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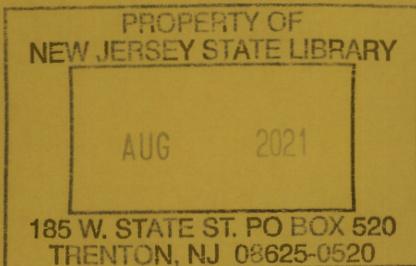
P U B L I C H E A R I N G

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

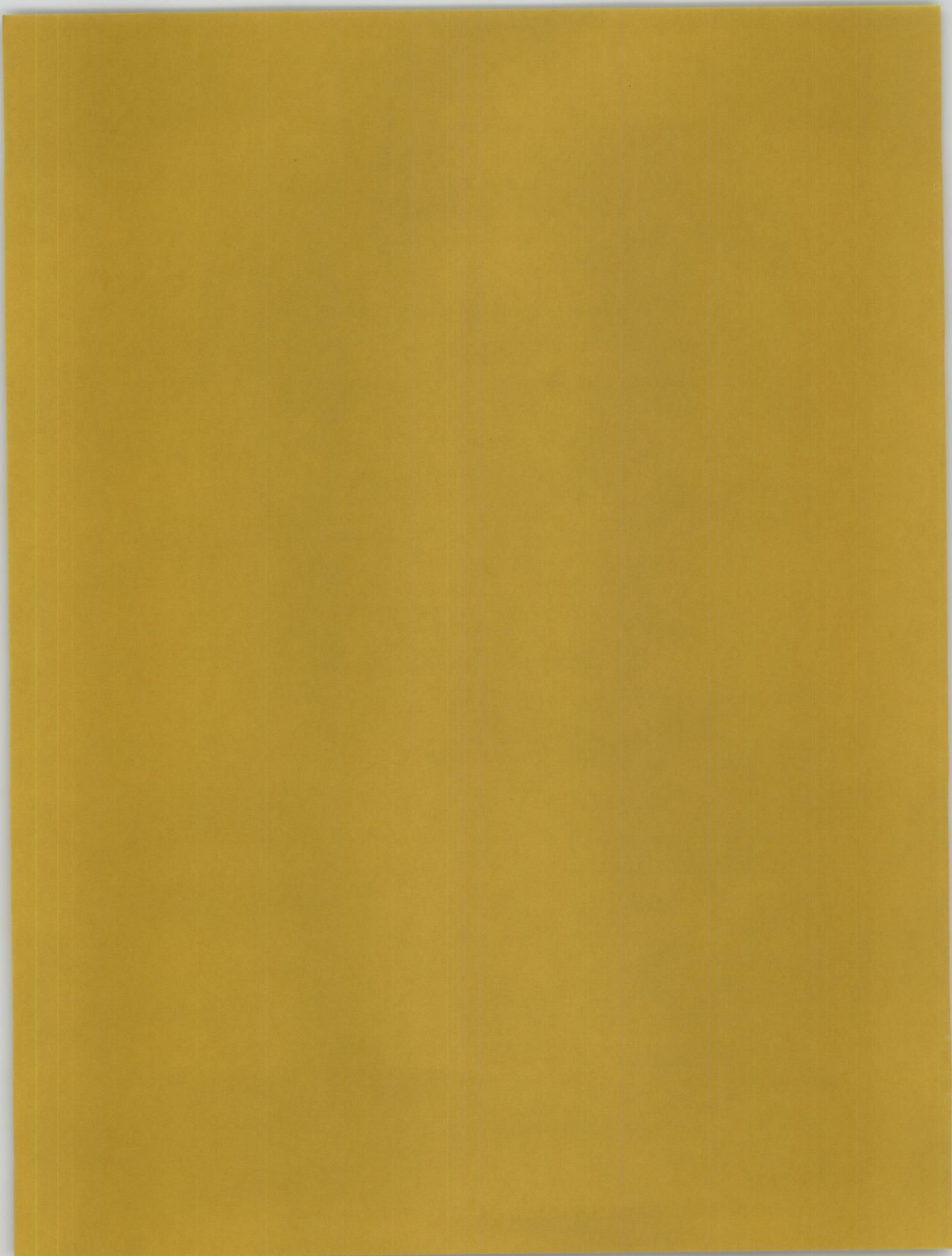
September 27, 1988
Room 403
State House Annex
Trenton, New Jersey



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A P P E N D I X

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SENATE COMMITTEE ON CHILDREN'S SERVICES
HONORABLE CATHERINE A. COSTA, CHAIRMAN

PUBLIC HEARING
ISSUES RELATING TO INVESTIGATIONS BY
DYFS ON REPORTS OF CHILD ABUSE

SEPTEMBER 27, 1988

STATE HOUSE ANNEX
TRENTON, NJ.

TESTIMONY OF: NJ FOSTER PARENTS ASSN.

PRESENTED BY: SUE DONDIEGO
LEGISLATIVE CHAIRMAN

IX

My name is Sue Dondiego. I am a foster parent and Legislation Chairman for the New Jersey Foster Parents Association.

I would like to thank this Committee for the opportunity to participate in these hearings.

The subject of child abuse including the manner in which investigations of reports are conducted is a complex area.

The number of child abuse referrals has risen over the last five years from 20,193 (1982) to 50,250 (1987).

We strongly support the protection of children from abuse and neglect. As foster parents, we know first hand the immediate and long range damage physical and sexual abuse has on children.

Our first concern relates to the broad issue of DYFS's ability to be both a child protection and social services agency. While many referrals are directly related to abuse, which clearly place children in imminent danger, others are the direct result of poverty, unemployment, homelessness and other social factors which require DYFS to provide all forms of child welfare services.

When services, which will preserve the family structure, are not available, are the children removed from their birth home and the parents labeled abusive or neglectful because there is no other alternative?

In regard to abuse investigations, in foster homes, we see a great degree of inconsistency. In some instances, abuse reports are investigated superficially because the foster home is one DYFS knows will accept any type of child, at any hour, regardless of the foster parent's ability to provide care. These foster parents may be considered to be marginal homes by DYFS but because of the lack of appropriate foster homes, these homes are not closed.

On the other hand, if an abuse allegation is made against a foster parent, who continually badgers DYFS for services for their foster children, this is seen as a perfect opportunity for DYFS to remove all the children and close the home.

Child abuse in foster homes should not and cannot be tolerated. We are entrusted with the lives of children, many of whom have come into the foster care system because they have been abused.

