can understand that we're trying to help people in the State as well as the children of the State.

MR. ANDRIAN: We will cooperate in any way possible Senator. Thank you.

SENATOR COSTA: This is Mr. Charles Poekel, Esq., attorney for defendants in DYFS civil actions and criminal actions. And the next on will be -- excuse me, I just want to

get them set up here -- next will be Ms. Cathleen Dillon-McHugh, witness on DYFS investigations and Ms. Nancy Haveman. Okay, thank you.

C H A R L E S A. P O E K E L, J R., E S Q.: Thanks. Senator Costa, members of the Committee, my name is Charles Poekel. I maintain a general practice of law, in Verona, New Jersey. A substantial amount of my practice deals with family law both in the civil and criminal areas. I have been deeply involved with Mr. Andrian, the previous witness, and with also members of his coalition, the Coalition of Unjustly Accused, in both civil and criminal matters.

When I was in law school -- and it wasn't too long ago, in the 1970s -- I think we had one course on family law. And in that course you learned the elements of proving an adultery case and what happens when a wedding is called off -- who gets the engagement ring?

But I think we've come a long way since those times. The bar has taken action, especially in New Jersey, with continuing education programs and other courses, and the law schools have adapted too.

But needless to say, based on my background, little prepared me in law school for what was to come in representing individuals confronted with accusations brought for the most part by caseworkers with the Division of Youth and Family Services; in defending a man charged with abusing his two-and-a-half year old girl, defending a father in a criminal trial for aggravated sexual assault of his own children, his son and his daughter-- And he doesn't blame his wife. His wife filed the charges and she said that DYFS urged her to file criminal charges. He went through hell and the agony of a criminal case, and he was acquitted. The jury was out for 12 minutes. But, this whole matter for him was instigated by a DYFS recommended complaint being filed against him. Talking to

a lady whom I will introduce in a little while without giving her name who had a premature baby taken from her within 30 days of the date of its delivery and before it was even named--

I have been present as an attorney when DYFS caseworkers have interviewed children and they've asked the children if they couldn't be with their parents, who would they like to be with?

And most, I'd like to point out too that it's been my experience -- and I don't know what the statistics are? -- but there's a tremendously high percentage of unmarried DYFS caseworkers. I feel that if these people are being placed in positions to judge other people's children and other people's families, I think there should be a greater effort to see that they're perhaps more on a peer level, and that they too have been parents and have experienced parenting in their own family lives.

I have been in court, and judges have rubber stamped orders because Deputy Attorney Generals who are very sophisticated and experienced in handling the DYFS cases, have a special rapport with the judges, and they have their orders rubber stamped, and they present affidavits ad infinitum to the judge. And defense attorneys come in, they don't have that rapport with the courts, with the judges. They're contacted on an individual basis, and a lot of them don't have the expertise, so they're at a tremendous disadvantage.

I strongly believe that the greatest social problem affecting our society today is the breakup of the family unit, and inasmuch as the Division of Youth and Family Services in New Jersey has contributed to such a disintegration of the family unit, it has become one of our greatest problems. DYFS has failed to abide by the simple principle that the best family is the natural family.

I have seen caseworkers decide that a young child born in the intercity of Newark, living in a messy apartment is

better off in a \$700,000 home in Montclair with yuppie parents who have a fertility problem.

I have seen these cases firsthand. And I've seen Mr. Andrian's case. And without getting into the legal specifics -- and I think it's one area the Committee could explore -- is that there's a concurrent jurisdiction between the family court on one side, and the criminal court on the other.

Mr. Andrian faced charges in the family court. He could have, and you heard him today, ask to be indicted and to become part of the criminal court system, but for whatever reason, his case was brought in the family court. In the family court the burden of proof is a lot less stringent than in the criminal court system; it's just a preponderance of the evidence.

He had no right to a jury trial, it was just one judge. The press and public could not attend his hearing. If he had been afforded a criminal trial the standard of the burden of proof would have been much, much stronger -- guilt beyond a reasonable doubt. He would have been afforded a jury trial. He would have been allowed to have press and the public attend. He would have had other safeguards as far as his rights--

I feel strongly that if there is a charge -- and against Mr. Andrian the charge was sexual abuse of a young girl, which was handled in the family court-- This charge in the criminal court would be the equivalent of a first degree aggravated sexual assault charge. It's the highest degree, the most severe degree of any of the criminal charges. It's the equivalent of premeditated murder.

So, you have a charge, a tremendously serious charge, being litigated into family court by a judge with no jury, and by a much less standard, and I don't think that's right. I think that perhaps the Legislature could do something so that when a serious charge such as that arises, perhaps the family

court proceedings could freeze, and it would be immediately turned over to the criminal court that could have exclusive jurisdiction over a serious charge like that. Because the outcome-- Mr. Andrian has been devastated, the decision has ruined his life, and he's just become an advocate now to fight for other people who have been unjustly accused.

The overlapping between, I think it's Title 9 section 6 of the child abuse statutes, with the criminal statutes should perhaps be corrected, so no one like Mr. Andrian goes through that situation again.

Three days ago the lady to my right came into my office. And without giving her name or the name of her child, she's forty years old, she was born in 1948 in Limerick, Ireland. She's a permanent resident of the United States.

On July 21 of this year, she gave birth prematurely to a young girl in a hospital in Paterson, New Jersey. On August 16 according to what little she knows about what happened, a DYFS caseworker went to the house of her estranged husband in Wayne, New Jersey, and left a notice apparently under the door or under the mat, but he did not receive it and she never received it.

The next day, an order was signed giving custody of this four-and-a-half week old child, without a name, four-and-a-half-pounds, to the Division of Youth and Family Services.

She has been heartbroken, to say the least. She's tried to contact as many officials in the State of New Jersey and the State of New York where she currently resides. She called the Public Advocate's office. There's a brochure that she received saying, "Hotline - Need Help?" and in it says: "Division of Youth and Family Services, complaints about actions of the Division of Youth and Family Services--" There's an 800 number, and she called that up and lo and behold who answers the phone but someone from the Division of Youth and Family Services?

But here I think is a living example of just a tragedy of the system, of who knows what, of just unbelievable pain inflicted on a human being, on a natural mother

SENATOR AMBROSIO: Mr. Poekel, can I just interrupt you, because I'm trying to understand what it is that the system did to cause this to occur, and what we in the Senate can do to change it? I don't understand-- There could be a number of logical explanations for the set of facts that you've given us, and I don't know what you're saying went wrong? Was it the system that went wrong or was it a caseworker that did something wrong?

MR. POEKEL: I think it was both. It's questionable whether the notice was even delivered to the door.

SENATOR AMBROSIO: Let's assume that the notice wasn't delivered.

MR. POEKEL: It was not delivered?

SENATOR AMBROSIO: Yeah. Let's assume that.

MR. POEKEL: Then I think it's just grossly unfair, and it's just unbelievable that action would be taken by a court without--

SENATOR AMBROSIO: Were you able to determine whether or not -- what the grounds were for taking the baby away from this woman?

MR. POEKEL: The only thing I can determine -- and I've telephoned the Deputy Attorney General who handled the case -- is that there was a problem with another child that this lady had, several years ago. And other than that, I don't know of any reason why they took--

SENATOR AMBROSIO: So you haven't seen any paperwork?

MR. POEKEL: No, I have not seen the complaint at all, if there is a complaint. And from what she tells me, there's no reason at all for this premature baby to have been taken.

SENATOR AMBROSIO: I fail to see what this Committee can make of what you're saying other than, somewhere along the

line there was a foul-up in DYFS? And what we can do about that is-- You're an attorney, you know what you should do about that. What are you suggesting that this Committee should do about it?

MR. POEKEL: Well, Senator, it seems to me that there should be more safeguards in regard to personal service on individuals, and a requirement that the natural parents be present at a hearing. Now she's forced in a situation that she can have visitation -- controlled visitation -- twice a month. That's part of the problem too; that they put the natural mother in an unreal, controlled situation.

SENATOR AMBROSIO: You mean you've located the baby?

MR. POEKEL: Yeah, the baby has been placed with a foster mother, and this lady is allowed to have visitation twice a month.

SENATOR AMBROSIO: And have you pressed for a hearing on the--

MR. POEKEL: We're about to do that, to try to vacate what was done.

SENATOR AMBROSIO: And I assume that you're going to allege that what was done was contrary to law.

MR. POEKEL: Without proper notice to the natural mother, yes.

SENATOR AMBROSIO: And if you prevail, then the law was upheld?

MR. POEKEL: I would say, yes. But I don't think that anyone should be in a position such as this. You can say it was a snafu or her rights were trampled on, but this is a tremendous, I would deem, a tremendous outrage for any human being to go through.

SENATOR AMBROSIO: I would too, but my concern is, what is there that went wrong, because, what you've told us gives us no insight as to what went wrong. Therefore, we don't know how to address that if we don't know what went wrong.

MR. POEKEL: From what I can understand, there was another child where DYFS was involved. And for whatever reason, this lady feels that DYFS has followed her, and followed her activities, and was cognizant of the birth of this new child and they couldn't wait to pounce on it, until it gained four-and-a-half pounds, and take it away and give it to a foster mother. And that's what DYFS has done. They've followed this woman and they pursued her, and I think that's wrong. I don't think that any agency in the State should follow people -- and mothers like this and do that.

SENATOR AMBROSIO: So what you're saying is--

MR. POEKEL: And it's not just a legal technicality, it's an outrageous act by part of the State government.

SENATOR AMBROSIO: So what you're saying is that DYFS has branded her as an unfit mother?

MR. POEKEL: Yes, previously.

SENATOR AMBROSIO: Based upon some previous history, having no relationship whatsoever to this newborn child.

MR. POEKEL: That's correct. She had a son as I understand it who stole some money. She got in an argument, there were some fisticuffs, the son took a golf club and hit her over the head. She ended up in the hospital. DYFS investigated, and the outcome of the investigation was the son was placed in a foster home.

SENATOR AMBROSIO: Okay, my understanding of the law -- and I'm an attorney -- my understanding of the law is that if that's so, DYFS violated the law, and you have every right to address it in the courts. There's no need to change the law because the law doesn't permit DYFS to do that. And you would agree with me wouldn't you? (negative response from audience). Then if DYFS is not following the law, then that's a breakdown in the system. What I'm trying to determine is whether you're saying, the law must be changed or that the people who are administering the law aren't doing it properly?

MR. POEKEL: I think probably both.

SENATOR AMBROSIO: Then what's the law that has to be changed?

MR. POEKEL: If you're going to take somebody's baby away, you ought to tell them about it, number one, whether you have to pass more laws or enforce the laws that are on the books. Number two, I don't think that DYFS should follow people to the extent of seeing when their babies are being born.

SENATOR AMBROSIO: Okay.

MR. POEKEL: And I certainly think that there's a lot of changes that can be made.

SENATOR AMBROSIO: I'd like to hear specific recommendations, if you have any.

MR. POEKEL: Oh sure. One thing I think is very unfair is to have visitation in controlled, strange settings for natural parents. Oftentimes DYFS builds up their case against the natural parent based on their reactions during visitation times in an unnatural, unreal setting. I've seen that time and time again.

Now if the parents don't visit the child, then DYFS says they're disinterested: "Why didn't they show up for their visitation? Appointments were cancelled." And then there's -- well, unfit parent. They should go to the foster parent. So as the system progresses and this unnatural, I think, visitation is pursued, the cases build up stronger against the natural parents. I think that's very unfair.

I don't think anyone should necessarily have to visit their children in the DYFS office, or in some office building on Broad Street in Newark. So I would advocate, I think, when at all possible, home visitations and natural settings, with the children, parks, and areas there.

Number two, I think that as I said before, there should be some sort of legislative mechanism to say which case

should go into the family court and which should be in the criminal court. But does the system say, "Well we have a weak case for child abuse, so we'll get an order in the family court, but we have a stronger case so we'll go into criminal court."

SENATOR AMBROSIO: Those two aren't mutually exclusive. One has nothing to do with the other.

MR. POEKEL: Well, the fact is--

SENATOR AMBROSIO: The family court deals with parental rights, visitation, custody, and things of that nature, and the criminal courts deal with violation of the criminal law. And you can do one, both, or neither.

MR. POEKEL: Well, the family court sets sex abuse as deemed a misdemeanor, and judges can have fact-finding hearings to see if there has been sexual abuse.

SENATOR AMBROSIO: If you want to pursue the criminal case.

MR. POEKEL: No it can be pursued in the family court.

SENATOR AMBROSIO: Not for criminal conviction.

MR. POEKEL: No, for misdemeanor conviction.

SENATOR AMBROSIO: No, that's a criminal conviction. You can't pursue a criminal case in the family court.

MR. POEKEL: I believe that in Title 9, section 6, Fact-Finding Hearing, the judge in the family court can determine if there's been sexual abuse. And if he does, it is considered a misdemeanor.

SENATOR AMBROSIO: No. That's not the case, but we don't have to discuss that now.

MR. POEKEL: No. I'm pretty sure it's under section 6. Mr. Andrian went through that process. But there is an overlapping of those two.

Three, I think that one of the-- From a criminal defense point of view, it should be absolutely required that

for someone's defense in a child sex abuse case, that they be entitled to all the DYFS records.

I also believe that there should be some requirement with the caseworkers that they have some family practical training. I know it's difficult to mandate that, but I think that there are too many unmarried individuals that are in positions trying to make decisions for other families.

And I feel that there should be some ombudsman, too, that should have control for complaints such as this lady's about the Division of Youth and Family Services; not call up an 800 number that is the Division of Youth and Family Services. Because people look upon this brochure as -- for help in trying to make a complaint against DYFS, and instead they get DYFS itself. So I think it's important to have a mechanism set up where people can bring their complaints. I think one of the previous witnesses testified that a lot of the people having the problem are immigrants -- are people without financial resources. How do they get the information, which is a real problem?

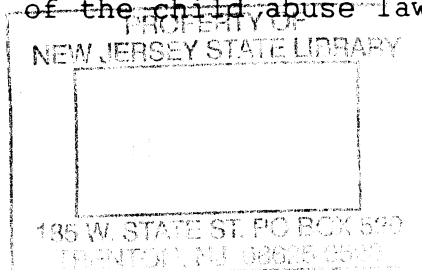
SENATOR COSTA: Do you have any other suggestions?

MR. POEKEL: I think that was probably all of them that I have at this juncture. But I just wanted to relay to you some of the situations from my particular perspective. I hope that it can be meaningful or enlightening to some extent for your Committee.

SENATOR COSTA: We appreciate it. Thank you.

MR. POEKEL: Thank you.

SENATOR COSTA: We called Ms. Cathleen Dillon-McHugh and Ms. Nancy Haveman, and after that, Mia Andersen. You are--
C A T H L E E N D I L L O N - M c H U G H: My name is Cathleen Dillon-McHugh and good afternoon members of the Committee. I am here today to speak as a private citizen and as one who has witnessed my father and my family become victims of the child abuse laws as they now stand.



I may have to get a little specific about our cases to make points of suggestion later on, because i want the members of the Committee to be aware of exactly how DYFS handled a specific case. I really think that it's important for you to know how things got handled in an incident is not just one incident, the way they handled things.

SENATOR COSTA: Was Ms. Haveman supposed to be with you? Is she here?

MS. DILLON-McHUGH: Yes.

N A N C Y J. H A V E M A N: (in audience) I didn't know if you wanted me?

SENATOR COSTA: Yes. Why don't you join her, and Mia you can sit there so you're ready? Okay.

MS. DILLON-McHUGH: On December 17, 1987, one week before Christmas, my sister who is neurologically impaired became convinced by her friends that my father's parental affectionate touches were sexual in nature. She reported this to a teacher and the incident just snowballed.

She was questioned by a teacher, a nurse, a guidance, counselor, and the principal. By the time she had finished being questioned she was distraught, that she really believed this had happened, and so did everyone else involved. At that time she was then taken to a police station, and a caseworker was called in.