We do not question DYFS's authority to investigate abuse allegations in foster homes. We do question the manner in which investigations are carried out.

There have been times when foster children were picked up from a school or other location and the foster parents were never notified. In other instances, foster parents were never spoken to when an abuse allegation had been made, yet the allegation becomes part of their record.

There are, unfortunately, horror stories at both ends of the spectrum... children left in foster homes where the opportunity for abuse exists and

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children removed from foster homes when no abuse existed.

In all of this, who suffers the most- the children. Whether children are removed from their birth homes or foster homes, the event is traumatic.

We must create a system which truly protects children by also protecting all those who care for them.

It will take more than the efforts of DYFS to accomplish this task. Our Association stands willing and ready to assist, in any way possible, to see that child abuse is reduced, and investigations are carried out in a proper, appropriate manner.



P.O. Box 276, Keyport, N.J. 07735

(201) 583-1518

My name is Arnold Herman. I am director of Foster Friends Inc., a statewide foster parents organization. My wife and I have been foster parents for the Division of Youth & Family Services (DYFS) for more than 10 years, during which time we have raised a total of 23 teenagers.

I am here to add my comments to the many that you will hear suggesting that changes are needed in current laws governing DYFS investigation. However, even more than changes in laws, what is really needed is a way to force the DYFS Agency to follow the ones that already exists.

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 children from such acts. However I have a lot of concern about an agency where workers continually interpret these laws to suit their own personal beliefs.

Because they are allowed to promulgate their own regulations, because they are able to cover their mis-acts with claims of confidentiality, and because they are immune from legal suits, the DYFS Agency is able to violate current laws regularly, with no repercussions what-so-ever.

This violation of New Jersey laws often starts with the decision to investigate. DYFS is charged with the responsibility of investigating allegation of abuse and neglect. However, the agency is able to stretch that role as far as they want to. For example, some individual workers

"FOSTER HOMES ARE FRIENDLY HOMES"

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harbor the opinion that no child should ever be physically disciplined. Consequently they instigate an abuse investigation any time they receive a report that a youngster has been spanked, or even threaten with a spanking.

Once an investigation is started many laws and individual's rights are violated. DYFS investigators are usually young workers who have had little experience in investigating techniques, and even less in parenting. They often get caught up in the excitement of playing detective, and the truth of what occurred becomes secondary to the challenge of proving someone guilty.

In one case earlier this year the DYFS Agency was put on notice by a parent that a court order would be necessary before she son was interviewed. This right is clearly spelled out in New Jersey law. Despite this notice a DYFS worker was sent to the child's school and interviewed him. When this action was protested by way of an administrative hearing, the hearing officer agreed that DYFS acted improperly. However the local office that handled the investigation is still insisting that their action was proper, and refusing to change their procedure.

Once a DYFS investigation is started it is highly unlikely that the person being investigated will be completely cleared. Statements such as, "We were unable to substantiate abuse occurred, but we suspect that it did," are common in files kept by the agency.

To cover-up the thousands of cases where they should not have investigated, or have mis-investigated the agency has a catch all phrases which they used 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 it if we were talking about one, ten, even a hundred errors. But, with more the 30,000 cases last year alone, where even DYFS with their illegal tactics

could not substantiate abuse, then maybe it's time we mandate that it's really better not to err at all.

In addition to the horrors that an unjustified investigation causes the family involved, there is a 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 feeling of a foster parent following an investigation is "who need this type of aggravation." I know that for a fact, as my wife and I have been the subjects of DYFS investigation five time in the last ten years. And the only reason we are still foster parents is that our love for the children in our home slightly outweighs our hatred for the DYFS investigation system.

My closing point is, DYFS is not only mistreating many adults with their irresponsible investigating techniques. They are also harming the children they are charged with protecting. There is a well know crisis currently because there is not enough foster homes. There isn't the slightest doubt that there is a connection between the investigation procedures of DYFS, and the problem the agency has in recruiting and keeping foster parents.

Respectfully Submitted



Arnold D. Herman
Director

Sept 27, 1988



OFFICE OF THE PROSECUTOR

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CHIEF OF INVESTIGATIONS

September 26, 1988

The Honorable Catherine Costa, Chairman
Children Services Senate Committee
11 West Broad Street
Burlington, New Jersey 08016

Dear Senator Costa:

I take this opportunity to bring to your attention the outstanding efforts and relationship which my Office enjoys with the Division of Youth and Family Services in the investigation and prosecution of child abuse cases.

With child abuse reaching epidemic proportions, the continued cooperation of our two agencies has been imperative to meet the needs of our abused children. The Division of Youth and Family Services has continually risen to meet the challenge in the face of an ever-increasing caseload with limited available resources.

About five years ago, the Monmouth County Prosecutor's Office and the Division of Youth and Family Services recognized that although both our agencies were working to protect the children of Monmouth County, that at times each individual agency's interests and procedures did conflict. For example, the Division of Youth and Family Services is required to make a determination as to whether an individual child is "at risk" and should be removed from the home where there has been an allegation of abuse. In order to make that assessment, it is often necessary that the worker speak with the parents of the child to determine what occurred. This confrontation of the worker with the parents then alerts the parents, who may be potential targets, to the prospect of criminal investigation, thereby later negating the ability of any law enforcement officer to gain any inculpatory evidence.

Senator Costa

- 2 -

September 26, 1988

Another conflicting situation may arise where a Division of Youth and Family Services worker conducts an in-depth interview of the child as to what had occurred without the presence of a law enforcement officer. If this occurs, then the law enforcement officers must later subject the child to an additional interview, which causes the child to be further traumatized, often resulting in the child becoming uncooperative.

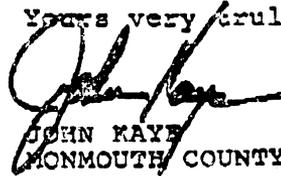
The conflicts which have been previously described have been eliminated due to the cooperative of the Division of Youth and Family Services in adopting written policies whereby the procedures for cooperating with law enforcement authorities are clearly outlined. At present, all parties have agreed to joint interviews of the children being conducted. Further, it has been agreed that the potential target of a criminal investigation will not be interviewed by a worker until a law enforcement officer has first conducted his or her investigation.

It should be noted that the cooperative efforts of the Division of Youth and Family Services and the Monmouth County Prosecutor's Office have not stopped with implementation of a written policy manual, but have been perpetuated through the agencies engaging in joint training and case conferences. Joint training sessions are held on a quarterly basis for new Division of Youth and Family Services workers, investigators and prosecutors, wherein those attending are fully trained in child abuse laws, procedures and investigative techniques. Further, quarterly meetings are held on an informal basis between my office and each of the four Division of Youth and Family Services offices in Monmouth County to discuss individual cases and concerns which are of mutual interest, thereby allowing a free flow of communication and circulation of ideas.

The success that Monmouth County has enjoyed in our continued fight to protect children and prosecute child abusers is due to the fine efforts and sincere dedication of the Division of Youth and Family Services in its cooperation with my office. The excellent rapport and communication which have been established between the two agencies has resulted in highly trained professionals who are able to meet the special needs of abused children.

I look forward to a continuing strong relationship with the Division of Youth and Family Services.

Yours very truly,



JOHN KAYE
MONMOUTH COUNTY PROSECUTOR

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September 17, 1988

Randall L. Currier
Aide, Senate Committee on Children's Services
Office of Legislative Services
CN-068
State House Annex
Trenton, New Jersey 08625

Dear Mr. Currier:

This letter is being written in response to the one sent me September 8, concerning a public hearing to be held before the Senate Committee on Children's Services on September 27. It may or may not be exactly what you've requested, but it shows that the Division of Youth and Family Services needs more adequate laws and supervision.

Since 1985, my husband Tom and I have been volunteer (unpaid) foster parents for The Lighthouse Community's Mother/Child Residence and Educational Program in Woodbury, New Jersey. (Note enclosures.) We have sheltered five infants at various times for the young mothers in this program, in our home with our seven children. All these babies have been surrounded with love and have been well cared for at our own expense.

Tom and I were being trained as state foster parents in September and October of 1987 because we wanted to find a way that we would be able to help other babies. The training is mandatory and includes fingerprinting and requires answers to many personal questions. I even learned CPR so that our home would be able to be open to infants on monitors.

On November 10, 1987 we agreed to shelter a month-old baby girl, Kimberly for The Lighthouse Community, hereafter referred to as TLC. Kim's mother was leaving TLC and entering a 28-day drug and alcohol rehabilitation center. At the end of November with Kim in my arms I went to DYFS to see why we had not yet received notice of our home's approval. I was told that two missing reports were holding up our approval; the Deptford Township police report and a doctor's report concerning the health of one of our daughters.

I then personally contacted the police department and the doctor and was told that the police hadn't even received any paperwork from DYFS and that the doctor couldn't report on the health of our daughter since he hadn't seen her in such a long time (she is rarely ever sick). I took my daughter to see the doctor just so he could furnish the necessary report to DYFS and paid for the visit. I called DYFS and asked them to resubmit the necessary paperwork to the police and the doctor, and again we waited. So much time passed that we wondered if our home had been approved but we just hadn't been notified.

Meanwhile, Kim's mother went in and out of drug rehabs and was scheduled to enter a halfway house by January 3 (but never did). Kim's mother showed little interest in visiting the baby even though TLC and I were willing to set up supervised visitation at the mother's convenience.

By this time Kim's medicaid and that of her mother's had been cancelled. When I tried on my own to obtain a medicaid card for Kim, I found that legal guardianship papers needed to be signed by the natural parents first. With the help of TLC and Carla, the baby's maternal aunt, we found out that DYFS was the only agency that could do this. The Lighthouse Community Administrator contacted DYFS on several occasions and DYFS said a social worker would be sent to Kim's parents in order for them to arrange for medicaid. In the meanwhile, we continued to pay for Kim's doctor's visits out of our own pocket.

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On February 8, we received a letter from DYFS stating that Tom and I were not yet approved as a state foster home for the same reasons that were given in November of the year before. On the morning of February 9 a DYFS social worker called our home to inform me that Kimberly would be picked up that afternoon and placed in an approved DYFS home. DYFS social workers had convinced Kim's parents to sign her over to the care of the state.

The Lighthouse Community staff was informed of this decision that afternoon, and tried to protest the decision for the good of the child. TLC's offer to "walk through channels" the two missing papers that were delaying our approval, was refused. The baby's Aunt Carla strongly objected to State care and called DYFS and expressed her wishes to have the baby remain in our safe, secure and loving home. The baby's maternal grandmother did the same. All requests fell on deaf ears. Even though Kim had been with us three months and had received excellent care, she was removed that afternoon, with no consideration of our family or Kim's emotional ties

When Kim's Aunt Carla decided to assume custody of Kim, her request should have been immediately granted, since she was Kim's mother's sister--a trustworthy blood relative. Carla was told by DYFS that her home had to be "approved" first and she was "stalled" for nine days, until Kim's natural parents signed Kim out of State care. Carla has since applied for and received legal custody. During all the above, Carla missed many work days (she works for the U. S. Postal Service), and has a young daughter of her own.

Tom and I now work for Carla and babysit Kim full time (for pay). Periodically a DYFS social worker calls me and expresses a need to see Kim for "just five minutes so that the case can be closed." However, we know that the case was closed to DYFS when Kim's parents signed her out of state care within a nine day period. Furthermore, DYFS is aware that Carla has already obtained legal custody! DYFS continues to contact me (the babysitter) and not her Aunt (who has custody) to see the baby, as recently as July of this year.

The humorous note to this story is that we recently received a letter from DYF inviting us to "Foster Parent's Night!" Yes, the state invites unapproved foster parents to dinner thanking them for all that the UNAPPROVED FOSTER PARENTS HAVE NOT BEEN ABLE TO DO for the state.

Thank you for this opportunity to offer this testimony. I hope it is useful in some way.

Sincerely,

Joanna Klimczak

Joanna Klimczak, (Mrs. Thomas)
[REDACTED]
[REDACTED]
[REDACTED]

JK/ss
Enclosures



THE LIGHTHOUSE COMMUNITY
26 SOUTH AMERICAN STREET
WOODBURY, NEW JERSEY 08096

September 19, 1988

Randall L. Currier
Aide, Senate Committee on Children's Services
Office of Legislative Services
CN-068
State House Annex
Trenton, New Jersey 08625

Dear Mr. Currier:

This letter is being written in regard to the public hearing to be held before the Senate Committee on Children's Services this coming September 27. It concerns problems The Lighthouse Community Mother/Child Residence and Training Program has experienced whenever it was necessary to attempt to make a referral to the Division of Youth and Family Services, the State agency that is supposed to be concerned with protection of children who are at risk.