In the meantime my parents were trying to find out why she was late from school? They called the school. The school did not give out any information. They called the school bus transportation. They didn't give out any information. Finally they received a letter from the police saying they had to come to the station, that my sister was involved in a serious matter.

When they got to headquarters, they were not allowed to see my sister, and my father was arrested on charges of sexual assault. He waived his rights because he knew he had

nothing to hide. When the lawyer was called and tried to stop the questioning, the detective persisted in the questioning since my father had already waived his rights.

There were no bruises on my sister, and no penetration was found during a physical examination at a nearby hospital, an examination my parents were later billed for.

All of this was done without one qualified person handling the situation. My sister was questioned as a normal seventeen-year-old, even though the records show that she functions emotionally and mentally at an age twelve or thirteen level. There are words in the report definitely put into her mouth and head because they do not exist in her vocabulary.

The additional horror of this is that no prior records on my parents were pulled to see if maybe an error had been made. You see, DYFS has known this family for years. They have been foster parents for 23 years and have raised about 16 children for various lengths of time. This child who was confused but not molested, had been a foster child from age four to age ten, at which point DYFS themselves helped my parents adopt her because they knew this was a loving and caring home.

However, no one at the agency wanted to hear this or bothered checking records. They were determined to railroad an innocent man.

Without going into detail, my younger sister was placed with an older sister so she could at least spend Christmas with the family, as long as she and my father were not alone at any time.

However, a foster child who was with my parents at the same time was questioned, and it was determined that she was in no danger and she was allowed to stay with them. The following Tuesday, five days later, when the caseworker learned that we had asked my sister some questions to determine why this nightmare had begun, she was abruptly removed and not returned for the holidays, without any notification to my older sister.

In other words the caseworker took her out of the house to take her to a doctor's appointment, never returned her, never said that she wasn't coming home for Christmas, just placed her with a foster family. And at that time the police came to my house to take the other foster child that I was watching at the time, because they decided they had made a mistake, and she wasn't supposed to be with my parents until the case was resolved.

We had to hire two attorneys, one civil and one criminal, to help resolve the matter. My parents hired private attorneys and spent thousands of dollars they do not have, to get home the daughter that they loved. We had to fight for visitation rights which were not granted for three weeks.

My parents were ordered to go to a psychiatrist by DYFS which they promptly did. This psychiatrist sent a report indicating that no abuse had occurred. When the report was received by DYFS they decided a mistake had been made. They were supposed to go to a psychologist, not a psychiatrist; another extension of time of a family separated.

Finally, after seven weeks, my parents won the custody battle and my sister was returned home. DYFS who could not face the fact that they were wrong, requested 90 days supervision. The judge commenting on the trauma the family had gone thorough, reduced the supervision to 30 days. A court order, however, still required parents and sister to continue counseling even though no abuse had occurred.

We still had the criminal charges to battle. These were finally dropped in 1988 because all the experts agreed that nothing had happened.

To heap insult upon injury we had to fight to get the bail bond released. This was only resolved due to the fact that my father wrote a letter to the troubleshooter column in the Asbury Park Press. When the letter got to the police department they finally decided to write out the paperwork.

Needless to say, we were so frustrated, so angry, so hurt, and so traumatized we did not know what to do. One solution was to go public and our story will appear in the near future in the Asbury Park Press, and as a matter of fact we are mentioned in an article today. Another solution was to appear here and testify before this Committee.

Media attention has been centered on child abuse, but few reports have studied the other side, the tale of the victims who are unjustly accused. Statistically only one-third of reported cases are substantiated enough to investigate, and less than that are actually proven as having occurred.

Because of our experience, I and my family believe:

1) DYFS needs to more properly train their caseworkers, especially the intake counselors. They should investigate all sides of an incident. Children need to be questioned at the level they are capable of understanding. School, medical, and other records can be checked to determine a child's ability to understand.

2) Children should not be removed unless it is proven that they are in immediate danger.

3) Visitation should begin between child and family within one week of the reported incident, if the child has been removed.

4) More efficient paperwork would help in letting all those involved know what the others involved are doing and also to have current, up to the minute status reports on the case.

5) Criminal charges should be filed only if the incident is proven to have occurred.

6) Monetary compensation should and must be provided to those families who have been unjustly accused. This will help defray the legal costs they have had to undertake to get their children home and may provide some balm to heal the wounds. Innocent victims however, never recover.

In summary, here was a man that DYFS destroyed. He's 65, retired, and never even had a traffic ticket. My older sister and I will never forget seeing him behind bars for no reason. My parents are heartbroken, and my dad lives in fear that someone could falsely accuse him again. Their house was always alive with the sound of children. Always you would visit and my dad would be reading a story or playing a game with one child and my mom would be feeding or dressing another one. Now their house echoes with silence for they are too afraid to take care of children. DYFS not only lost a great set of foster parents which they have a shortage of, but through their incompetence have torn a family apart. It is only our strong love that has enabled us to survive this traumatic and unnecessary ordeal.

The rules for handling child abuse cases have got to be changed. As they stand now a loving hug can be misconstrued as being sexual. The message is, "Love your children, but from a distance." What kind of society are we creating when nurturing, loving touches means losing a child, facing criminal charges, and having to spend life savings on attorneys to prove your innocence? My family and I plead with all the members of the Committee to work to change the laws to prevent the tragedy that happened to us from happening to another innocent family.

I wanted to add one thing that just recently came to light, just to give you an example of some DYFS cases, on the other end of things where children have been abused and placed with my parents to take care of. They have been taken from my parents and replaced to the natural parents which seems to be the policy; to replace the children with the natural parents no matter what the cost to the child.

Two children that they did have for a length of time were returned home to a house that has been condemned as a firetrap with no heating, no plumbing. But, they felt the child had to be with the natural mother.

Another child who was a foster child, DYFS determined should be with the mother no matter what. And that mother takes the child to a bar at night where a motorcycle gang frequents. I think DYFS really needs to get their act together.

SENATOR COSTA: I thank you so much for coming here. May we have a copy of your testimony? Do we have one?

MR. CURRIER: Yes.

SENATOR COSTA: I appreciate it very much. I'm sorry about this nightmare you've been through.

MS. HAVEMAN: Rather than read my statement, my name is--

SENATOR AMBROSIO: Can I just ask -- have you ever gotten a formal reply from DYFS, or a formal explanation of any of this?

MS. DILLON-McHUGH: No, nothing. As a matter of fact we've had to fight with the school to have a letter put into her file saying that this did not happen. Because as it stands right now, all the DYFS reports are in, and all the reports of the teachers are in there that this child was abused. When we tried to get a letter in the file saying that this wasn't the case, they didn't want to hear it. And we've never gotten an apology and I would love to name the caseworker that handled this because I really blame--

SENATOR AMBROSIO: How old was the caseworker?

MS. HAVEMAN: How old?

SENATOR AMBROSIO: Yes.

MS. DILLON-McHUGH: About 40-45. But, if she had just pulled the records, I'm sure even you listening to that, there have been 16 children in this house, and all of the sudden there's a problem from one child that doesn't understand. You would want to question the child a little more thoroughly.

SENATOR COSTA: She was certainly knowledgeable of her being neurologically impaired?

MS. DILLON-McHUGH: Yes, she does know. She is in special classes, and she is currently going to Planned Parenthood for a class for sexual education for slow and learning disabled.

SENATOR COSTA: I'm glad you're here to testify. I'm sure Mr. Waldman is taking this all in and will look into it further. You wish to--

MS. HAVEMAN: My name is Nancy Haveman and I'm also a daughter of this same person that was unjustly accused. Rather than reiterate or read my statement which you do have a copy of, I'll just add a few things. Cathy's pretty much covered it all.

SENATOR COSTA: Are you the natural daughter or are you--

MS. DILLON-McHUGH: Yes.

MS. HAVEMAN: Yes, we are natural daughters. Just to touch on a few things that were said here today-- We also got a note under the door -- my parents did -- to please come to court to sign an involuntary statement to have my sister removed from the home. Nothing is voluntary about removing a child from the home. If you do not turn the child over, they make you go to court, and they get a court order, and the judge says, "Okay, the child is removed." But my parents never signed anything. She was removed.

We also called that hotline number because I wanted to report the fact that my sister never did return, as Cathy stated before. She was taken out of my home a week before the holidays. She was given to me after she was removed from my parents to get through the holidays. She was taken to the doctor's, and she never returned from the doctor with the social worker. And I'm wondering, "Where are they? Did they get into an accident on the highway? What happened?"

I called the police, they came to my home. They called the hotline to see if she was a runaway, what the story

was? Once again, what did we get? A DYFS worker. You know, we were calling for help.

Mr. Ambrosio, Senator, I'm sorry, excuse me, on several occasions today you did say, "Well this is the school's fault," or, "This is someone else's fault," or, "They're breaking the law." You have to go to court to change it. Who has this kind of money? We can't keep going to court. We cannot keep going to court. None of us in this courtroom can.

SENATOR AMBROSIO: I understand that. But the point I'm raising is that, we are a legislative body and we can change the law. If the law is adequate, there's nothing to change.

Now the other thing that we can do, which is something, obviously this Committee is going to consider, is whether there should be some oversight of DYFS's operations from an independent body.

MS. HAVEMAN: Exactly.

SENATOR AMBROSIO: Whether or not DYFS can police itself to see to it that these abuse-- And I know Mr. Waldman is sitting there, and he is probably as appalled as we all are at some of these stories. Clearly, he is not authorizing these things to happen. No one wants to hear these stories, and I believe everything you said. I believe all of that happened exactly as you say.

MS. DILLON-McHUGH: Well, there's more--

MS. HAVEMAN: There's a lot more. It's all documented. There's a lot more, we could go on and on.

SENATOR AMBROSIO: It isn't a question whether or not--

SENATOR COSTA: Are you the mother?

M R S. W I L L I A M D. D I L L O N: Yes, I am.

SENATOR AMBROSIO: --we could do something to correct that by changing the law because the law was violated. The only question is, how do we see to it that DYFS more appropriately adheres to the law? You know there are some

kinds of areas where if you're a baseball player and you hit 33% of the time you're doing pretty good. But if you're DYFS and you're right 33% of the time, that's a travesty. You're supposed to be right 100% of the time. Now to the extent that we're not right 100% of the time, we're all failing.

SENATOR COSTA: Also, how can you reach someone who can do something about it? If Director Waldman knew about it, I'm sure that you would have had instant help.

MS. HAVEMAN: Excuse me--

SENATOR COSTA: I think I heard that today--

MS. HAVEMAN: We did meet with supervisors.

SENATOR COSTA: Let me tell you something. I heard the murmurs out there, but Director Waldman has only been on the job a year. And I'll tell you, we had a public hearing when he first came on, the first week he was on, and we brought a lot of these things to his attention, and there's been a lot of progress this year. We're not to the point we want to be, and that's why we're having these meetings again; so we can bring these out. That's why he's here all day.

You heard that Judge Page, earlier this morning, say that the laws seem to be adequate, but we feel that the implementation is not there, properly of the law. I see that your mother would like to speak. Would you like to--

MRS. DILLON: (speaking from audience) --something. She has cut this down to ten minutes, so I want to say something.

SENATOR COSTA: Won't you sit down please?

MRS. DILLON: When my daughter was brought to the police station they didn't have a place to put her. That wasn't mentioned. They asked her if she knew anybody that she could go and stay with because they didn't have a foster home for her. They took the little girl that I had, and I said, "I can't keep her after this, I'm too much in shock." They said, "Well, what do you want me to do with her?" So they're looking for a foster home for the little girl.

They couldn't find a place for her. My daughter says, "I'll take her, we love her."

MS. HAVEMAN: The woman that we loved -- every one of these kids, you put two of them back in a home that is rat infested, and now they're back in DYFS's care, because they had to be removed.

MRS. DILLON: It was in the papers. It made the headlines the other day. It didn't mention the children's name. I called the Asbury office and was told the supervisor was on the telephone. Twenty minutes later, he's still on the telephone, I'm hanging and hanging. I said forget it.

I hung up the phone, I called the Howell-- I asked which is the main office -- which I should have known, but I said this is about these other children. I called the Howell office, and I said these children were with me: "What's your name?" I wasn't going to give it at first. I says, "I'll give you my name."

I had these children two years ago. They were returned home, and when they were returned home I was told to keep an eye on these children -- after they were returned home to their natural mother and their father. Six children, four at foster care were returned, and two were left home. This home has always been a pigsty. It always will be. The mother went for parenting classes that didn't do a bit of good for her. These children were returned home, they should have-- I will never take another child, as much as I love them. I will never do it again.

But these children should have never been returned home. When I called the Howell office, you know what they told me? "Mr. O'Leary, I don't know if he's here," the supervisor -- Oh, I'm not supposed to mention names, sorry, didn't mean it -- "It's not our job. Did you get in touch with the Asbury office? This is out of our hands." I said, "You're in the supervisor's office. What do you mean it's not your job?"

I tried getting ahold-- I couldn't get him. He still insisted he couldn't do anything about filings. I said, "You better do something about it." I said, "You better check and find out what's going to become of these children." I called the Board of Education in Asbury Park and said, "Why are these children living in these conditions? Why wasn't something done?"

This man was going to get back to me the next day and tell me. In the meantime, I did find out from a news reporter that someone had contacted DYFS, and they were going to investigate. We went past the house the other day and saw all the windows were torn, broken down shades. This house is a complete disaster. These kids should have never been placed back. I'm not saying they shouldn't have gone home with the mother and father, but they shouldn't have gone home to these conditions. With the parents -- can I say where they? -- I'm not supposed to say--

MS. HAVEMAN: No, you better not.

MRS. DILLON: Okay.

MS. HAVEMAN: Very bad conditions.

MRS. DILLON: Very bad conditions.

MS. HAVEMAN: One more thing, and then we'll leave. The night my sister-- The night of the incident that we really came to discuss, the night that my sister was removed from my parents' home, they asked her where she would like to go that night? And they explained to her, because she is neurologically impaired, that she couldn't go home with my parents for awhile, and some things had to be straightened out. She mentioned a friend of hers, and they said, "Okay we'll call her up." And they called her up and this particular social worker knew for a fact that this home that she was going to go into, that the husband of that household was currently and still is serving time for proven sexual abuse. But, they were going to put my sister in that home, which is a very bad

picture for her to go into. So, I mean my suggestion is, have a panel, someone to oversee DYFS as you said; people that are not involved in DYFS -- psychiatrists and psychologists that are not retained by DYFS. They need a boss. They need someone to supervise them.

MRS. DILLON: I was told in the school system, had this one person been there, maybe they would have got a quick school study team together, and this probably would not have happened, because the girl that led her on, something happened to her, but she was never taken out of the house because she didn't see this certain school person.

She was pulled out eight days before Christmas. The caseworker came to my home and said, "Can I have all of your daughter's gifts to bring to the foster home for her?" I said, "No you may not. We will have Christmas for her. I will give you three or four."

She wasn't allowed to see us, her birthday came. Now we didn't know where she was. We weren't even able to make phone calls. I think they finally did give us the phone number. But, because they couldn't get a-- Then they told us all right, we can take her out for three hours on her birthday and take her to a restaurant where we were going to have a little reunion. They didn't have anyone to pick her up after five o'clock at night.

MS. HAVEMAN: So they don't operate 24-hours like they say.

MRS. DILLON: So, they turned around and did tell my daughter where she was, and could she go down and pick her up and bring her back, after we were not supposed to know where she was.

MS. HAVEMAN: Thereby letting us know where she was currently residing, which is against their policy.

SENATOR COSTA: I appreciate very much your coming. Thank you very much.

MS. HAVEMAN: Thank you very much.

MRS. DILLON: Thank you very much.

SENATOR COSTA: Mia Andersen. And after Mia we'll listen to Ms. Margaret Murphy. Oh, we do have after that the Public Advocate, Mr. Slocum, you will be next. Go ahead, Mia.

M I A A N D E R S E N: Thank you. I'll be as brief as possible. My testimony is short, and I will tell you now that I recognize it is not complete. As a representative of a large organization, I can only share with you the positions that organization has taken.