The Lighthouse Community, Incorporated in 1976, has been sheltering and educating young pregnant women and women with newborns since the summer of 1981. Sixty-two young women have participated in our Mother/Child Program for varying lengths of time during the past seven years. The Lighthouse Community offers the only residential training program of this kind in Southern New Jersey. We have a success rate of over 75% and are able to assist most young mothers accumulate the skills they need to successfully parent their children.

But sometimes, we are sad to say, a young woman demonstrates that she is not able (and maybe will never be able) to acquire ANY skills to care for herself and her child. At these times, the babies are at extreme risk. I am writing about ten such cases, and briefly state what happened in each instance when The Lighthouse Community tried to refer these cases to DYFS for intervention and protection.

CASE #1 ***** was referred to us and we sheltered her through pregnancy and delivery. (Our home for young mothers wasn't ready to be opened yet, so we housed ***** in our counseling suite, then in a shelter home.) It became obvious after only a few weeks that ***** suffered from mental problems and referrals were made to mental health clinics, psychiatrists, etc. When ***** left our program after the baby was born, and we contacted DYFS to ask them to investigate her living conditions, they suggested I document *****'s behavior and submit a written report. DYFS would not accept my telephone request for an investigation. After several weeks, we were able to contact a social worker from the County Health Department who was concerned enough to make a home visit. The social worker reported that ***** was "hearing the devil's voice in her walls and the devil was saying baby 1111 was evil." The social worker immediately reported it to DYFS, and she and a DYFS caseworker returned and after interviewing ***** , 1111 was placed into protective custody. (1980)

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CASE #2 **** was four months pregnant and entered our program, bringing along her first child who was a year old. Both ****'s son and unborn child were at risk due to her relationship with the father of her unborn child. **** was expelled from our program because she kept letting her boyfriend into our building at night and all other residents were at risk. We called DYFS intake workers and furnished the boyfriend's name and address, because when **** left our program, she went to live with her boyfriend who repeatedly abused not only ****, but also her young son. DYFS did not investigate for months, until neighbors and doctors also reported abuse to DYFS. (1982)

CASE #3 ***** was a young pregnant woman who also had a small child when she came to our shelter. ***** was "slow" and wasn't able to grasp what was needed to provide for her child or child to be. She couldn't read and couldn't understand what was happening in her life. She had violent arguments with her boyfriend, and often ran away and took her child with her while she would hitch-hike to various parts of the state to stay with relatives. Then, within several days, she would call her boyfriend and he would bring her back to our shelter. We tried to involve DYFS for the well-being of her children, but DYFS took no action, would not even come to our shelter to talk with her to evaluate the situation for themselves. ***** moved with her mom when her newborn was 1 month old. Then her mother applied for custody of the older child, which DYFS granted, and ***** and her baby disappeared. (1982)

CASE #4 ***** had severe emotional troubles (we later discovered she had periodic breakdowns requiring lengthy hospitalizations), but seemed to be holding together okay until after her son's birth. One of our other residents grabbed *****'s son as ***** was getting ready to throw him out the window because he wouldn't stop crying. After we took ***** to the hospital, we called DYFS to come pick up 4444444. They refused, saying it was snowing and they'd "be out" in a few days. We called Bethany Children's Service and placed the baby in voluntary foster care the next day, after we had no response from DYFS and ***** was committed to Ancora. Four days later, DYFS called and said they'd be visiting our shelter the next day to check on the baby. This baby was eventually (after three months in voluntary foster care) placed with DYFS and was eventually placed for adoption (after a period of six more months.) (1986)

CASE #5 ***** just needed shelter for three or four months with her one-year-old daughter. In no time at all we discovered ***** had a violent temper and was a former drug abuser. She had violent arguments with her boyfriends. She had been a victim of abuse all her 24 years, and now was an abuser herself. She had intensive personal counseling, as we desperately tried to reach her. She had previously lost custody of her two other children through DYFS intervention, and we were worried about 555555555. But as soon as her HUD subsidy was received, she moved into her own apartment. We reported her address to DYFS and asked them to open a case in 555555555's behalf, but for some reason, they didn't do anything. ***** eventually ceased all contact with our agency, became reinvolved with drugs, and one morning in an angry hung-over mood, beat 555555555 to death. (1986)

CASE #6 **** was with us until her son was born, but her habit of stealing and lying created problems among all the other residents. She left and took her child to Camden to live. She augmented her welfare money by "working the streets" and was able to afford an apartment. When her boyfriend got out of jail, he moved in and lived on her income. The baby's needs came last. She would constantly call other girls in our program and borrow diapers, food for her son. We called Glo. Co. DYFS and asked them to investigate. They said it wasn't their responsibility, it was out of the county. Then we called Camden county DYFS and they promised to check it out. By this time **** was pregnant again and was getting hit around so much that the police wouldn't even respond to calls from neighbors anymore. We tried to check with Camden county DYFS several times since, but they won't even tell us if they investigated, much less what has happened to **** or 666666. (1986)

CASE #7 *****'s baby 77777 had been in foster care with Lutheran Social Services because ***** had been living at various race tracks as a horse groom. ***** said she wanted to try to learn to care for her daughter and we tried to give her that chance. ***** had run away from home at 14 and had lived on race tracks ever since that time. She was a cocaine abuser and tried to break that habit. The lure of the track was too much for her and she returned to Long Branch to live with relatives and to eventually return to being a horse groom. After several fruitless calls, trying to refer this case to DYFS, ***** herself contacted them in North Jersey for help with emergency housing. We heard from ***** periodically: her apartment had caught fire and burned out; she lived in another emergency motel for a while; another move was made to another sub-standard apartment; she went back to work on a track, taking her baby with her; she met and was briefly "married" to a jockey; they split up; she was again homeless with 77777; etc., etc. The last time she contacted us she told us that 77777 had been placed into DYFS foster care and she was trying to get her back, but didn't have a place to live or a job. (1987)