We are currently studying the very fine report done by ACNJ called, "Splintered Lives," and will be taking a position on those recommendations, which I can tell you are very favorably received by our board.

It is tragic that child abuse and neglect have become endemic to our society. This is certainly a symptom of a culture under unendurable stress.

While we are not here today to discuss the root causes of, nor remedies to reduce the need for an extensive and expensive child protection system, nor what is needed to reduce the need for that system, I would urge the Legislature to dedicate substantial time and resources to addressing that issue as a whole.

In discussing this issue, DYFS investigations, and essentially the rights of the child as balanced against the rights of the parents, we, the PTA, must be forthright and admit to a strong bias in favor of the children; the blameless and helpless targets -- the victims who have no voice nor opportunity to advocate for themselves. There are no children here today testifying on their own behalf. No representative from children's unions, or foster children's or homeless children's organizations. These children who represent our future must rely on us to advocate for them. But, unfortunately the "us" are too often the ones who have been the

target of investigations. Too often they have a vested interest apart from the unbiased concern for the development of solutions that are crafted, based on the best interest of children rather than the adult in charge.

The circumstances that surround abuse allegation evaluation, are never simple. For example, given the number of divorces that occur every year and the ensuing custody battles, it does not take a rocket scientist to know that children get caught in the middle; that many parents use abuse allegations to get the other parent. But we also know that often the reasons for the breakup of the marriage center around maltreatment of the children or domestic violence against one of the parents.

But, too often an abuse allegation will be ignored, or downgraded because it is lodged by one parent against another. So practically, what are we to do? Ignore abuse allegations by parents involved in divorce and custody battles? Assume that just because one parent is accusing another that the allegation is baseless? We cannot say yes to these questions, because if we do, children will die. Children will be irreparably damaged.

There are horror stories. What I'm really trying to say is that there are horror stories on both sides. There are no excuses, but there are reasons. And I think foremost among those reasons are not the laws as they are drafted; they're really pretty good. But the other side of the Legislature's responsibility, and that is providing resources to meet the charges that are inherent in those laws.

Deciding which abuse allegations are valid and which are not for the purpose of initial referral and investigation requires extensive training and experience, as well as intelligence and sensitivity. You know, there's an old Chinese curse, "That which is an enemy to live in interesting times." Unfortunately, we are living in interesting times. We are burdened by an extraordinary poverty level, homelessness, drug

and alcohol abuse, teen pregnancy, youth suicide, and an unbelievable student dropout rate. That's a short list.

Child maltreatment is both the result and the cause of many of these problems, and the increase in abuse and neglect reports reflect the severity of these same problems.

There is no doubt that some of those reports are made by individuals who have less than the child's best interest at heart. How to decide which report is valid and which is not, which report should be investigated immediately and which can wait 24 to 72 hours, is the critical issue. We believe the policy which upon practice must rest, must place as primary the rights of the child to a safe, secure, and healthy environment.

In order to do the screening and intake properly, each district office must have enough workers and, as important, must be able to retain good workers. And that gets me to the issue of resources.

The problems we've heard here today really do not lie with DYFS policy or the DYFS law, but rather with the implementation of those laws. They're never going to be implemented properly if we do not have trained -- how can I say this nicely? -- qualified workers. We're not going to be able to attract those workers if we can't pay them. We're not going to be able to retain those workers if we don't pay them properly. There's no reason why they should stay in a DYFS office and work ten or eleven hours a day for diddley squat, when they can go to a private social service agency and make very much more.

These are issues that are at your door, not at DYFS's door. But I doubt that there is one district office in the State that has a fully complemented staff. And the turnover rate is, I think, close to 50% a year. I may be exaggerating on that, but it is such an astronomical figure, and I didn't have it at my hands.

And this is the other fallout issue about lack of resources; they leave. If they leave, those who remain are so burdened with such high caseloads that they can't do the job properly.

There is no question that errors are made and will continue to be made. Some of the fault lies with the Legislature for refusing to appropriate sufficient resources so that the Division can meet its charge, and some of the blame lies with the Division. There's no question about that. DYFS must dedicate more to training and oversight. The Division must do more to ensure that every district office is carrying out the policies of the Division, so that whether an abuse report is properly handled does not depend on which district office or which worker gets the report.

The Division must do more with developing cooperative agreements with other departments as well as non governmental agencies. You've heard testimony here today about the problem with regard to the lack of the kind of cooperative agreements between, for example, NJEA. We need to do this.

DYFS needs to be encouraged. It needs to be provided a climate by which other departments will be required to develop the kind of cooperative agreements that are necessary. And confidentiality of the reporter must be better protected. We heard a great deal today about confidentiality, and there are many different kinds of confidentiality.

I want to talk for a minute about the issue of anonymity of reporting. If we remove the anonymity provision in our reporting laws, we're going to get fewer reports. That's the way it was before we had the anonymity provision, and I guarantee you that's what will happen afterwards. When the anonymity provision was put in -- I believe that's Title 9, -- the number of abuse reports increased dramatically, dramatically, but the substantiation ratio did not decrease. That's terribly important. I beg you not to remove that confidentiality.

The other confidentiality issues that we're hearing about here today are equally as important, and that is who has access to the records? I would suggest to you that it would be wholly inappropriate for there to be a law that would permit access to DYFS records by anyone other than the interested party.

In considering DYFS investigations, it is important to recognize that DYFS operates within the structure of a child protection system; a system established with the mandate to protect the welfare and safety of children.

We are fortunate in New Jersey that both the Legislature and the executive branch developed a child protection system based on the child first philosophy -- a philosophy that mandates the safety of the child must come first; that both the Legislature and the executive branch have recognized the menace that child maltreatment poses to the viability of our society.

We can be grateful that our strong child protection laws that have resulted from this recognition have protected our State's children better than many others. We don't have the same kind of problems, for example, that New York City does, thank God.

We all know that DYFS is charged with investigating all allegations of child abuse and neglect, that DYFS bears the major burden for insuring the safety and welfare of many of the State's most at risk children. It is important to recognize that DYFS is but one component of the child protection system. The courts and the probation department as well as the crisis intervention units play a major role in determining the final outcome of an investigation. DYFS cannot remove a child. I don't have to say this, we all know this.

The protection of children must rise above the rights and the sensitivities of parents or the guardians, not only because it is the moral obligation of the society to protect

its most vulnerable citizens, but because adults have safeguards and protections available to them that are not available to children.

DYFS cannot take a child from a parent without approval by the court. DYFS cannot on its own go into a home and remove a child, given our legal structure, solely on its own volition. It must present concrete evidence at a full hearing before a judge. Additionally, the Division cannot retain a child for more than a stated length of time without continued court approval.

An adult can hire a lawyer at any time. Lawyers will be provided for the indigent. I know that for a fact, because I am a fourth year student at Seton Hall University and a member of the Family Law Clinic, and I have represented those clients.

The adult, parent, does not have to sign any voluntary agreement offered by DYFS; that is, the guardian can force DYFS to go to court to prove the need to remove the child.

It is important to focus on this particular aspect. There are many times that DYFS is faced with family circumstances that anyone would know to be destructive to children. For example, when a parent is a drug abuser or an alcoholic, DYFS cannot force that parent to go to rehabilitation. When a parent has, for example, serious psychological problems that result in the same kinds of things, DYFS cannot force them to accept treatment.

Unless the child is faced with "imminent danger" -- those are the words in the law -- that warrants removal from the home and that can be proved in court, DYFS's only recourse is to get the parents to voluntarily agree to services.

Does DYFS coerce unwilling parents to accept services after an abuse or neglect allegation has been substantiated? I certainly hope so.

There are many things that need to be fixed with regard to DYFS, but weakening the child protection laws in favor of adults is not one of them. We need to reinforce the outreach that reassures the citizens of this State that anonymous reporting is really anonymous. Anonymous reporting is a good thing. It's helped stop the pain for a lot of kids.

The laws are okay. It's the process that's the problem. Much of that can be fixed by enough money to hire enough workers, and enough money to retain good workers.

With regard to abuse reports from school, I was very disturbed to hear NJEA suggest that teachers should not any longer make abuse reports directly, but should again be required to go through the building supervisor, principal, or the superintendent. When we did that, we got very few reports.

It seems to me that if we have a mandate that requires everyone to report abuse and sanctions those who do not, that teachers also bear the same responsibility as every other citizen, and that they should not be permitted to pass the buck to a building supervisor who in fact may not understand, to whom this information is hearsay, who has not had direct opportunity to observe what the teacher is suggesting, is a concern. I would urge the Legislature to make teachers as accountable as everyone else.

I have some recommendations that I would like to share with you. Oversight and monitoring of implementation of Division policies by district offices must be enhanced, and the Division must have the authority and the ability to force compliance with those policies. The Division must be given the authority to develop strong, cooperative agreements. I've already said that. The Division must develop strong, cooperative agreements with non governmental agencies, as well. The Division must be provided with sufficient resources to develop and provide appropriate training for workers, and continued training, and continued oversight of that training.

Permanency planning and oversight must be improved. Children are staying in foster care far too long without appropriate permanent goals being set for them. When children are freed for adoption, cases must be processed much more quickly, and children must be freed more quickly. Children cannot continue to languish in foster care for three and four years without a permanent goal for them.

Continuity with clients must be better. Workers must not be continually shifted. It is not uncommon for a case to have five or more workers in a period of one year.

Turf protection, competition, disparagement between district offices must be controlled. It is very destructive to the cases when this happens. In order to function well each D.O. must have sufficient staff. There must be a significant reduction in staff turnover if the Division is to effectively meet its mandate. There must be sufficient resources in each D.O. area to which the Division can refer clients.

You know, the Division can't do its job if there aren't the community resources on which it can rely. It cannot give a family the services it needs in the mental health area if there isn't a mental health clinic with enough staff to be able to meet the needs of those clients.

I'm sure you are all aware of the crisis in mental health services in this State. This touches on DYFS and its ability to meet its charge.

SENATOR AMBROSIO: I hate to take exception to that, but I happen to be someone who is very active in the mental health field. We're begging for DYFS to plug into our system, and that's not happening.

MS. ANDERSEN: I'm distraught to hear that.

SENATOR AMBROSIO: The mental health system is in place, and DYFS, for the most part, has literally ignored it. It's there ready to be used, and that's one of the things I've

talked to Director Waldman about. We expect to see greater cooperation between DYFS and the mental health system in the future.

MS. ANDERSEN: I'm glad to hear it. I guess we're saying we agree.

SENATOR AMBROSIO: I didn't want to leave the impression that it was the mental health system that was not available. They're in place, ready to be used.

MS. ANDERSEN: Yes, absolutely. What is there, is certainly ready to be used. There just isn't enough. What we don't have in terms of services for E.D. kids under the age of ten, could fill a small book. You know this.

SENATOR AMBROSIO: I interviewed a former DYFS worker a couple of days ago, and I asked her, in her training was she ever given the suggestion that the community mental health center was there as a resource for her? She said, no, they were never advised that this was a resource that they should plug--

MS. ANDERSEN: That's appalling. That's absolutely appalling. On the other hand, I speak-- I live in Union County and I have a relationship with the D.O. in Elizabeth, and I have had workers tell me that they have spent days trying to find services for E.D. adolescents, and that they're not there. So, depending on where you are, and perhaps how long you've been with the Division, can tell the story. If that worker was never told, that is again the kind of thing my recommendations are being addressed, or are trying to address.

There must be better coordination between the Division and the probation department with regard to best interest reports. Probation officers making best interest reports must be required to observe the children with both parents, interview all persons who do or will care for the children, and interview pediatricans and medical personnel who are knowledgable about the children. That is not now a requirement.

In addition to interviewing the custodial and non custodial parents, when more than one D.O. is involved in an investigation all communications between investigating workers must be included in the running record.

Significantly more resources need to be dedicated to prevention as well as family preservation. The current funding, training and general structure of our foster care system needs significant study.

And finally, there really needs to be better coordination between DYFS and the Crisis Intervention Units. The police, the CIUs, and DYFS are not working together the way they need to. Whether that is a result of holes in the law, or whether that is a result of inadequately trained personnel, I don't know, but I would urge you to look at that, and look at that carefully.

The Governor's Task Force on Child Abuse and Neglect as you heard today is doing an extensive study. New Jersey PTA urges this Committee to await the report from the Governor's Task Force before making any recommendations on this issue. We urge the Committee to work with the Task Force to develop a system that places the safety and the welfare of the children first. Thank you.

SENATOR COSTA: Thank you so much. Thank you, Mia. We appreciate your recommendations. Do we have a copy of your--

MS. ANDERSEN: I gave you one.

SENATOR COSTA: I appreciate that. I would like to call on the Commissioner, Alfred Slocum, please, the Public Advocate. Thank you so much for being here, Commissioner. I appreciate that.

COMMISSIONER ALFRED A. SLOCUM: For the record Madam Chairman, my name is Alfred--

SENATOR COSTA: Someone is objecting to your being called at this time because you just walked in. But, Commissioner Slocum was on at the very beginning of this meeting, but he couldn't get here until now.

A D O L F D E L R I D G E: (speaks from audience) Can I do that too?

SENATOR COSTA: I appreciate your patience. Thank you.

COMMISSIONER SLOCUM: For the record, my name is Alfred Slocum, the Public Advocate for the State of New Jersey. This is Mr. Barry Jacobson. He's an investigator with our Office of Citizens Complaints. Good afternoon, Madam Chairwoman and members of the Committee. I'm pleased to be here today pursuant to Senate Resolution No. 28 to discuss with you the child abuse reporting and investigation policies of the Division of Youth and Family Services, and the duty of implementation as well.

The Department of the Public Advocate confronts the issues of child abuse in several ways, all of which cause interaction with DYFS. On behalf of those children who are unfortunate enough to be victims or potential victims of child abuse, my Department serves principally in two capacities. The Office of the Public Defender Law Guardian Program conducts all the institutional abuse investigations at DYFS operated facilities and provides legal representation for children who are victims of child abuse. And the Division of Mental Health Advocacy represents both adults and children in psychiatric hospitals and integrates with DYFS and the planning for placement after discharge, while investigating child abuse allegations within the hospital.

The Division of Advocacy for the Developmentally Disabled deals with DYFS regarding services and placement issues for autistic children and otherwise developmentally disabled children, under DYFS's care. So we provide a full range of services for those children involved in one way or another with this awful societal affliction, child abuse.

Yet, there is more. At the other end of the spectrum our Office of Citizens Complaints receives complaints concerning DYFS accusals, interventions, and investigations of

child abuse which are contended to be both unlawful and unwarranted, principally because they as child custodians have been accused and have professed their innocence.

Indeed my office, that of the Commissioner, has been asked by complainants to investigate DYFS because of similar allegations. The Department of the Public Advocate asserts that in weighing the responsibility for protecting our children while assuring accused abusers of their civil liberties, the presumption must be in favor of a strong Division of Youth and Family Services whose central mission is to serve this defenseless population and advocate for their continued and vigorous protection.

The Legislature has granted DYFS not only broad responsibility, but the power to protect the children of New Jersey, as well. It has been assigned the enormous and extremely serious mission of providing protection for children who have been maltreated by their parents or other adults responsible for their care.

In general, DYFS does a good job in dealing with the difficult and conflicting problems that this mandate thrusts upon them. However, close scrutiny requires more than plaudits. Therefore, in examining this topic, my testimony will address several areas where DYFS can do its job better, rather than a consideration of curtailing its authority.

According to its statutory mandate, DYFS must receive and respond to reports of abuse when any person has reasonable cause to believe a child has been abused. In fact, if an individual fails to report his or her suspicion of abuse, he or she may be charged with a disorderly person's offense.

Once reported, the burden is then placed on DYFS to seek additional information through investigation, and if abuse is substantiated, to obtain parental cooperation or take the matter to court.

Our State has doctined this standard for reporting based on the premise that it is better to trigger the investigation early, rather than have a more restrictive threshold for State involvement which could result in the ongoing maltreatment of children, unnoticed by the authorities. As a consequence of early targeting, it is reasonable to assume that a certain proportion of abuse or neglect cases, once investigated, will prove to be unsubstantiated or have insufficient factual support to allow for further intervention. However, it has been our experience that early intervention efforts have all too often produced child saving results for which most are grateful.

Anonymity is not a particularly laudable characteristic in our society, but it does have its place. In many instances, it provides the basis for early intervention. Here, the Legislature must recognize the potential danger to many helpless children if the reporting of abuse laws were to be weakened by limitations on anonymous referrals -- for example, 1700 cases were substantiated last year -- or by the setting of screening standards which would permit a larger class of suspected abusers to go uninvestigated. Public fear of State police action must be balanced against a need to protect innocent children from the imminent danger of abuse.

It may be difficult to house the responsibility for investigating matters of child abuse and making an initial assessment of responsibility while at the same time providing corrective measures for abused children. There is little doubt of the need to provide a whole range of treatments, therapeutic interventions, and social services to meet the needs of families and children. And a large and mulitfaceted agency like DYFS may well be the most effective service provider.

However, when the role of service provider and investigator resides in one agency, it has been our experience

that it not only heightens the obligation to be vigilant, objective, and neutral, but broadens experiential expertise as well.

Therefore, we are not recommending that these functions be separated. However, the tension between the duty to protect the imminent interest of children and the responsibility to provide for the long-range needs of families must be borne in mind.

There must be clear procedures which delineate the conduct of an investigation. As previously stated, the Department of the Public Advocate represents many hundred of children and families who are, or should be, served by DYFS. In addition, we serve our legislative, executive, and judicial committees which are mandated to analyze the array of activities engaged in by DYFS.

Above all else we have experienced the complexity of protecting children effectively without denying the rights and liberties of others which requires decision making, well monitored by process. Consequently, we support strengthening the due process procedures. We must examine the possibility that many parents have given up their children through voluntary service agreements which may have been entered into under duress or fear of reprisal.

Parents involved in the midst of child abuse allegations may be placed in an unequal bargaining position when facing the weight of an agency such as DYFS. We need to consider that factors other than the best interest of the child, such as the desire of parents to avoid further investigations or overzealous conformity to administrative expediency on the part of caseworkers, may enter into such voluntary agreements.

Moreover there is no assurance that the child's interest is ever taken into consideration, because the child is

not a party to the agreement. But it is difficult to subject any child to additional abuse or neglect in the quest to zealously defend an individual's civil liberties.

On the other hand, a situation which allows any State agency to perform its duties in a way that is heedless of a workable balance being struck, is intolerable. In reaching for this balance, DYFS is often unresponsive or excessive. Examples range from complaints of inaccessibility of information about DYFS investigations to the insensitive bureaucratic treatment of parents during an investigation of possible institutional abuse allegations involving their children.

While this broad issue looms over DYFS like a cloud over the years, the Department's Office of Citizens Complaints has received hundreds of complaints all raising the following issues: delays or refusals by DYFS to put children in residential placements, the application and enforcement of procedural constraints on the Interstate Compact on Placement of Children that delay the return of children to parents despite the fact that New Jersey is not even a party to this compact, a lack of service delivery to older adolescents because they will soon be eighteen and thus become the responsibility of another agency, a reluctance to accept or adequately investigate child abuse complaints from separated parents or where a custody dispute is involved, and placing children in alternate home settings before criminal history background checks have been conducted.

These problems must be addressed in order to ensure full compliance with the law, as well to assure families that their needs will be met.

In the area of institutional abuse investigations, we have found numerous problems including failure to notify parents of possible abuse of their child, noncompliance with mandated time frames for initiating investigations, failure to

provide parents with information of potential behavioral problems and available services, failure to interview all witnesses or involved staff, lack of demonstrated expertise in working with psychiatric hospitalized children, and a tendency to disbelieve their accounts resulting in over reliance on the opinions of staff as opposed to the reports of children.

This has been a problem particularly with the on call investigators who work other than nine to five. Increased training for those investigators in the area of sensitive needs for children's comments on their own conditions, is recommended.

Often parents of children in out-of-home placements have called us expressing dismay and frustration at not being able to get copies of the records and reports of DYFS abuse investigations when their child has reported being abused. Typically this occurs when a child is placed in a State correctional, psychiatric developmental facility, or residential school.

Further, when allegations of child abuse occur in a foster home placement, protecting the safety and privacy of the foster home family becomes a factor.

In all of these instances, parents are denied access to the details of the allegations or its investigation because of the statute. Under the statute, DYFS abuse investigations are strictly confidential and reports cannot be released unless one of nine narrow exceptions is met.

Breach of these confidentiality provisions is a criminal offence carrying a possible three-year prison sentence. Parents of children alleged to have been abused in out-of-home placements are not one of these nine exceptions.

In not including parents of allegedly abused children as an exception to the confidentiality provision, the Legislature, no doubt, had in mind those instances where the parent is the alleged abuser. In such circumstances the reasons become evident for not providing parents with the abuse reports. They are the subjects of the investigation.

However, parents whose children are in out-of-home placements, institutions, or day-care centers and who are not the alleged abuser, must stand on an entirely different footing. They are rightfully concerned about their children's well-being while in DYFS care. They are entitled to know the details of the allegation. Often someone other than the child reports the abuse. It is reported by a staff member at the facility who purports to have witnessed the alleged abuse.

They are also entitled to know how the investigation is progressing. These parents, innocent of any alleged wrongdoing, are justifiably frustrated and angered about their inability to get any information other than the result whenever it may be obtained.

This dilemma could be resolved by enabling parents not alleged to have abused or neglected the children, to be informed of the details of the investigation and report when a third party is the alleged abuser.

Finally, while the power of DYFS has -- may at times have impinged upon individual civil liberties, we think a more common fold as we noted in our previous summary of complaints, is the ineffective utilization of their authority and resources.

Limiting that authority could leave children at risk. Therefore a more appropriate consideration would be to establish an effective system of external oversight of DYFS actions, in response to specific complaints as well as general problem areas. I am confident that ultimately a careful weighing of these competing interests will help the system -- the policies of this State to guarantee the goal of effectively protecting our children is met. Thank you.

SENATOR COSTA: Thank you very much, Commissioner.

COMMISSIONER SLOCUM: Questions?

SENATOR COSTA: Yes. Senator Ambrosio.

SENATOR AMBROSIO: One question, Commissioner. You don't see any inherent conflict with DYFS being the investigating arm of an institution it has control over?

COMMISSIONER SLOCUM: No, I said it rather briefly in my testimony. My position is that it is an agency which has developed over time a significant body of expertise, and I think the institution is amorphous enough to permit it to carry out its investigative function and be responsible for the protection of our children, as well, and apply corrective measures as part of the services it renders.

I don't see that there's an inherent conflict between the two. I think the thing that should override and give paramount judgment to these matters is the fact that within that organization resides most of the expertise that is required to get to the bottom of both of these matters, and the expertise is there as well to provide the services that our children need, and I'd utilize it.

SENATOR AMBROSIO: So you say there's a conflict, but the conflict is overridden by other considerations.

COMMISSIONER SLOCUM: To the extent that there is a conflict, it is my judgment that is overridden by other considerations.

SENATOR AMBROSIO: Doesn't the conflict compound itself by not allowing the parent to have access to information during DYFS's investigation? I mean, that becomes-- You make the point that the parent should have access to information--

COMMISSIONER SLOCUM: Sure, when they are not the subject of the investigation. It doesn't make any sense to me. I happen to be a parent, and if my children are in the State's care and something is alleged to have happened to them, I think the State owes me the responsibility of informing me as to the nature of the allegations and the steps they are taking to address it.

SENATOR AMBROSIO: Okay. Thank you.

SENATOR COSTA: Thank you very much.

COMMISSIONER SLOCUM: You're welcome.

SENATOR COSTA: Mr. and Mrs. Adolf Delridge. Are they here?

MR. DELRIDGE: I typed a few pages out and handed them out to the Senators. But staying here for so long, I heard several things, and I wanted to know if I could address those issues?

Since this is supposed to be the investigative part of what DYFS does as far as I know, I would like to point out, there were three investigations in our case, three separate investigations, and I would like to state what happened in those investigations.

Number one, well the first thing, my wife had-- Because of marital difficulties -- and I'm sure you Senators know about this -- but she had made a false allegation against me of sexually abusing my daughter when I told her I was leaving and I was going to seek custody of the children.

She called DYFS. DYFS came out, and they got involved. The children were questioned by one DYFS worker. My wife was not allowed to be in the room, but my wife could hear what was said, and she could see.

Then I think a few days later the children were taken to the SAVA Unit, that's the Sexual Abuse Victim's Assistance in Hudson County. The children were questioned there also. One child, my four-year-old, said, "Daddy did fresh things to me." I found out later that they claimed -- they alleged the child said a lot more things, including penetration and so forth. My wife was not allowed to be present there also.

The child was then taken to a major hospital in our area, and the doctor told my wife, the DYFS worker, and the SAVA worker, she said, "I don't know what's going on here. Something's wrong. This child has not been sexually abused or physically abused."

At that point DYFS forced my wife when they knew there was no sexual abuse of the child, no physical abuse, they told

my wife that she had to press charges to have me locked up. So my wife did. They stated to her that they would take the children if she did not.

SENATOR COSTA: How many children are we speaking of?

MR. DELRIDGE: There were five at that time. Then my wife signed whatever they wanted. I was locked up. I had made bail, and then two day later I was re arrested. I did not know why I was in jail.

My sister called my wife and complained to her because I had found out from my supervisor, because I was a corrections officer there that, "Your wife allegedly called and said that you threatened her, and that you were going to run away to Canada."

So my sister called my wife the next day. My wife was there and was going to testify, "No, this did not happen." Immediately the DYFS caseworker was there, grabbed ahold of my wife and said, "What are you doing here?" My wife said, "Well, I found out that Adolf was re arrested for threatening me, and he never called."

The caseworker then told my wife, "Well look here, you're not going to make us look foolish. You better do what I tell you to -- or you better say what I tell you to say," and this was in front of a prosecutor, "or we will take your children." So my wife did. The judge saw through it, and I was let go.

A few days after this incident my wife received a phone call from the SAVA worker who told my wife that, "Listen, we cannot do too much to your husband with just the four-year-old's testimony," and so forth. She said, "We have no evidence of any kind, so we're not going to be able to do anything against your husband. You should talk to your children again if you want your husband convicted or whatever."

Later on the DYFS caseworker called and she said the same thing to my wife. She said, "Talk to the children." But

my wife explained that the children have already been grilled by the prosecutor's office and DYFS workers, and the other children said nothing happened, they witnessed nothing: "Daddy never did anything to me physically or fresh things, sexually or whatever." The DYFS worker then told my wife that, "You'd better cooperate. You have to cooperate. If you don't cooperate, we're going to take your children," the same old thing.

At that point, amazingly, my wife had called DYFS back, I think two days later or whatever, and said, "Oh the other children are saying something." That meant my oldest daughter and my oldest son.

My oldest son said that he witnessed me sexually abusing my four-year-old and the oldest daughter said, "Yes, he did the same thing to me. He did the fresh things to me."

So, I think about maybe ten days later, after the guilt was setting into my wife and everything, my wife had called an attorney that she knew in Jersey City. She called him, you know, and she said, "I'm afraid this is not the truth, I don't know what to do. I'm afraid they're going to do something to me. I don't want to lose the kids. DYFS has threatened me already."

The attorney said to go to the prosecutor and tell him the truth. The prosecutors, they understand, and so forth.

So my wife did. She went to the prosecutor's office, told them the truth about what had happened -- how she made the story up. The medical evidence and everything should have indicated that there was something wrong.

Then, let's see, the prosecutor told my wife, this was on a Friday, he said, "Come back on a Monday," which was January 7, and told her to bring the children. When she brought the children back, she over -- she can hear the children talk to the prosecutor. The prosecutor asked one clear question. They asked the children, "Well, what started

all this? Why would your mother tell you to say this?" to the little four-year-old. She clearly stated that, "Mommy and daddy were arguing, daddy left, and mommy called me in the room and she told me to say things."

Then the prosecutor came out and told my wife, "Well, we've got to take them in another room. You cannot be present." And what happened then was the children were kept for about two-and-a-half hours in the room with the prosecutors.

Later that night my wife had discovered, because one of the children woke up screaming, none of them ate that night, my wife found out from the children that one of the prosecutors smacked them -- threatened them that they would be put in the little boys' and girls' jail if they don't stick with the same statements that they allegedly made, or you have to say this, and so forth.

My wife called DYFS and said, "Look, this is what the prosecutors did to my kids." The DYFS worker went to the school, where the children were going, talked to the children and they confirmed. DYFS told my wife that they could do something to the prosecutors, they will investigate and prosecute if necessary.

The problem is my wife had, I think, 30 days to file a complaint, and I think on the 28th day my wife called up Steve -- I don't want to mention names, but she called the district office manager, and said, "What's going on? How come nothing's going on?" He told my wife that DYFS should not have told her that because they cannot, you know -- they cannot investigate the prosecutor's office. So then my wife did file charges.

But what is interesting, when my wife recanted to the prosecutors-- See my wife was subpoenaed. She was supposed to be the grand jury's star witness. But the prosecutor came out after talking to the children, and badgering the children, he told my wife-- My wife said, "I want to be at the grand jury hearing. What time should I be there, because I want to get

this mess over with, and I want to tell the truth? This thing is haunting me." He told her, "There will be no need. We have no evidence anyway. This will be no bill." So my wife--

SENATOR COSTA: Mr. Delridge, can I interrupt you at this moment. Just to-- We gather that she lied to the authorities to get back at you. What recommendations can you see that you'd like us to consider?

MR. DELRIDGE: Okay. One major thing is this, when DYFS-- On January 25, DYFS had come to my wife and asked her, "Would she be willing to sign the children over?" She said, "No." They said well-- What they told her was that, "We will have to go to court with you and then, you know, we can get an order to take the children." She said, "No, I can take care of the children."

January 26, or maybe even on January 25, they went to the court without her even present. I think that's one of the biggest problems with DYFS, that they can go to the judge and they can say anything that they want, without showing any documentation to prove it. Because, what they used, in my case, was they claimed that I had sexually penetrated and abused my children. They claimed a lot of other things -- a lot of other things that we can prove are not true.

But, because she was bypassed, the judge granted the order to take the children. Once the children are taken, the damage is already done, because in most cases that I hear of and especially in our case, you know, once the children were taken, and separated in different foster homes--

Then the process is, to go back to court. You're not going have a trial right away. Fact-finding hearings are supposed to be held pretty quickly, but in my case, the fact-finding hearing with the trial, we call it, was not held until like a year-and-a-half later because what they did basically, was DYFS wanted me to be evaluated to see if I was a child molester.

They sent me to their child psychiatrist. The psychiatrist said, "No, he is not, and the children should be returned."

DYFS suggested that we see a therapist -- a psychotherapist. My wife and I went once a week, on a weekly basis, you know, continuously. We did that. DYFS approved of this psychotherapist. This psychotherapist sent two reports to the court, not only stating that in her opinion I was not a child molester, but also that the children were being harmed in foster care. Also in her investigations, in talking to DYFS she found out that DYFS was not telling her the truth.

SENATOR COSTA: What you're saying then is that-- What suggestions are you making? What do you want us to look at?

MR. DELRIDGE: I think what I just said was that, you know, anytime that DYFS comes to a person, a parent, and after they voluntarily, you know, sign the children over and then say that, "If you don't, we'll seek a court order, anyway."

SENATOR COSTA: You're saying they're trying to influence you?

MR. DELRIDGE: Oh sure. Well, that's--

SENATOR COSTA: Do you have your children back now?

MR. DELRIDGE: No, as a matter of fact I filed an appeal.

SENATOR COSTA: How long ago was this?

MR. DELRIDGE: We lost custody of six children, the parental rights of six children, on April 14, which is the same day we testified here last year. It was predated.