CASE #8 ***** drank and used drugs all through her pregnancy, just like she had during her first pregnancy. Her first daughter was still living in Ohio, where the courts had denied *****'s parental rights and placed the child for adoption. During *****'s residence at our shelter, she also received intensive counseling and was referred to substance abuse counselors. After 888 was a month old, ***** was admitted to a detox and asked us NOT to place her child with DYFS, but to use, instead, our volunteer foster parents, whom she knew and whom other residents had used for short emergencies such as operations, etc. After three months, we attempted to obtain Medicaid coverage for 888, so our volunteer foster parents wouldn't have to pay for her doctor's visits out of their own funds. A month later, DYFS, refused to accept our statement that 888 was in a good home and was receiving excellent care, and removed 888 from that loving home with no notice. Our foster parents were in shock and were grieving, as were their children who had been emotionally attached. DYFS would reveal nothing about this child to The Lighthouse Community and until *****'s sister requested custody, we did not expect to hear about 888 again. *****'s sister has hired

CASE #8 (continued)

our foster parents as babysitters for 888 and 888 is once again in a stable environment. ***** has left the state and the last we heard is living in Washington, D. C. and is again pregnant. (1988)

CASE #9 **** arrived at our shelter after the police removed her from a violent argument in her mother's home. As we counseled with her in the next few months, we discovered that she had been under supervision of DYFS and had been in other programs for troubled girls around the state. We also discovered she had two other children, that she "gave" to her aunts and that she intended to keep this baby. She refused our referrals to psychiatrists and lived in an unreal fantasy world. After the baby was born, and after she had run up our telephone bill over \$380, she left our program and went to live with one of her aunts in Vineland. When we called Cumberland Co. DYFS, the intake worker refused to accept our referral. "Do you know how many kids in Cumberland County are under supervision?" They would not take the aunt's address and said they had no intention of investigating. We hear from **** periodically. She has lived in seven different places in ten months. She is pregnant again and now lives back with her mother, where she was when we first met her. We still consider her and little 99999999 at risk, as well as her future child. (1988)

CASE #10 ***** arrived at our shelter with just the clothes on her back, a victim of a rape in a homeless shelter. We eventually learned that her first two children had been removed from her Bridgeton apartment because she had been neglecting them and spending her welfare money on drugs. She wasn't sure who the father of baby #3 was as she had been supporting her habit by prostitution. ***** was referred to substance abuse counselors and we worked with her intensively in order to help her get herself together. 1010 was born and two days after leaving the hospital, ***** went to a drug party. When I called Glo. Co. DYFS about this I was asked if our residents weren't able to have a social life. Within a month, one of our former residents called Lighthouse staff in the middle of the night and asked that 1010 be picked up from her apartment, where ***** had left her unattended in a playpen for several hours while ***** visited the Camden bars to "look for some money>" We took the baby to the Woodbury Police, who called DYFS, who suggested the Police call *****'s mother, as she had custody of the other children. This was done and we delivered the baby to *****'s mother. The next day the DYFS intake worker informed us she was NOT going to open the case. The baby's grandmother and Lighthouse staff then took the baby to DYFS office. There just happened to be a DYFS "open house" going on at the time. When the baby's grandmother had a chance to tell her story, the baby was placed under protection and temporary custody was given to the grandmother. That afternoon ***** showed up at her mother's house (with a police officer), demanding her baby, but the grandmother was able to show the paperwork that proved she had temporary custody. The grandmother is currently proceeding with seeking to adopt all three of *****'s children, so she can give them a safe home, free of the problems of their mother. (1988)

It is the belief of The Lighthouse Community that, if DYFS would have acted on our referrals at the time they were initially given, and had placed these "children-at-risk" under supervision, the children would have been spared much agony, pain, emotional and physical abuse (and death). The mission of The Lighthouse Community is to help young mothers acquire parenting and living skills needed to form a healthy family group. DYFS and The Lighthouse Community should be working hand-in-hand to protect children.

The Lighthouse Community Mother/Child Residence and Training Program does not make referrals in a frivolous manner. We lived with these young women and have the ability to recognize when they are placing their children in jeopardy! We feel that a referral from The Lighthouse Community staff should alert authorities to investigate, intervene and prevent possible abuse.

The Board of Directors of The Lighthouse Community suggests that Gloucester County DYFS be required to assign a liaison or social worker that may be contacted when Lighthouse staff sees a potentially dangerous situation developing concerning one of the mothers living in or leaving our shelter.

We also suggest that DYFS be required to license and inspect our facility. We work with young women aged 18 through 25 and their "at risk" babies for up to eighteen months. Half our population consists of these babies, who, without our intervention, would be homeless and in need of protection. Each time we have approached DYFS in regard to this matter, our request has been denied.

The Board of Directors of The Lighthouse Community has just been notified of a (\$290,000) award granted us by HUD, to enable us to expand our facilities. We will expand from sheltering six young women and their infants to fourteen young women and their infants. The Department of Community Affairs wants to classify us a "rooming and boarding house" which we are not. We assert that we are a shelter, a residential/educational facility, and we strongly suggest we should be licensed and inspected by DYFS.

We need assistance in being "classified" appropriately! We need to be attending to the business of educating and rehabilitating young women in order to return them to the community as effective parents and working persons. We appeal to your Senate Committee on Children's Services for assistance in obtaining appropriate classification with the State of New Jersey. Thank you for any assistance you are able to offer us in this effort to achieve an appropriate classification. Thank you, too, for attempting to assure that all children who are at risk in the State of New Jersey will be protected.

Sincerely,



(Mrs.) Sally L. Hanna-Schaefer
Secretary, Board of Directors
Administrator, Mother/Child Program

Enclosures

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TESTIMONY ON DYFS PRACTICES
by John Zinicola
September 27, 1988

My encounter with DYFS, or should I say "non-encounter", began in August of 1985.

The mother of my child had used the courts to have a restraining order put on me. She accused me of domestic violence and had me removed from the apartment where we were living. There was actually no violence that ever took place, nor were there any threats on my part. She just wanted me to leave.

We had a three year old son at the time. We went to family court on the domestic violence issue. I denied the charges and was given visitation rights to see my son three days a week as well as pay \$200 per month for child support. The mother of my son wanted \$200 per week.

I began a suit for custody of my son immediately. I didn't trust that my son's mother would take proper care of him. In my opinion, I was the more caring and nurturing of the two.

The papers were served to her in July. From that point on she made visitation with my son a continuous problem. Many times my son was not home on my visitation day, or no one would be home when I dropped him off. There was always a difficulty of sorts. Most of the time, my son did not want to be taken home. He would cry, scream, beg, and cling to me.

The LAST TIME I saw or spoke to my son was 6:30 p.m. on Saturday, August 3, 1985.

On Wednesday, August 7, 1985, at about 9:00 a.m. I received a call from the Nutley Police asking me to come to the Police Station. They said that they wanted to talk to me about my son.