A parent, anyone should have the right-- In my opinion you just can't have caseworkers going to court, saying, "Judge, this man's a child molester. He molested his two daughters. "Judge, this woman did not feed her children. Judge, this that, this that."

The court does not require any documentation to prove that.

SENATOR AMBROSIO: Mr. Delridge, if I might. Your point is well taken. We've heard enough testimony today to know that we should look into the voluntary, involuntary nature of the removals, and also the due process portion of how this whole procedure works.

Even the Public Advocate recommends we look into that. So, we will be looking into those aspects.

MR. DELRIDGE: Okay, I want to say something about the confidentiality of reports, DYFS's handwritten notes, DYFS's everything. These things are supposed to be-- The PTA woman was saying that she wanted -- that it should be held confidential.

The reason that DYFS wants those things to be held confidential and they don't want the parents to have that, is because we discovered those records. And in those records, we discovered in January, in February of 1988 that our son suffered from lead poisoning for over a year in foster care.

J I L L D E L R I D G E: We were not informed.

MR. DELRIDGE: We were never informed. Our daughter was sexually abused in foster care. We were never informed. We discovered -- because of those documents we discovered that DYFS had sent a letter, a copy -- we have the letter -- to a Pope (phonetic spelling) Mortgage Agency in North Carolina in 1987, because the foster mother of our two sons wanted to move to North Carolina.

My wife's visitation was terminated September of '87 to allow that move to take place. Because it's obvious that if she has a visit, you know, later, after September, she's going to notice that the two boys are not there, and continuously are not going to be there.

Then, through our investigation, not a private attorney, no help from the State whatsoever, we discovered that

this woman did move to North Carolina. We discovered her address, we even have her telephone number. And we do know that the boys had started attending school there February 1, and we do know that they were there before February 1.

Also our son was physically abused in foster care. DYFS had the foster parents' real child evaluated by a psychologist. The psychologist wrote to DYFS-- You don't want to hear this?

SENATOR AMBROSIO: All of this is really not going to help us. You've made the point, and hearing more about the case is not going to do any more. You've made your points that we need to hear.

SENATOR COSTA: We appreciate your coming.

SENATOR AMBROSIO: What is it that you're asking this Committee to do? We can't get involved in your case.

MR. DELRIDGE: Oh no, no. I'm not asking that you get involved in the case. I'm talking about--

MRS. DELRIDGE: I have something to bring up that wasn't brought up at all today. It was touched on--

SENATOR COSTA: I'd appreciate that.

MRS. DELRIDGE: --but it really wasn't brought up.

MR. DELRIDGE: No, I still don't buy that the fact that I'm not saying anything that I shouldn't, that I'm saying things that I should not say, because I sat here and I heard Spiegel talk about his case. I sat here and I heard people talk about their cases.

SENATOR AMBROSIO: We've heard about your case. And all the input that you can give us, you've given us.

MR. DELRIDGE: But I still say, that to deny me, after I sat here and waited all this time-- I don't think that's proper.

SENATOR COSTA: Well, we're not a court of law.

MR. DELRIDGE: If you did not want to hear anything about my case you should have told me not to be here.

SENATOR AMBROSIO: The hour is getting late and there are people that want to speak. We're trying to give everyone a chance to speak, Mr. Delridge. We heard your case. As much as you can give us, we've heard.

MR. DELRIDGE: You've heard my case before, haven't you?

SENATOR COSTA: We've had you before, yes.

SENATOR AMBROSIO: You also sent documents. I have a file this thick of stuff you've sent me. So--

MR. DELRIDGE: So you knew the facts of my case--

SENATOR AMBROSIO: Absolutely.

MR. DELRIDGE: --before I even came here today.

SENATOR COSTA: Yes.

SENATOR AMBROSIO: Yes, that's right.

MR. DELRIDGE: So you could have done me a favor and told me not to be here because you didn't want to hear about it.

SENATOR AMBROSIO: No. You wanted to be here, so you were given the opportunity.

MR. DELRIDGE: I wanted to be here to talk; not to stop and be interrupted, and told not to talk.

SENATOR COSTA: What we wanted to hear as we stated at the very beginning and all throughout the day is what we can do legislatively to make DYFS better, to look out for the children of this State. We've got a good idea from your case of things that have gone wrong and the direction that we want to go, in looking into it legislatively. We do appreciate your coming.

MRS. DELRIDGE: I have something, yes--

SENATOR COSTA: Now your wife has said she wanted to offer something.

MRS. DELRIDGE: --something very important that must be brought out.

SENATOR COSTA: Will you put the microphone near you?

MRS. DELRIDGE: Yes. We had a child, something that has not been brought up by Adolf, we had a child thirteen

months after our older five children were taken. She was born on February 20, 1986, and she was with us. We were cooperating with DYFS, and they made numerous reports. I'll go through it as briefly as possible.

She was being well cared for by us. We had an adopted parent in the home, similar to a homemaker, licensed practical nurse. She was being seen by a pediatrician periodically, all reports with flying colors.

Because we called the Citizens Action Line -- which is disgusting because they do absolutely nothing -- our children were placed into the preadoptive stage, and three days later DYFS came out asking us to sign our eight-and-a-half month old infant into foster care; only because we asked for our case to be evaluated, investigated.

SENATOR AMBROSIO: Did you sign?

MRS. DELRIDGE: No, I fled the State because I could not imagine my infant, breast-fed infant, being ripped from my arms, like my other children were. The only reason my older five children were taken is because I was woman enough and adult enough, to realize I had committed a heinous crime by using my children as a weapon against my husband. And I wanted to suffer all consequences, and I didn't want my children to suffer any more. I wanted to get therapy for the entire family. DYFS did like they always do; when in doubt rip the children out and destroy the family.

But getting back to my other point that must be brought out, I fled the State until my attorney could seek something to keep them from just coming in and forcing us to sign this child away and intimidating us.

So, we did get a hearing. We cooperated. The judge tricked me into coming into court on a matter with the other five children, and ripped this ten-month-old breast-fed infant out of my arms. All the echoes in my ears that I hear right

now is that infant crying, "Mommy and Daddy," the only people who she ever knew.

Three or four days later she was evaluated by a prostitute for the State of New Jersey. I will not mention his name, but I sure want to. He stated that this child was depressed because we had abused her. But, in DYFS's own records which we do have, it states that she was never abused by us, and we took wonderful care of her. She was depressed because she was ripped from her mother's breast and the only two people she had ever known.

MR. DELRIDGE: Basically DYFS suppressed the medical evidence, everything. They asked for the child to be taken, and suppressed all the weekly reports they received from this homemaker and everything, in order to get that child taken.

MRS. DELRIDGE: And something must be done about this. You have to put some sort of date--

MR. ANDRIAN: (speaks from audience) Tell them about your seventh baby.

MRS. DELRIDGE: Excuse me.

MR. ANDRIAN: (speaks from audience) Tell them about your seventh baby.

MRS. DELRIDGE: Yes, that's what I'm getting to. November 24, 1987, I gave birth to a beautiful baby boy. Healthy, couldn't ask for a more perfect child.

Sixteen days later the judge tricked our court appointed attorney into giving up the confidentiality between clients and attorney. He forced that attorney into saying that our newborn child had been born.

DYFS immediately came in with nine police officers, interrogating us. They kept coming back and forth looking for something. We were doing everything for this child. We both are fully equipped with CPR because we unfortunately lost a child to sudden infant death syndrome. And all of our children that were born afterwards we placed on monitors, and we learned how to care for them completely.

This child was on this monitor when it was brought home from the hospital. We had a company come out and place another monitor. There was a gluey substance from the leads that would register his breathing and heart rate and it left a gluey substance. And from his blue outfit it left a blue tinge.

When the caseworker came out she asked me about it. I let her feel, I let her completely examine, I showed her the lead that came off of him. They used that to take the seventh infant from us, and they used the previous case.

Something must be done to keep me from being a surrogate mother for the State of New Jersey, because I will not--

MR. DELRIDGE: Which is what she is, a surrogate mother for the State of New Jersey.

MRS. DELRIDGE: I will not have any more children--

UNIDENTIFIED SPEAKER FROM AUDIENCE: Breeding cell, breeding cell for the State.

SENATOR COSTA: May I ask, why do you feel that they want to take your children away? Why would they want to take your children away from you?

MRS. DELRIDGE: They're using our children as weapons against us.

MR. DELRIDGE: Let me explain why. The why is because we have over 40 some odd lawsuits in State court, and over 30 some odd in Federal court against Waldman and the rest of the crew, including Governor Kean and Drew Altman. That's why.

They're hurting our children, and just like I mentioned about the children being abused in foster care, everyone knew about it. The judge knew, DYFS knew, the Child Abuse Review Board knew about it.

And when we got this and showed everybody that they did know about it, what did they do? They went to terminate our parental rights, keep them quiet, which is something that they're not going to do, if I live to be 150.

MRS. DELRIDGE: And the judge had told the whole public, we had no recourse. We had contacted everybody in this State. You name it. Everybody in this room knows us.

MR. DELRIDGE: Let me point out something about the Citizens Action Line, because it's very hard, because we sat here and heard so many different things. But Citizens Action Line-- You know I have interoffice memos showing that the woman from the Citizens Action Line -- that we were calling the DYFS caseworker and telling her everything that we were saying about each DYFS caseworker, not just abuses, but other things.

Also, when it got to a point where we had so much evidence of wrongdoings by the State -- intentional wrongdoings mind you -- we called the Citizens Action Line the last time and said, "We want you to do an investigation." We called everybody and said we want to do an investigation. The same Deputy Attorney General who represented DYFS in this case against us for all these years, turned around and sent an order to the Citizens Action Line--

MRS. DELRIDGE: Public Advocate.

MR. DELRIDGE: What's his name?

MRS. DELRIDGE: William Waldman?

MR. DELRIDGE: No, no, not William Waldman. The baldheaded guy.

MRS. DELRIDGE: The Public Advocate.

MR. DELRIDGE: No, the baldheaded guy.

MRS. DELRIDGE: Alfred Slocum.

MR. DELRIDGE: Right, Alfred Slocum, to everyone, to everyone. Stating that, "You are not to have any contact with the Delridges, be it by telephone or in writing."

So how can the Citizens Action Line be, you know-- They're set up to investigate wrongdoings, and then they turn around when we call them, and they can't investigate.

MRS. DELRIDGE: An investigative process must be done by independents. The Child Placement Review Board is a laughingstock. It's a laughingstock.

MR. DELRIDGE: You need some kind of Federal-- You need a Federal prosecutor. You need somebody here to see. You can't have a system-- I wish that I can show you some of these interoffice memos I have and you'll clearly see that-- Even Mr. Waldman-- We wrote to him. We wrote to him when our children were abused.

MRS. DELRIDGE: Certified letters, which is money we don't have to spend.

MR. DELRIDGE: We kept writing to him showing him what was being done, naming names of his caseworkers. We never got a letter from William Waldman. Nothing.

And that's because, as long as you have the system the way it is now, when a DYFS worker does wrong, you go higher, higher, higher, until it gets to the highest. Then it's whitewashed because, they would rather protect their own caseworkers, protect their own name, protect their own agency, at our and your children's expense.

MRS. DELRIDGE: And I think the most heinous crime of all is because we are hard-headed and because we are outspoken and we will not tolerate this for the sake of our children, we are tossed aside.

Our children are being used as weapons against us, in plain English. Our children continue to suffer, continue to be abused, and continue to be neglected because of us and because of our actions.

SENATOR COSTA: Let me just get one thing straight, you have seven children--

MRS. DELRIDGE: Yes.

SENATOR COSTA: --that have been taken by the Division of Youth and Family Services?

MRS. DELRIDGE: Yes, six, our parental rights have been terminated, it is up on an appeal. The seventh child--

MR. DELRIDGE: We'll win the appeal, no question.

SENATOR COSTA: What about the seventh child?

MRS. DELRIDGE: The seventh child, it looks as though he will be returned. But knowing--

SENATOR COSTA: That's the baby?

MR. DELRIDGE: Right.

MRS. DELRIDGE: Yes, but knowing the system, I wouldn't bank on it.

MR. DELRIDGE: We had to go, and that's what's interesting because--

SENATOR COSTA: And two of them went out-of-state you say?

MR. DELRIDGE: Two of those, yeah, they've been living in North--

MRS. DELRIDGE: Without our knowledge or consent.

MR. DELRIDGE: --North Carolina since, I would estimate, November, December of '87.

MRS. DELRIDGE: And I think one of the other most heinous things is that two of our children, two of our oldest daughters have been forced into a religion other than ours and theirs. And I think that is a direct violation of the Constitution.

MR. DELRIDGE: It is.

MRS. DELRIDGE: And it's just forceful. These children are made to do and say as the State thinks and not as they wish. And they're told that their parents are wrong, and brainwashed by State prostitutes into believing that we've done something wrong, and that they're not adequate.

I think another thing that happened that must be changed-- Like Adolf mentioned before, back in September of 1987, while I was at the prenatal clinic making sure I received adequate care for my unborn child, my visitation was

terminated. Automatically I went frantic. I had no attorney, I was a poor person. I turned to every State agency there was, including you people, and no one did anything. And what happened? My children continued to suffer. My two boys were moved out of the State, and as soon as my child was born, it was taken from me. So, I have rights in the State of New Jersey? No way.

MR. DELRIDGE: And it's a conflict of interest to have, in my opinion, the Public Defender's Law Guardian Program -- and I have evidence against him, too -- and then have a public defender assigned, a pool attorney, to the parents. And God knows, I can prove to anyone, that my attorneys-- I had to study law because my attorneys neglected the matter.

That's the same thing about the woman who was talking about the-- They don't have money to hire an attorney. You're not going to get anywhere with an attorney assigned to you, because if the DYFS worker violates the law, that attorney is not going to hurt a DAG, if the DAG does wrong. That's the code. They're not going to do that. It's a problem.

MRS. DELRIDGE: I think you Senators can learn a lot from our case. And I'd be willing to stay overnight and discuss the case and go into gross details.

As you said before, we have sent you documents, they are piling high, but unfortunately that's not because of our actions. We've tried to correct them. And I think your stating before that William Waldman has tried, is a gross misstatement because you have written to William Waldman on our behalf, and he didn't have the courtesy to drop a letter into the mail and say, "I'm looking into the matter." He did absolutely nothing and allowed it to continue.

MR. DELRIDGE: No one investigated. And you know what I believe happened, and I said this even before, because people say, "Well, why do you say that?" It seems like I always knew what they were going to do before they did it. Because I told

the Senators, I told the Assemblymen, they will claim they are going to investigate, Drew Altman and William Waldman, and so forth, but I said, when they investigate, they are going to see that their people did so many violations of the law and everything else -- you name it in this case -- they cannot say anything.

And I can understand that. I mean, if Mr. Waldman investigated our case, I think he would have to fire so many people, he would realize that the system needs an overhaul and they'd rather not do that and let the children suffer. That's the problem that I have.

I'm filing my own appeal. We're going to win on that appeal. We're winning already. The lawsuit's going to win. So, I'm doing this for other people. I'm here because of other people. And even though I hate this State with a passion now for what happened and what's allowed to happen, you know when the children come back, I cannot leave this State until DYFS is cleaned up.

SENATOR COSTA: Thank you very much for coming.

MR. DELRIDGE: Thank you.

SENATOR COSTA: We realize how difficult it was for you to tell your story. Thank you. I'd like to have Mr. Martin Olech, New Jersey Principals and Supervisors Association.
A R N O L D H E R M A N: (speaks from audience) Senator, are we skipping names purposely?

SENATOR COSTA: No, I'm trying to go down my list.

MR. HERMAN: (speaks from audience) My name's Arnold Herman. I was here all day.

SENATOR COSTA: All right, what is your name?

MR. HERMAN: Arnold Herman.

SENATOR COSTA: Oh, Arnold Herman, Foster Friends Inc., won't you come up please? Now is there a Mr. John Zinicola, if he's still here? I don't see him anywhere.