I thought that something had happened to him so I rushed to the station.

Hex

The detective told me about a report that my son's mother had made about me. The report said that I had sexually abused my son.

My lawyer just happened to be in the building at the time, but for another reason. I ran to get her. She informed the detective that I was in the process of suing for custody, and this report was full of false charges. He still read me my rights, and I went home.

On Friday, August 9, an Essex County Sheriff and an Essex County Prosecutor came to my place of business, read me my rights, handcuffed me, and took me to the Essex County Courthouse. They took my picture and fingerprints and put me in a cell in the Essex County Jail to await arraignment.

I was arraigned in the afternoon. The prosecutor asked for \$50,000 bail. My lawyer insisted that the charges were false, and that I was in the process of a custody suit. It was apparent that the mother of my son was using these charges to insure that I would not get custody, since she knew that without false charges, I would probably win the case.

The judge set bail at \$10,000 with the condition that I could not even TRY to contact my son.

I was released on bail at about 4:00 p.m. My nightmare had just begun!

It is hard to explain what I was feeling. Fear, helplessness, extreme sense of loss at not being able to see my son, and all the feelings people must experience when they are innocent, yet treated as guilty. I was simply devastated. How could this have happened to me?

I was informed by my son's doctor that he was in the hospital undergoing tests and psychological evaluations. He was in the hospital for about a week. I couldn't see him, or even try to find out how he was!

I always had hope that someone in authority would realize the truth of the situation and remedy it quickly. But, these turned out to be false hopes. No one investigated me, nor did anyone talk to my friends, family, or anyone who knew me. DYFS had attempted to come to my house, once, but went to the wrong address. Still, no one contacted me from DYFS, even though my address was known, and my business is very well known in town!

My attorney arranged for me to see a psychiatrist for evaluation and testing. All results of such tests showed that I was normal. The prosecutor was told of the test results, still nothing changed.

In October of 1985, the Grand Jury indicted me on charges of first, second, and third degree aggravated sexual assault. I had volunteered to testify in front of the Grand Jury, but that request was denied. I was formally indicted, and a trial date was set. I never had a chance to tell my story to anyone during this decision making process.

My attorney had been talking to the prosecutor. He suggested a plea bargain to fourth degree endangering the welfare of a child. My attorney suggested that I take the plea, and end up with a suspended sentence. I was innocent, however, so I did not want to follow any advice that might imply guilt or result in any sort of undeserved punishment!

I hired another attorney. He was optimistic about my case, saying that the ordeal would be over quickly. He had me take a polygraph test, which I passed.

Subsequently, I have had four prosecutors on my case, and three more polygraphs (one of which was in the prosecutor's office on April 11, 1987). The last polygraph test was given with the stipulation that I would enter the Pre Trial Intervention Program (P.T.I.). This includes six months to a year probation, then all charges are dropped and records of the case expunged.

This is where I stand today - three years and two months since I as well as my family have seen my son. The last time I saw him, he was three years old. This September he started first grade in school.

Through all of this, I have yet to be contacted by DYFS. I still have no idea when I will see my son.

In my case--the dealings I had with DYFUS were one of disappointment and shock, but most of all fear of the children and families involved with the organization.

1. I was disappointed in the types of personnel selected to do such an important job; that being the security of a child or as stated in DYFUS' familiar quote "in the best interest of the child". Who determines the "best interest of the child"? DYFUS?? A child's place is with its natural parent, if at all possible and DYFUS should go to every extreme to see that this is possible. My experience with DYFUS in this area, was one of total opposition. Personal judgements were made by the DYFUS worker right from the beginning. For this particular worker there was no justice judgement, just an egotistical judgement which was rendered to every degree necessary.

2. I was shocked to see that a DYFUS worker would even succumb to lying under oath, at a hearing, just to be a powerhouse against a natural parent. Obviously this worker had some personal problem of their own and my family paid for that vendetta. This particular worker had nothing to say when they were proven to be a liar except that the guilt was written all over their face.

3. Fear of the children and families involved is the worse thing of all. The effects are so devastating that description cannot be verbalized only felt deep within the core of each family member--and that never gets buried or disappears. It remains an open wound where everyday simple things are reminders that act like poured salt on that open wound.

Dyfus needs to be revamped. Yes, it is a necessary tool to protect children, and that should be the only reason for its existence. DYFUS workers should be chosen with the most extreme care and precision. They should be required to take rigorous tests before being accepted as a worker. Strict supervision and attention to each case that the worker is on should be followed up by a higher authority. They should have written documentation and witnessed by an outsider on each visit. The workers should not be allowed to make up the rules as they go along. These made-up rules have destroyed perfectly good families and abused children have died unnecessarily because of their lack of judgement. These workers have got to get into each case as a family member, not an outsider, to be able to make a firm commitment to their judgement.

Rita Zurine
RITA A. ZURINE
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NEW JERSEY SENATE COMMITTEE ON CHILDRENS SERVICES

TESTIMONY SUBMITTED BY WILLIAM WALDMAN, DIRECTOR, NEW JERSEY
DIVISION OF YOUTH AND FAMILY SERVICES

SEPTEMBER 27, 1988

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 the Committee Chair, Cathy Costa, to Vice-Chair Gabe Ambrosio, to all the members of the Committee, and to Senator Walter Rand for all of your efforts to highlight in today's hearing a most important and sensitive set of social policy and practice issues - an examination and assessment of the appropriateness, effectiveness, fairness, and 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. In my testimony today, my goal is to accomplish the following:

- o To provide you with an update of our progress and status of the issues examined in last year's senate Children services Committee hearing - those of staffing and caseload.

I wish to provide this update for purposes of both continuity from last year and the fact that utilization of

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staff resources is directly correlated with the issues to be examined today and bears directly on our ability to fulfill our mandates in this area.

- o To present an overview of the base of statutory authority and responsibility that circumscribes and sets parameters for the procedures and protocols for investigation and disposition of child abuse and neglect referrals received by our Division.
- o To share a statistical overview of activity as to the numbers of referrals received, the public and private sources from which they came, the rates of substantiation and the other outcomes of our investigations.
- o To review with you the specific protocols and procedures utilized by our staff in investigations - what we do, how we do it, the legal basis of substantiation, the use of service agreements, the maintenance and utilization of records and files and other procedures and outcomes pertinent to investigations.
- o To describe the role of other entities external to DYFS which play a key part in New Jersey's Child Protective System, such as the Office of the Attorney General, the County Prosecutors, the Courts, the various Child Placement Review Boards, and the Public Advocate.