MR. HERMAN: My name is Arnold Herman. I am director of Foster Friends Inc., a statewide foster parent organization. My wife and I have been foster parents for the Division of Youth and Family Services for more than ten years during which time we have raised a total of 23 children, mostly teenagers.

I want to add my comments to the many of you here suggesting that changes are needed in the current laws governing DYFS investigations. However, even more to change than the law, I think what is really needed is a way to force the DYFS agency to follow the ones that already exist.

As a foster parent who has spent years with youngsters who have been abused, I have no problem with laws that are designed to protect the child from such acts. However, I have a lot of concern about an agency where workers continually interpret the horrors to suit their own personal beliefs.

Because they are able to promulgate their own regulations, because they are able to cover their misacts with confidentiality, and because they are immune from legal suits, the DYFS agency is able to violate current laws regularly, with no repercussions ever.

This violation of the New Jersey law starts with the decision to investigate. DYFS is charged with the responsibility of investigating allegations of abuse and neglect. However, the agency is able to stretch that role as far as they want to. For example, some individual workers harbor the opinion that no child should ever be physically disciplined. Consequently, they instigate an abuse investigation anytime they receive a report that a youngster has been spanked or even threatened with a spanking.

Once an investigation is started, many individual rights are violated. DYFS investigators are usually young workers who have had little experience investigating techniques and even less in parenting. They often get caught up in the

excitement of playing detective and the truth of what occurs becomes secondary to the challenge of proving somebody guilty.

And I would like to inject here Senators, back, almost five years ago, Foster Friends came up with the suggestion that an outside committee be set up to investigate abuse, particularly in foster homes but also natural homes, as well, because we felt what was needed were some of the things suggested here earlier: Perhaps a psychiatrist of some sort, perhaps a medical doctor, certainly a natural or foster parent, and of course somebody from the DYFS agency.

We felt to have a 22-year-old DYFS worker come into the home of a foster parent, like you heard earlier, 20 years of being a foster parent and 35 years of being a parent, and try to tell them what is right and what is wrong as far as parenting, was far, far, wrong. We felt they just were not doing it correctly.

They were coming in based on what they were told, perhaps in school. They had no knowledge of a situation that could occur. No knowledge of what a crisis would be like. For them to come in -- for amateurs to come in and try to make professional decisions like that we felt was very, very wrong. The answer we were given by the agency was that confidentiality would not permit anybody but a DYFS worker to conduct investigations.

In one case earlier this year, the DYFS agents were put on notice by a parent that a court order would be necessary before her son was interviewed. This right is clearly spelled out in New Jersey law.

Despite this notice, a DYFS worker was sent into the child's school and the child was interviewed. When this action was protested by way of an administrative hearing, the hearing officer agreed that DYFS acted improperly. However, the local office that conducted the investigation is still insisting that their action was proper and reviewed in the change of procedure.

I think this points out another problem, Senators. There's a big difference between what occurs on top down here in Trenton and what is actually going on in local DYFS offices. I will agree with what you said before. I think Mr. Waldman is trying very hard to do a good job. I think the problem is, what he's doing on top just is not coming down to the bottom.

Once a DYFS investigation is started, it is highly unlikely that the person being investigated will be completely cleared. Statements such as, "We are unable to substantiate abuse occurred, but we suspect that it did," are common in files kept by the agency.

I should inject at this point -- I should have said it earlier -- I am also a member of the Monmouth County Child Placement Review Board. Consequently, I've seen many statements like that.

To cover up thousands of cases where they should have not investigated or they mis-investigated, the agency has a catchall phrase which they use constantly, "It is better to err on the side of the child."

As a person who loves children, I can buy that. But I have a slight problem with that theory. I can accept when we're talking about one case, ten cases, a hundred cases, maybe even a thousand erred on the side of the children. But when more than 30,000 cases last year alone, where even DYFS could not substantiate abuse, then maybe it's better to mandate at this point that it's better to err not at all.

In addition to the horrors that unjustified investigations causes a family involved, there is secondary harm that Foster Friends is very concerned with.

The foster care system has lost a number of good dedicated foster parents because of these investigations. The usual appeal of a foster family after they went through an

investigation is, "I don't need this. Here I am doing DYFS a favor. I'm doing the State a favor. I'm doing everybody a favor. They come into my house like gangbusters. Who needs it?"

I know this for a fact. My wife and I have been the subject of DYFS investigations five times in the last ten years. The only reason that we are still foster parents at this point, is that our love for the children in our home is just slightly higher than our hatred for the DYFS investigation system.

One other point. DYFS has not only mistreated many adults with their irresponsible investigative techniques, they are also harming the children they are charged with protecting.

There is a well-known crisis that there are not enough foster homes. One of the reasons we have such a hard time recruiting and keeping foster homes is because of publicity involving DYFS investigations.

As a co-trainer in Monmouth for instance, it is right now standard procedure when you are training prospective foster parents, to tell them that they will probably have to go through an investigation, an abuse investigation, sometime along the line if they are foster parents for any given amount of time.

I think we've gotten to a pretty sorry state when we have to tell people that want to be foster parents to be prepared to go through an investigation somewhere down the line because it will probably happen to you. I think there's something entirely wrong with the system when we are telling people, who have been good parents for years, who want to give up their time, open their home, give their heart to children, and then have to stand there and say to them, "Well, yeah, you'll probably be investigated somewhere along the line because that's pretty common with foster parents."

I think what we need to do, and I heard Senator Ambrosio before ask for suggestions, and I think it's been made several times today, but I want add my (indiscernible) -- to prevent the kind of thing that you heard happen to the Dillon family before, foster parents for 23 years, which never should have happened, and never would have happened had there been some experienced people at that initial contact.

I really think what is needed, Senators, is a completely set aside investigation team that has absolutely no connection with the DYFS agency. And that perhaps was suggested by, I think, Dr. Spiegel earlier.

This team should have on it some professional people who are very, very well versed in questioning children, and also should have on it some natural parents, experienced natural parents who know what goes on in a household; who know the difference between hugging a child and abusing a child; who even know the difference between spanking a child and abusing a child.

I think part of the problem is, everything now is abuse. You heard earlier about the tap on the rear of a child being considered abuse. You hear all the times about children being threatened with a spanking. They consider that abuse in the DYFS agency now. They go out and investigate.

I think it has gone way too far. I think the problem with the foster care system, the problem with recruiting foster parents, the problem with keeping good dedicated foster parents like the Dillon family who you heard from earlier, is the investigation system. And I really believe, Senators, that the only way you're going to solve it is get it completely out of the hands of the DYFS agency and give it to some people who are professionals. Take it away from the amateurs.

I thank you. Do you have any questions?

SENATOR COSTA: Thank you very much Mr. Herman. You've been to all the meetings we've had with the Children's Services, and I don't know if you were the one where you discussed the fact that there was quite a turnover in the social workers. That may be part of the problem. We're trying to get to a point where we can pay them well to keep good people, rather than have such a turnover, who are inexperienced and could mistake something that's meant well, another way.

MR. HERMAN: That's the answer to the problem. But I don't think you're going to solve that very quickly. I really think a better solution is to take the whole investigation procedure away from DYFS.

SENATOR COSTA: I'd appreciate the next few people that we call, because the hour is getting late, if you just focus on what you think what we could do to make the whole system better, as legislators, because that's our area where we could do something.

Next I'd like to call Mrs. Margaret Murphy. Is she here? Assistant Counsel with the New Jersey School Administrators? Followed by Mr. Martin Olech, New Jersey Principals and Supervisors Association. Is he here? If not, Mr. Vince Trivelli, Communication Workers of America.

M A R G A R E T C. M U R P H Y, E S Q.: Senator Costa, and members of the Committee, good afternoon. I will get to the bottom line. You have copies of my written statement and with regard to the language of the statute as applied, I believe it needs to be looked at, particularly with regard to supervision or failure to supervise as being something that would then make a person or staff member subject to child abuse.

I've used some hypothetical examples where students are involved in fights in hallways, or in lavatories and a staff member or a principal under those circumstances would be vulnerable to a charge of child abuse if either one of the children was hurt as a result of that, because the statute does talk to failure to supervise.

We would say to take a look at that and maybe either create some new language or look at the application of the statutes that are presently on the books as it applies to the school situation.

The second is that the-- As interpreted now by DYFS, schools are not permitted to do any sort of preliminary investigation based on a simple allegation of a child that, "That teacher slapped me." Again, no matter what your experience was with that teacher, it might be a teacher that you dealt with for 15 years, an exemplary person, with the patience of a saint. Based on that child's statement, that teacher or that principal is supposed to immediately call and report that incident.

We think that it just makes some common sense to do some preliminary validation of that statement, a question or two. When did this happen? Was anybody else present? Maybe the school nurse-- Is there some sort of physical abuse suggested?

The third thing is that our feelings, the feelings of our members with regard to the breakdown of the system-- A lot of what we heard today was that the key point is that the person that makes that judgment, the caseworker -- the terrible problem is that there's a terrific turnover, there's a lack of staff training, there's a lack of maturity, there's a lack of judgment. And so we have a situation where we have DYFS caseworkers coming in off the street.

We have staff in our building who have much more experience, much more training in dealing with troubled children. And yet, we can't utilize that staff in dealing with that situation. We have to turn over that entire situation to a brand new caseworker perhaps.

The second thing is that in working over the long term with parents and with troubled families, the school gets a new

caseworker every six months for the same family, and we see the difficulty that that lack of continuity creates in remedying the situation.

We would suggest that you look at the allocation of resources, salaries-- Make them so that they're attractive to people with training -- with people who are bright and well-educated. Make them so that these people can stay around long enough to get the kind of judgment and maturity that we would all like to see in the caseworker.

Look at the working conditions that these people have to work under. They're in a very high stress job. We need to look at that and see if we can do something to make it more attractive for them so they can stay on the job for three to five years maybe, without personal detriment.

We need to look at also their caseload -- and that's part of the burnout. And we have to look also at the training they receive. They have all kinds of policies in books that people don't have either the judgment or the maturity to deal with the situation. I'm sure that eight out of ten cases that a caseworker deals with in a day, they really can't find a policy that fits that specific case directly. And that individual's personal judgment is the key element in whether or not you're going to have a situation that turns out happily or turns into a tragedy. Thank you.

SENATOR COSTA: Thank you very much. Any questions? (no response) If not, Mr. Martin Olech. Is he here? (no response) Or Miss Virginia McLeod? Vince Trivelli, he's not here. Oh, Vince. That's not Vince. You're a representative of the Communications Workers of America?

P A U L A L E X A N D E R : First I'll apologize for Mr. Trivelli. I'm Paul Alexander. I'm with the Communications Workers of America, and we'd like to take the opportunity to thank the Committee for giving us the opportunity to speak to you.

As I'm sure the Committee knows, we represent the individuals who work at DYFS and are their collective bargaining agent. One of the things that we would like to do is give you the opportunity to talk to an actual worker, because so much of what has been discussed today involves what workers do or do not do; what workers do or do not know; what their backgrounds are, and what the concerns of people who have spoken today are.

We have with us Tim Adams who is an investigator for DYFS from the Cape May DYFS office. We'd like to keep our comments as brief as possible and address ourselves particularly to recommendations.

The recommendation we have and would like the Committee to seriously consider is doing what other states around the country have currently done, and that is to impose caps on caseload sizes. We feel that one of the problems that faces DYFS workers--

SENATOR COSTA: What was that? I'm sorry, I didn't hear that.

MR. ALEXANDER: Caps on caseload size. Other states have already adopted legislation along those lines. We feel that would be one tool to enhance the quality of service, and it would go a long way in addressing some of the concerns that have been expressed here today.

What I'd like to do is present Mr. Adams, and allow the Committee to ask any question they may have about how the process works, since there were numerous concerns expressed about that throughout the course of the day.

SENATOR COSTA: Very good. Thank you. How do you spell your last name please, for the record?

MR. ALEXANDER: A-L-E-X-A-N-D-E-R.

SENATOR COSTA: And his name?

MR. ALEXANDER: A-D-A-M-S.

SENATOR COSTA: Okay, thank you. Go ahead.

T I M A D A M S: How are you doing, Senators? Thank you very much for the opportunity to present my views in regard to the Division and casework practice to the Senate hearing.

I've been a Division worker for eight years. In the past three years I've functioned as an intake investigator. In that course of time I've conducted 400 investigations, approximately. Last year I conducted 146 investigations. Last year I removed two children from their home.

I had prepared remarks, but given the time, I feel I would best be served to give some recommendations. One, I need to do my job. I need time, I need resources. I cannot be going out doing 25 investigation, 20 investigations a month. It cannot be done.

You want me to meet with children, you want me to understand what's going on with them. You want me to give a balanced investigation. The Division needs more staff. It needs more front line people. It needs to be there.

In this State of New Jersey we have several universities -- major universities which I think we could begin a recruitment campaign to cultivate those staffs and allocate that staff to the Division offices in the front line positions. That's something that the State really needs to do.

At 28 years old -- that's how old I am -- I'm a senior member of the staff. That says a lot, I think. And you want expertise. You know, I've got eight years, close to eight years, and I plan to stay with the Division. Other people come and go from the Division, and that's how anomalies in cases occur. That's how these problems do occur.

So, I believe very strongly that the Senate and the Assembly are going to have to appropriate more staff to the Division and money for those services.

SENATOR AMBROSIO: Can I ask you--

MR. ADAMS: Certainly.

SENATOR AMBROSIO: --when complaints are made about DYFS workers, how are they processed?

MR. ADAMS: It depends upon which level. In my office in Cape May, my supervisor is very responsive to complaints made about me. In the 400 cases that I've investigated in the past three years, many complaints have been made about me. I mean, that's part of the business.

I direct them to my supervisor. I direct my complaints to my supervisor immediately. If my immediate supervisor is not able to handle or satisfy the complaint, it goes to the district office manager.

I also-- I do give the 800 number, the Citizens Action Hotline, and I will tell you from experience that when a citizen calls, action is taken within the Division.

SENATOR AMBROSIO: But that is a Division number?

MR. ADAMS: That is the Division number. There's also the Public Advocate number which is frequently called. It does get a response.

SENATOR AMBROSIO: As long as you've been at the Division, do you know of any DYFS worker that's been disciplined?

MR. ALEXANDER: Excuse me, Senator I may be in a better position to answer that question. Since we represent those people in disciplinary hearings, I know several DYFS employees that have been disciplined.

SENATOR AMBROSIO: For improper conduct of their--

MR. ALEXANDER: A variety of offenses, all right? I don't know that I can say that there's a direct cause where an individual was disciplined for failing to investigate or not investigate appropriately. The offense may be worded in some other way, all right? There is an offense of neglective duty, and employees are disciplined for neglective duty.

SENATOR AMBROSIO: Do you have any numbers statewide, how many DYFS employees have been disciplined?

MR. ALEXANDER: I would not be in a position to answer that because our local, of which I am the local President, only represents those DYFS employees from Burlington County south. So, I would not have numbers for those in North Jersey or Central Jersey.

SENATOR AMBROSIO: Okay, thank you.

SENATOR COSTA: In the time that you have been with the Department, would you say that most people leave because they're burnt out or because -- I'm talking about extra caseload -- or because of salary?

MR. ADAMS: I think that the reasons most people leave vary. I don't think it's one substantial issue. But I would find it that most people find that it was just not the job for them. You're throwing normal people into abnormal situations that they are not prepared to deal with.

Additionally, there is the financial issue. You cannot recruit people out of colleges with the starting salaries that the State is offering. In my opinion, I think they're more apt to go elsewhere.

SENATOR AMBROSIO: Excuse me. I wonder if it's also a little bit of, you know, that throwing normal people in abnormal situations tends to have people that are inexperienced treat every situation as abnormal? As a consequence you tend to look for things that are wrong and maybe some of the abuses that occur is because of the lack of experience of the caseworkers in dealing with those abnormal situations?

MR. ADAMS: Senator, while I think that there is a likelihood for that to occur, I think that the Division has made substantial strides to increase its training programs.

SENATOR AMBROSIO: What have they done?

MR. ADAMS: Well, when I began in 1981, the training was, here's your casebook, go to Delmont and fix the situation. I drove out of the parking lot and didn't know whether to turn right or left to Delmont.

Now there's the training--

SENATOR AMBROSIO: Now they give you a map.

MR. ADAMS: Not even a map, nor a State car that works. But there have been substantial training programs, the 20-day training program. New workers now come with me out to the field during this training process.

I will tell you, I attended probably one of the most unique training programs that the Division has offered. It was a simulated training where they gave experienced workers a mock case, and they sent you out to a home, not an office, and they videotaped you.

Now I found that to be a very enriching experience because it demonstrated to me how I presented myself to the public. I think that this is a valuable training tool. I think it's unique, and I'm aware that it's being used in the new worker training.

SENATOR AMBROSIO: Thank you.

SENATOR COSTA: What is the average age now of most workers of the Division of Youth and Family Services?

MR. ADAMS: That I could not answer.

SENATOR COSTA: You said you're the senior member--

MR. ADAMS: In my office I--

SENATOR COSTA: --in your own area when you're saying you're speaking of the eight years you're there and not your age.

MR. ADAMS: I would say the eight years that I'm there.

SENATOR COSTA: Fine. And of the people that are there where you are working, how many are older than you and how many are younger?

MR. ADAMS: In the casework positions--

SENATOR COSTA: Approximately.

MR. ADAMS: --in the Cape May division, I think it's about five are older.

SENATOR COSTA: And how many younger? How many do you have totally.

MR. ADAMS: Fifteen.

SENATOR COSTA: Fifteen, so five, thirteen would be younger than 28. We haven't got enough of those people that stay with it.

Now you're going to stay with the Department, I don't know whether to say what's wrong with you, at this point or--

MR. ADAMS: I enjoy my job.

SENATOR COSTA: Do you work with the children directly, or do you work with the families directly?

MR. ADAMS: I work with everyone directly. I think that when you're in the position that we are, it's a difficult job because you're not a welcomed person. But I think that with some level of skill, you are suddenly able to make some people recognize the problems that are occurring in the house -- the alcoholism, the drug abuse, the history of abuse within their family.

And I'll tell you quite frankly, in Cape May, a lot of our clients view the State of New Jersey as their only family and friends. They come to us for help, and that never really gets reported.

SENATOR COSTA: Do the children get attached to you, and do you become attached to them?

MR. ADAMS: I think if you're a feeling person or have any sensitivity about you, that's going to occur. But that's when you can spend time with the kids.

SENATOR COSTA: This is what I found; that a lot of the kids no longer trusted people, because when they did get to trust that individual social worker, then he was gone or she was gone, and so they had to start all over again. So they got so they didn't trust anybody.

MR. ADAMS: Senator--

SENATOR COSTA: I'm hoping that we can see to it that we pay them better, and we can have more people staying in something because you have to be a rare individual really to work well with families who are in trouble, and children especially who are in trouble. I appreciate you coming here, and I appreciate your views on what we can do to help your job.

MR. ADAMS: Thanks, Senator.

MR. ALEXANDER: Thank you very much.

SENATOR COSTA: Thank you. Mr. John Murphy, former child care operator. And after that will be Kevin and Evelyn Michaels. Are they here? And Mr. Fau and Mr. Joseph Shanahan, are they all here? Okay, and that's going to be it. I'm sorry, is there anybody else that wants to speak that's not on my list? (no response) Okay. Push that microphone. Okay, thank you.

J O H N T. M U R P H Y: John T. Murphy. Good evening members of the Committee. How are you? I would say first of all that you have a very serious responsibility with regard to this legislation. It's not only the State of New Jersey; the same furor obtains in every state of the Union. Does anybody on the Committee know Dr. Douglas Besharov?

SENATOR AMBROSIO: Yes.

MR. MURPHY: You do. Do you know of the proceedings of the annual convention of VOCAL, the main office in Minnesota?

SENATOR AMBROSIO: Yes.

MR. MURPHY: Well there's literature there--

SENATOR AMBROSIO: I have a lot of the literature from him.

MR. MURPHY: There's literature there that I think apprises you of the national situation. It's not only DYFS of New Jersey, but it is an awful situation because the state agencies are destroying the relationships between children and parents, and children and care center, and school people. So, that the teachers and as the other gentlemen testified, foster

parents, child care operators and workers, and parents are at a terrible odds, terrible situations, because of the intervention of state agencies. And that obtains quite a life in almost every state in the Union and the district.

I have a friend in a comparable organization, DYFS organization, in the State of Virginia. It's like, something like the situation in 1942. You are the members of a legislative body. You've got a tremendous (indiscernible) up here. What are you going to do with the Japanese? Everbody's afraid. We just went to war with Japan. In December they bombed Pearl Harbor. What are you going to do?

The horrible thing they did was to stick them all in those concentration camps in Utah, magnificent people, tremendous injustice. Now the same type of thing is happening with regard to this. People lost property. It was an awful thing.

The same type of thing as I say, is happening with regard to this same (indiscernible). It's a political situation, everyone wants to be viewed as loving children, and taking care of children. That's the strongest thing that I'm interested in. Every Senator wants to be viewed that way, every legislative person, and every person in DYFS wants to be viewed that way.

So that you have a very serious responsibility. And a lot of thought has got to go into the corrective legislation, because corrective legislation is essential. Because the DYFS workers I think, due to their overzealousness to protect children, are trampling on the rights of family members and child care operators and child care workers.

I would recommend, I think, as a thought-- There should be something with regard to an indictable offense on the part of a DYFS worker. I know that DYFS workers, social workers that investigated our place lied on several occasions, and I have witnesses to that fact. So perhaps in the

legislation, you could correct their investigative procedures by establishing some penalty therein for lying or obtuse handling of the situation.

Also, I had-- I was 23 years taking care of children either in summer camp, as a school member, when I went to camp in the summer, living in the cabin with children. I was five or six years there and I operated for 17 years a nursery school, summer camp, riding school. I had about five or six thousand children over a 23-year period.

I had a lot of female pediatricians on my list, female pediatricians who were good friends of mine, whose homes I enjoyed Thanksgiving and Christmas. Female pediatricians whose husbands are doctors also, so that-- I had psychologists, I had lawyers, doctors, school superintendents, lots of teachers, who were parents of my children over the years.

When they came in, they never-- First of all, they didn't speak to me, interview me, they didn't interview any of my parents, none of my parents. I had a doctor at the time that I was investigated, he wrote to the Governor, I guess he corresponded with DYFS. He did write several letters.

He was dropping off his little girl with me, this doctor and his wife, seven o'clock in the morning, every morning, five days of the week. And picking her up -- he was the last one, and it used to get me mad because he would show up at six o'clock, or shortly thereafter.

Two years and he was never interviewed. Now here's a fellow who could have seen there's some deviance in this guy. I mean he would be expected to have an appreciation. He came early sometimes while we were in session. Now here's an adult, you could say. Here's a professional. Now this guy ought to be able to tell us something about any deviant behavior or any erratic behavior that this fellow might be suspect.

No adult, no teacher -- my teachers with 15 or 20 years experience teaching-- I was investigated during the

summer, and I have teachers who teach in the public school system help me during the summer, and they have their own children in the camp. So here are other professionals that could have been interviewed to see, well, there's suspicions here; are they valid? So, that was not done at all.

And substantiation of cases, that's the thing. What is a substantiated case? I went to a national convention of the Education for Young Children in Washington, in the fall of '86, and there was a Ph.D. from New Hampshire who was doing a study. He was explaining the study. He was going to release the report of his study the following year, in '87. I didn't make it in '87, I think it was in San Francisco.

Anyway, in '86 he was telling us how he was doing. He was telling about four or five hundred child care professionals, and he was asked, "What is a substantiation?" He said that a substantiation for purposes of his study was any case that had the avowal of a child care investigator; that the investigator thought, "Yeah, this is a substantiated case."

Well, that's not fair. His whole study was skewed. He did release it at the '87 convention. I wasn't there, but the study was skewed. And I would say that your substantiation percentage here should get a hard look. Is it skewed? What is a substantiated case?

So, I think you have a very, very serious charge with regard to legislation in this. And I think Jersey is just one state in the Union.

I have other things here. I'd like to type it up and mail it in, but I think I've said the basis of what I wanted to say.

SENATOR AMBROSIO: We do have a statement from you. You submitted a statement.

MR. MURPHY: I sent a letter, yeah.

SENATOR AMBROSIO: We have that. If you want anything else, we'd be happy to receive it.

MR. MURPHY: Okay, I think I will.

SENATOR COSTA: Thank you, John.

MR. MURPHY: Thank you very much.

SENATOR COSTA: Kevin and Evelyn Michaels.

EVELYN MICHAELS: Thank you. I wanted to address Senator Ambrosio, and actually the rest of you also--

SENATOR COSTA: I'm sorry, I couldn't hear you.

MRS. MICHAELS: Thank you for giving me hope that something is going to be done about this. Something needs to be done about the system. Listening to your questions and watching the way you responded to these people has just built up a hope. You know, I pray that good comes out of all this.

You have touched on everything that we have written in our letter to you except one point. We believe that there should be immediate medical care for the children whether or not they are victims of abuse. It is in itself a form of abuse to make a child wait to be treated until a DYFS investigator can come to examine them, which is what happened in our case.

KEVIN MICHAELS: Our child had a broken leg, and she sat in the doctor's office for three hours before the doctor would put a cast on her.

MRS. MICHAELS: I was pregnant at the time. We hadn't eaten; we hadn't slept.

SENATOR COSTA: Your child was taken from you?

MR. MICHAELS: No it wasn't.

MRS. MICHAELS: Thank God she wasn't.

MR. MICHAELS: She was put in the hospital. It was a 72-hour hold and if we tried to take the child out of the hospital, they would put a hold on it and wouldn't let us take the child out of the hospital. That was without a court order.

MRS. MICHAELS: We had a guard on our room--

MR. MICHAELS: We had a guard every time we were there.

MRS. MICHAELS: It was an allegation of a doctor who treated a break in her wrist from falling out of the crib. And

the break in her leg which was a result of her falling out of the crib. But, none of the DYFS people wanted to listen.

SENATOR AMBROSIO: How old was she?

MR. MICHAELS: It goes on, she was seventeen months at the time.

MRS. MICHAELS: She was seventeen months old. If we were cleared--

SENATOR COSTA: Let me get a little-- You took your child to the hospital because she had--

MR. MICHAELS: No we didn't. We took her to our pediatrician because she was crying all night and we couldn't find out what was wrong with her. We took her to the first pediatrician, and he misdiagnosed her, saying it was a virus. But she would not calm down all night. We gave her Tylenol and the next day we brought her back. The second pediatrician said it was a broken leg. He thought it was a broken leg and he sent us to the orthopedic guy next door who had an x-ray machine. And while we were at the office he x-rayed her, and she was diagnosed as having a break in the upper thigh.

MRS. MICHAELS: As he was looking at this break he said this was a crime.

MR. MICHAELS: It was crime because it was a twisting break. But there were no bruises on her leg to indicate that we did it.

So, evidently we have yet to find out if this is the truth, but he sent us back out in the waiting room with the child for three hours until he could get help to set the cast.

We found out since, that there was supposed to be an investigator coming in to check on the child, who never showed up. We were met at the hospital instead. We were told that she had to be in the hospital for 72 hours to check swelling, which we couldn't get the doctors to check when she was in the hospital. We were informed by DYFS that it was a 72-hour hold on her at the time she was in there.

By Monday we were cleared at the prosecutor's office. I had gone through a lie detector test. Monday night we were evaluated by the DYFS psychologist as being not abusive. They closed the case, and we brought the child home.

MRS. MICHAELS: May I interject something? They made us go to that psychologist. They said first, "Would you give up your child to a family member, because we haven't finished our investigation?"

MR. MICHAELS: Because he went away for the weekend and he didn't investigate.

MRS. MICHAELS: And we said, "Absolutely not. She needs to be home with us." "Well, in that case will you go for psychological evaluation?"

MR. MICHAELS: We agreed to it.

MRS. MICHAELS: And we said, "What other choice do we have?" "Then we can get a court order if you don't," which means we would have had to do it anyway, but pay for court proceedings.

So, we did. Within 20 minutes this woman cleared us, and told the DYFS caseworker the same thing the investigator--

MR. MICHAELS: In the meanwhile they did a series of x-rays on the child on Saturday, telling us it was a test for soft bones. We found out only through the doctor, that it was ordered by DYFS. And these x-rays were examined by their doctor who determined there was another break which four doctors we have gone to have determined isn't a third break.

We have yet to see that medical record. It has not been released to us or a lawyer, or a pediatrician. We still don't know what it actually says, but that was used to reopen our case after the prosecution case.

MRS. MICHAELS: And DYFS closed it.

MR. MICHAELS: And DYFS signed a service agreement for three months visitation and maid service. When they reopened the case they totally ignored the service agreement that was

presented to us. And once we got a lawyer-- And then the x-rays they had become unclear and they wouldn't make a determination on those x-rays, and they threatened us with court action to get more x-rays on the child who's only 17 months old, and she's already had more x-rays than I had in my life.

The lawyer was able to get them to stop that, and then they came along with the second service agreement. She was seven months pregnant and we were fighting over that because we had gone back for another evaluation with the psychiatrist. We were cleared again.

MRS. MICHAELS: Eight hours worth of Rorschach tests and blood tests, tests that you wouldn't imagine. Five hundred questions that were demeaning.

MR. MICHAELS: And DYFS had all this information in front of them. They pressed for another service agreement for six months of visitations, and an outside agency to come in and take care of the child.

SENATOR AMBROSIO: The only entree into DYFS was the pediatricians--

MR. MICHAELS: It was an orthopedic doctor. They were using a 95% statistic that this break was abusive. That was the only evidence they had against us.

MRS. MICHAELS: There were no bruises on this girl's leg.

MR. MICHAELS: And this gets worse, because she was seven months pregnant. This was New Year's Eve, and I had to take her down to the hospital because she went into premature labor New Year's Eve.

DYFS was informed of this on Monday. We were told they didn't care, and if we didn't sign the service agreement by Thursday, they would have both of us in court at 1:30 in the afternoon. This was after she's been restricted to bed rest, and the baby was only 33 weeks developed, and it had to be 36 weeks developed before the baby is viable by herself.

MRS. MICHAELS: The "they" he's talking about is the Assistant Attorney General, I just wanted to make that clear for the record.

MR. MICHAELS: We have a written letter stating what she wanted our lawyer to do. And it was a direct threat.

MRS. MICHAELS: She also told -- I asked if my doctor, if the specialist at St. Joe's-- I was transferred down there in case I delivered the baby prematurely, that they would have the adequate facilities.

MR. MICHAELS: And he called her.

MRS. MICHAELS: And he called her.

MR. MICHAELS: And she ignored him.

MRS. MICHAELS: And then she turned around and told my lawyer that she did not care about the unborn child or the welfare of the mother. She was concerned with the child in question. Now that is abuse in my eyes. I can't imagine--

MR. MICHAELS: And we would like--

SENATOR COSTA: And the statement was made by the Attorney General? Or the Assistant Attorney General?

MR. MICHAELS: The attorney under the advice of the DYFS agent. They were all in on the meetings together, because every time we called them, they would get together and make a decision. And when we called DYFS-- There's a few other things that we would like as Citizens Review Board -- that we have an opportunity to protest these things, because I would not trust DYFS to investigate themselves.

We were warned that they might come back and make it worse, because they are allowed to come in our house for six months and they could say anything they want.

And these people are not trained; they're not social workers. I don't care what that booklet says. I'm not blaming Mr. Waldman, I'm sure he's trying to make it best, but these people are not trained.

The two investigators we had were 24 years old, neither one of them was married. The guy went to a football game on the weekend he's supposed to be investigating us for child abuse. And the whole reason we had to go to that thing was because he didn't have enough time to complete the investigation-- And the prosecutor's office was done that Monday morning.