These entities serve as checks and balances for the actions of DYFS and serve collectively to help safeguard the interests of children, families and society in this process. I will also describe some internal safeguards employed by the Division.

- o I would also like to tell you briefly about our workforce - who our Family Service Specialists are both experientially and educationally, and what we do to prepare, train, and supervise them to perform what has been called one of the most difficult jobs in State government.

- o Finally, I will attempt to frame for you some of what I believe to be 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; and, the issue of false and malicious reporting. I would point out that these issues are nationwide in scope and impact and that State legislators and policymakers across this country are examining, as we are today, the resolutions to these issues in ways that best balance the safety of children with the rights to privacy and integrity of the family.

23x

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

First, I have been involved for my entire 23 year career in New Jersey in the delivery of public human services. I have served the elderly, the disabled, the mentally ill, 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 correspond with me long after their cases were closed. This is simply not the predominant case in the business of DYFS. We are often the last persons our clients want to see.

Our mere presence initially causes shock and dismay, and we often have difficulty even getting in the door. The often involuntary nature of our work with the public deeply affects our practice.

This is also the type of business, for obvious reasons, in which it is exceptionally rare for satisfied customers or citizens to come forward to proceedings like these and say what a wonderful job that we do. As I will discuss during the

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presentation of our statistics, we investigated over 50,000 allegations of child abuse and neglect 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 would turn the clock of time back 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 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, that there should not be additional safeguards to protect both children and the rights of the accused. What I do request is that we rise above the emotion often generated by individual case situations and direct any changes in the system toward better achieving the balance that Deputy Commissioner Welch spoke of - the balance 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 workforce must apply and maintain on over 50,000 occasions each year - in over 50,000 tough judgement calls. The pendulum of balance has sharp edges, it cuts either way when it is off center.

As a follow-up to last year's hearing, the Chart displayed as of August 31, 1988, reflects our current active service caseload of children and compares this with the caseload for the periods ending December 31 of 1982 through 1987. As you can see, there has been a leveling off of the sometimes dramatic caseload growth experienced both nationally and in New Jersey over the past years.

As you may be aware, we have not received any additional staff allocation and our basic complement of direct line service personnel - Family Service Specialist III has remained constant. What has changed, however, is the status of our staff vacancies. As you will note from the Chart now displayed, we have reduced our vacancies from 120 to 60 in such positions out of a total allocated position level of 1123.

In view of the above, although average individual caseload size determined by comparing allocated positions to total caseload has not changed appreciably to what was reported last year, the filling of many vacancies has appreciably alleviated the number of untenable actual caseload sizes, which resulted in certain offices in the State at that time.

Our turnover rate for 1987 in all positions was 17.3%. So far, to date, it is running at an annualized rate for 1988 of 15%.

I would like to summarize some of the specific steps and actions we have taken since the hearings last year.

- o To streamline the process for hiring field casework staff and for filling vacancies.
- o To address underlying problems that foster poor worker morale and create high turnover.
- o To enhance staff competency and productivity through a program of continuing staff training and skill development.
- o Traditionally, Family Service Specialist III Open Competitive examinations were given twice a year. Through negotiations with the Department of Personnel, walk-in examinations are now given quarterly and will be increased to six times a year as the need arises.
- o In previous years, the processing of personnel actions (i.e., the clearing of positions) took approximately 8 to 10 weeks. Presently, with the new computerized processing system (PMIS), we are able to clear positions and pay new employees within one pay period. This new system allows for timely back-filling of vacated positions.
- o Historically, the yield of eligibles hired from any given Open Competitive certification was extremely low. Often,

eligibles did not understand what Family Service Specialist duties entailed and would belatedly decline employment at the time of interview. We have developed an hour long presentation that is given to individuals prior to filing for the examination for the titles of Family Service Specialist III. By taking this approach, individuals who are not really interested in DYFS employment are eliminated prior to testing.

- o The Department of Personnel has agreed to score test results and issue certifications within 45 calendar days of the examination.

- o We have instituted mass interviews for the title of Family Service Specialist III to reduce the amount of time involved in the disposition of certifications and subsequent appointments of eligibles to vacant positions. We have reduced the processing time from three to four months to only 30 calendar days.

In addition to these aforementioned gains in personnel processing and worker fill levels, the Division has mounted a three-tiered program to reduce worker stress and improve staff working conditions and morale, as described below:

- o We continue to aggressively seek out adequate office space and amenities for staff. A total of 17 district offices

have been physically relocated to superior office space locations since April 1986 - six of these relocations occurred in Fiscal Year 1988. In addition, the Bergen District Office relocated last week.

- o In recognition of the fact that job related stress is a significant contributing factor to employee morale problems and turnover, the joint DYFS/union stress reduction program was fully introduced into all District Offices in Fiscal Year 1988.

- o In further recognition that extensive job related paperwork requirements similarly affect morale and turnover, the Division has developed a plan for vastly enhanced utilization of personal computers in District Offices with the goal of reducing paperwork and strengthening local planning and reporting capacities. Equipment has been approved and ordered and training has been initiated in each DYFS District Office.

We are committed to the institutionalization of the negotiated agreements and procedures implemented thus far. These important steps ensure that the numerical count of staff resources is maintained at a high level. The next challenge is to improve the skill level and effectiveness - the productivity - of these staff resources in support of our objectives. Towards

these ends, the Division will take the following additional actions this fiscal year:

1. Develop a formalized recruitment program to be used at colleges and universities. As part of this, the Division will issue in the fall of 1988 a recruitment pamphlet for the title of Family Services Specialist III to selected colleges and universities. District Offices and Adoption Resource Centers will assist in these recruitment purposes.
2. Contact schools with BSW (Bachelor of Social Work) programs and explore/negotiate the development of practicums at the various DYFS offices.
3. Pursue with the State Department of the Treasury the plan to relocate three of the four Newark District Offices to adequate, accessible locations within local wards of the City of Newark. Public advertisements for space and bid specifications have already been issued by the Department of the Treasury for this purpose.
4. Oversee full statewide implementation of stress and paperwork reduction. A key component of this effort will be the widespread use of personal computers in all District Offices and Adoption Resource Centers, including acquisition of equipment and the completion of training to reduce the burden of case recording.