MRS. MICHAELS: The prosecutor cleared us within a weekend.

MR. MICHAELS: And I voluntarily took a lie detector test. They totally ignored all the information they had in front of them except for the 95% statistic. I had gotten that from the supervisor. And they haven't paid any of the medical bills. I'm getting credit things from the hospital because they will not pay the x-ray bills.

SENATOR AMBROSIO: Do you have any other children?

MR. MICHAELS: We had the second one.

MRS. MICHAELS: We had a baby girl again.

SENATOR AMBROSIO: And you never had any other problems with this prior to that?

MR. MICHAELS: Nope, and they never talked to the pediatricians either. They didn't talk to our first pediatrician until a week-and-a-half later. And they never talked to the current pediatrician, they only asked for his records. And they're still seeing him, as a matter of fact.

SENATOR AMBROSIO: Okay, thank you very much.

SENATOR COSTA: Thank you so much for coming--

MRS. MICHAELS: Can I add one other--

SENATOR COSTA: Go ahead.

MRS. MICHAELS: As far as the psychologist goes and the importance of having outside medical and psychiatric personnel -- people that are not employed on a retainer by DYFS-- The woman that evaluated us gave us a glowing report on

all the tests that came back, and then, in turn, told us she had to "cover her ass" and made up a recommendation in favor of DYFS.

MR. MICHAELS: And made recommendations for visitation. And one other thing; you asked what we heard when the case was ended. We have a letter here that was sent to us that ended the case: "We have completed our supervision service provision in regard to the above mentioned child. Since at this time no need for services is indicated and you have not requested to continue services, we are terminating our agency's involvement effective 5/11/88. Thank you for your help and cooperation during our recent contacts. If in the future you should ever need our services, please feel free to contact our agency." (negative response from audience) That is what we heard.

MRS. MICHAELS: That is the only report that we have had from them.

MR. MICHAELS: That is the only thing we have from them. We have nothing as far as the medical records.

MRS. MICHAELS: I mean it's funny. It is. But it's sad.

SENATOR AMBROSIO: Is that a form letter?

MR. MICHAELS: Yes, it is a form letter. Names are filled in on lines.

SENATOR COSTA: When did this first start? The previous year in '87, or '86?

MRS. MICHAELS: November of '87.

MR. MICHAELS: Eighty-eight.

SENATOR COSTA: Eighty-seven.

MR. MICHAELS: Yeah, it started in November of '87. You can have a copy of this because we have one.

SENATOR COSTA: You just-- You had another nightmare to add to your life. I'm sorry.

MRS. MICHAELS: Thank you for the opportunity.

SENATOR COSTA: Thank you. Mr. Arthur Fau please, and then Joseph Shanahan.

A R T H U R A. F A U: Thank you. Madam Chairman Costa, Honorable Vice Chairman Ambrosio, distinguished Committee staff, and members of the public. The hour is very late and I will try to be as brief as possible.

I'm a father. I have two sons who together were going through the emotional domestic relations battle that will probably go on for years and years. The need for a public policy that discourages this competitive parenting in favor of cooperative parenting is in the best interest of these and other children.

I have personally had the insensitivity of DYFS in recognizing the experiences and the needs to support these children. I contacted the Division's Burlington County office in June of 1988, requesting help -- requesting an investigation into the potential of child abuse that was in the realm of emotional abuse.

What does one do when you're sitting and you have concern for your children when there is medical concern for the children that they seek counseling, and yet you have an uncooperative mother in that regard, other than asking DYFS will they look into it? Will they look into the possibility of the abuse that may very well not be as defined in the statute physical, sexual, or neglect? Certainly emotional abuse may be the predecessor to what we ultimately see in the newspaper and in the media as physical child abuse, neglect, or sexual child abuse.

During each and every intake investigation, a caseworker should have the responsibility to ascertain as much information as possible about the case and certainly should be aware that any emotion should be identified. Our forms today don't even-- There's no consideration given by a caseworker when a person comes in, as to is there a pending domestic relations confrontation or is there any litigation that's

pending and how might that color what's being said either for or against the true allegations that might -- or the allegations and the need to find out the truth?

In alleged child abuse cases, judges always rule on the side of caution. They rely heavily on the testimony of the "do-good" caseworker. But how many of these caseworkers are trained and have practical experience in psychology, human behavior, child development, or better yet, parenting? Are not many of these caseworkers barely, as we heard today, 25 years old? And then how many of them, they themselves are childless? Yet, the future of a child may be permanently damaged by the most powerful and perhaps ignorant testimony.

Children can be taken from a family due to suspected abuse, and placed in a foster home. The foster care system seems to motivate the agency to place the children with other family members first, and there appears to be little or no incentive for the caseworker to quickly resolve and make plans for the return of the children to their parents.

There can't be any reason whatsoever why DYFS cannot become a clearing house of information based upon the investigations of the effects of the court proceeding on domestic relations issues; professionals trained to investigate allegations and claims of harm to the kids, the kids that might be abused, the kids that might be abandoned, maybe even the kids that are involved in divorce and separation.

We need to examine the government's role in family life, and maybe perhaps ask ourselves this question: If the State is to protect the children from abusive parents, then who protects the children from an abusive State?

There are many who are responsible for protecting the children. Judges do make decisions everyday in the best interests of the children. Professionals known as guardians ad litem are appointed by these same judges to evaluate the families in a custody battle.

Yet, who's looking after the children when battle lines are drawn and armed? Where are the social workers who are providing support for these children who are waiting in line for justice to be served in the family courts of New Jersey? How many social workers, or caseworkers, or other professionals have served internships working with parents and children?

How many of these same individuals are familiar with the support network that exists in the State of New Jersey today? Or better yet, how many of our people in DYFS know about the New Jersey Self-Help Clearing House, in Denville, New Jersey, and how many times do they make that information available to people they contact?

During the course of my testimony you've heard me talk about the needs of kids involved in divorces and separation, and what today seems to be available from DYFS. I'll now just give you several suggestions which I believe may start preliminary State initiatives which need more careful analysis to determine which methods will most effectively reach these individuals, both parents and children alike.

We need to establish a certification program for caseworkers, which will serve to motivate and continually promote education through practice and experience so that every individual in the agency who comes in contact with the lives of youth and family can be assured of the most current knowledge.

We've increased the awareness of individuals in the Division to the circumstances that surround the incidences which are brought to the Division requiring intake investigation, emphasizing the need for individual attention. And every case brought to the Division could be achieved by simply having on the top of each intake report, "Pending Circumstances." Is it a domestic relations battle? Is it a

custody, is it visitation, is it support? At least attempt to qualify what emotions might be involved so we can ascertain what is the true harm the children may or may not be suffering.

And finally, redirecting the focus of the Division from the singularly present intervention interest. It seems that the Division only gets involved when they want to intervene. Why can't the Division get into the prevention side, such as, peer support groups for parents and children and do that in addition to their intervention means? With prevention, intervention may not be necessary.

Although the innovations that you have had described here today are just numerous and it will take a far long time to sort out each and every one, it is certainly obvious that there is concrete and practical evidence that small, relatively inexpensive steps can be taken to reach out and meet the needs of at least some of the youth and their families.

What we need are these new ways of strengthening the family in its many forms. As you heard today, you heard testimony from the intact families, you heard it from the divided families. But it's families that need support, and I hope that our State will recognize through its legislative efforts that it's the cooperative parenting in either the intact or divided family, not the competitive parenting, that is what is in the best interest of the children.

Thank you.

SENATOR COSTA: Thank you so very much. We appreciate your recommendations. We have a pretty good staff. They're going to have to do that sort of thing. Thank you.

Joseph Shanahan please, and then Julie Turner.

J O S E P H F. S H A N A H A N, E S Q.: Madam Chairman, members of the board, this will be just a five minute statement, an observation and conclusion I have had from my limited experience.

I am Joseph Shanahan, an attorney in Lambertville, who for the past eight years has been involved in the litigation field of opposing sex education, or the mandating of sex education in the government schools in New Jersey -- and am still involved in enforcing an excusal clause for parents who do not wish their children to attend these scandalous classes. Now, as a result of that involvement, I also defended a few years ago one criminal prosecution for sexual abuse, and I am familiar with the emotions that are brought forth by members of the prosecutorial staff in these investigations.

I'm also familiar with the type of guideline book which is used in the sex education classes and can vouch for the fact that they contain material describing sexual activity of the most bizarre nature. Such teaching goes down to the primary grades and now the Surgeon General wants to include AIDS as a subject matter, and naturally, as kids will do, it passes down to pre-schoolers-- And when you take into consideration the porno cassettes which may be in the home and may be obtained by young children and used in a VCR when parents are not at home, you have the possibility of the presence of many children in the community who are very familiar with the physical aspects of the sexual act without ever having had firsthand knowledge.

Now why do I emphasize this? Because in my limited experience in the criminal defense area, I was struck with the impression that there was a tendency on the part of the DYFS people involved -- the police, the prosecutor and even the judge -- to have the preconceived conclusion in their minds, how can a child of such tender years describe what is in the complaint unless he or she has had actual firsthand experience? And I would have thought so myself except for the foregoing experience that I had myself. Therefore I plead that great care must be taken at the first instance, the first

complaint of the child in the presence of the DYFS, or whoever the workers are, so that leading questions are not included, so that justice may go awry -- or may not go awry.

Further, when you weigh the possibility of error in just the charging, even without the conviction, against ruining a man's or a woman's reputation in the community, it calls for the most discreet and professional investigation from the very start in order to avoid error and the possibility of bureaucratic railroading for the sake of protecting incompetent colleagues.

If you know a man intimately for many years and he's accused of burglary you may be pretty safe in the knowledge, in your own knowledge that he couldn't be a burglar. But if he is charged with assaulting his two-year-old-daughter, no one can ever be sure that he's innocent.

Another area that I have some experience and familiarity was with the anonymous calls, which I heard previous testimony speaking at great length of how wonderful they are. However, my further experience is after the call that I was involved in was found to be baseless, absolutely without fact, a written letter was sent to the DYFS chief at that time -- which I still have -- and he flatly refused to expunge the records of the innocent party.

So I'm giving this statement only in the interest of justice so that the information I feel that I have may be considered by DYFS officials in their future investigations and operating procedures and passed on to the workers in the field so that they have to take into consideration that there may be another side to the story that they first were so sure of at first blush. Thank you for your consideration

SENATOR COSTA: Thank you very much Mr. Shanahan. May we listen to Julie Turner please?

SENATOR AMBROSIO: You're the cleanup hitter, Julie.

J U L I E T U R N E R: Yeah, well I wasn't originally planning on testifying, but some points came up and I did want to make a couple of comments. One, not wearing my official hat, but many years ago I was a caseworker for DYFS and I wanted to share two anonymous calls that came in the same day: One was that the child was chained and being beaten, the second was a baby who looked like a refugee from a concentration camp.

The first one was false and malicious. That family had to undergo my going out and investigating. The second one was totally accurate. Had I not been there, had I not gotten help, that baby would not be alive.

I have to support anonymous calls. I have to, just based on that experience. That's my individual-- As I think you know, I'm Executive Director of New Jersey Association of Children's Residential Facilities. I will be very, very brief.

1) We have a responsibility to provide adequate care for the kids who are in the facilities. We must take responsibility for and welcome investigation -- solid investigation -- of any allegations of abuse or neglect, whether it is a residential facility, a correctional facility, a school, or a day-care center. Those kids need that kind of protection. It is very clear in the report on the Institutional Abuse Unit that there are some serious problems, and I think those are ones that DYFS must investigate and improve to make sure that the quality of investigations is better. We would be happy to work with them on that.

2) Many references have been made to the tremendous turnover and low salaries of DYFS caseworkers. I think you've heard me before, but I will not stop saying: The child care workers' salaries are \$10,000 lower and the turnover is far higher. These are the people who are taking care of the most troubled and vulnerable children. Is that what you want?

Third, Senator Ambrosio, the question of mental health services. It is not directly related to what the Committee is

talking about. Let me say in going to every one of my members, that they have identified a number of problems.

Number one, the issue of the ability to recruit and retain qualified child care workers, to care for the most troubled children. The second is the inability to get mental health services. The CCIS units are full. We have had kids who are highly suicidal and have been told maybe, maybe we'll be able to get you in, in eight days. We have executive directors staying with the kid in a hospital until two or three in the morning to try to get help. The mental health -- children's mental health system is not adequate. It is not sufficient; there are not enough services.

I know this is not directly what this Committee is concerned about, but I would feel I was--

SENATOR AMBROSIO: Julie, we have a number of initiatives that are in the works now to increase services for children in mental health. I only speak from the experience in my area. We have--

MS. TURNER: I know you're in the same office I looked at.

SENATOR AMBROSIO: We have-- Yeah, the mental health center is in my building. And we go out of our way to recruit organizations to plug into us, especially, for-- We have the leading suicide prevention program in the country.

MS. TURNER: You do, and a super lady running it too. But I'm saying in the State, there are not sufficient services. It doesn't matter if you talk to parents or whether you see the kids who are in the agencies, you cannot get the necessary crisis services. It is-- I cannot tell you how serious it is. And I really couldn't let it go by.

SENATOR AMBROSIO: Okay.

MS. TURNER: I think we would be willing to work with the Division and/or the Office of the Public Advocate. As you read the report you will note that the unit in the Office of

Public Advocate was doing a far superior job. I think we have to improve this to make sure we protect the kids. Thank you.

SENATOR COSTA: Thank you Julie, we appreciate it. Does anyone else wishing to speak before we close this forum. (affirmative response) Yes, what is your name please?

P E T E R G O L D, E S Q.: My name is Peter Gold.

SENATOR COSTA: Come on, we mentioned you before.

MR. GOLD: Thank you. I don't have any testimony today. I do have a request of you.

SENATOR COSTA: For the record, why don't you say who you're with?

MR. GOLD: I'm with the Governor's Task Force on Child Abuse. I'm a public member of the Task Force. I am a chairperson of one of the subcommittee groups in the working group conducting an overview of DYFS as well as the child protective system. In listening all day today as I have, I first want to thank you for providing this excellent public forum. It's truly superb and I have learned an immense amount.

My request to you is this, that you establish a time frame for your action that will permit us to conclude our work, which I believe is in March.

SENATOR COSTA: Yes, we asked the other member from your Task Force and she did say March, and we're hoping to get done as soon as we can get the report back. As you can see we have our transcribers, and I don't know how long that takes? Maybe a month or so, and also, enlist the assistance of our staff to come up with the recommendations as we've heard them here and the Committee to get together. We'll certainly keep you advised.

MR. GOLD: Thank you very much.

SENATOR AMBROSIO: Thank you.

SENATOR COSTA: Thank you. Senator Ambrosio.

SENATOR AMBROSIO: Yes. Before we close I just want to acknowledge that Director Waldman sat through this entire day's hearings, and I personally appreciate him being here. I would call his attention to the various people that testified, who in my judgment have raised very, very serious issues. I think we have to join together to address -- and I'm sure you're going to take these to heart and get back to us on how we can address the serious problems we heard today.

MR. WALDMAN: (from audience) Senator, as a matter of fact I was in the hall taking names and addresses of individuals who (indiscernible) situations so we can follow up on them.

SENATOR AMBROSIO: Thank you.

SENATOR COSTA: I certainly appreciate that because some things that we heard today sound like absolute nightmares. And I appreciate your sensitivity, Director Waldman, and I appreciate Senator Ambrosio being here all day long too. Leanna Brown had to leave a little earlier. But I really do appreciate it, as well as our staff members Randall Currier and Paul Anzano, my own staff member, Craig Hrinkevich, and the ladies at the transcribers' booth, which are Priscilla and Demery. Thank you once again. Thank you, everybody, for being here and we hope that by our efforts -- your efforts and ours -- we'll be able to do something to make things better in the State of New Jersey for all children and their parents. God bless.

(HEARING CONCLUDED)