5. Issue in the fall of 1988 a statewide Exit Interview Format for the use with departing field staff. Division management will collect and review data from exit interviews to develop strategies that will help reduce turnover rates.

6. Institute by the end of Fiscal Year 1989 a DYFS Training Academy concept, which will incorporate current training activities and related efforts into a cohesive whole, offer full curriculums for the special and professional areas of expertise required for case practice and other Division functions, achieve university credits for certain case courses, have a full array of required courses and advanced optional courses and focus on career and professional development. In contrast to the emphasis on new worker training in recent years, the Academy will establish a program of continuing, incremental training and skill development throughout the careers of front-line staff.

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 in this regard, 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

approximately 85% of the staffing standards set by the Child Welfare League of America. Yet,

- o The CWLA standards were forged almost 18 years ago and are currently being revised. We understand new standards will be issued that call for reduced caseloads.

- o The policy of deinstitutionalization, or least restrictive environment, has also affected our clients and services. There are many children in our caseload at home or in foster care, that a relatively few short years ago would have been confined to State psychiatric institutions or correctional facilities. These children, troubled or troubling youth, place far greater demands on our staff and resources.

- o 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.

The base of statutory authority and responsibility for child welfare and child protective services are found in Titles 30 and

9, respectively, in the New Jersey Revised Statutes, specifically Chapter 4C.

Chapter 4C of Title 30 of the Revised Statutes established the Division of Youth and Family Services (DYFS) as successor to the Bureau of Children's Services, as the State Child Welfare and Child Protection Agency. N.J.S.A. 30:4C-1 declares the public policy of New Jersey to be that:

- A. The preservation and strengthening of family life is a matter of public concern as being in the interests of the general welfare;
- B. The prevention and correction of dependency and delinquency among children should be accomplished so far as practicable through welfare services which will seek to continue the living of such children in their own homes;
- C. Necessary welfare services to children should be strengthened and extended through the development of private and voluntary agencies qualified to provide such services; and,
- D. Wherever in this State necessary welfare services are not available to children who are dependent or adjudged delinquent by proper judicial tribunal, or in danger of so becoming, then such services should be provided by this

State until such time as they are made available by private and voluntary agencies.

N.J.S.A. 30:4C-3 provides that DYFS shall:

- A. Provide care and custody for children eligible therefore in such manner that the children may, so far as practicable, continue to live in their own homes and family life be thereby preserved and strengthened;
- B. Provide necessary welfare services as may be required by such children, so far as practicable, without assumption of custody; and,
- C. Encourage the development of private and voluntary agencies qualified to provide welfare services for children to the end that through cooperative effort the need for such services may be limited or reduced.

N.J.S.A. 30:4C-11 authorizes the filing of an application for services by a parent, relative, interested agency, or public official, person standing in loco parentis (i.e., anyone having physical custody of the child), a person or association ...having special interest in such child, or the child himself. DYFS then is required to verify the statements made in the application, investigate the circumstances of the child or children in question, and if it appears that:

- o The welfare of the child will be endangered unless proper care of custody is provided;
- o The needs of the child cannot properly be provided for by financial assistance available under State Law (e.g., welfare);
- o There is no legally responsible person available who is willing and able to provide for the child; and
- o If the child suffers from a mental or physical disability requiring institutional care, he is not immediately admissable to any public institution providing such care,

then DYFS may accept the case and provide such services as the circumstances may require.

N.J.S.A. 30:4C-12 authorizes any person or public or private agency to file with DYFS a written or oral complaint concerning a child's care, protection, maintenance or endangerment. An investigation is required and, if the circumstances warrant, the parents or legal custodians are required to be afforded an opportunity to file a voluntary application for care or custody. If the investigation results in a determination, that care and supervision are necessary, but the parents refuse, then Family Court action is authorized.

Chapter 6 of Title 9 of the Revised Statutes amplifies and specifies DYFS authority and responsibility in the child protective service area. N.J.S.A. 9:6-8.8 states: "The purpose of this act is to provide for the protection of children under 18 years of age who have had serious injury inflicted upon them by other than accidental means. It is the intent of this legislation to assure that the lives of innocent children are immediately safeguarded from further injury and possible death and that the legal rights of such children are fully protected."

The law goes on to define child abuse, mandate reporting requirements, 24 hour capability for receiving complaints, and response requirements; to provide for confidentiality, immunity and liability concerning referrals, protective custody activities, referral to county prosecutors, court actions, legal representation, adjudication and mandated services.

"Abused Child" means a child under the age of 18 years whose parent, guardian, or other person having his custody and control: (Actual Abuse) inflicts or allows to be inflicted upon such child physical injury by other than accidental means which causes or creates a substantial risk of death, or serious or protracted impairment of physical or emotional health or protracted loss or impairment of the function of any bodily organ; (Risk of Injury) creates or allows to be created a substantial or ongoing risk of physical injury to such child by other than accidental means

which would be likely to cause death or serious or protracted disfigurement, or protracted loss or impairment of the function of any bodily organ; or (Sexual Abuse) commits or allows to be committed an act of sexual abuse against the child; (Neglect) or a child whose physical, mental or emotional condition has been impaired or is in imminent danger of becoming impaired as the result of the failure of his parent or guardian, or such person having his custody and control, to exercise a minimum degree of care (1) in supplying the child with adequate food, clothing, shelter, education, medical or surgical care though financially able to do so or through offered financial or other reasonable means to do so, or (2) in providing the child with proper supervision or guardianship, by unreasonably inflicting or allowing to be inflicted harm, or substantial risk thereof, including the infliction of excessive corporal punishment; or by any other act of similarly serious nature requiring the aid of the court; or (abandonment) who has been willfully abandoned by his parent or guardian, or such other person having his custody and control.

The law authorizes removal of a child with the consent of his parent or other person legally responsible for his care, if the child is determined to be an abused or neglected child.
N.J.S.A. 9:6-8.27.

The law also provides for a preliminary court order directing temporary removal of a child, if the parents are absent

or refuse to consent and the child appears to suffer from parental abuse or neglect and that his immediate removal is necessary to avoid imminent danger to the child's life or health, and there is not enough time to hold a preliminary hearing, N.J.S.A. 9:6-8.28.

The law also authorizes the removal of a child from his home without the permission of the parent and without a court order prior to filing a complaint when the child is in such condition that his remaining in the home or in the custody of the parent or guardian presents an imminent danger to the child's life or health, and there is insufficient time to apply for a court order, N.J.S.A. 9:6-8.29. Any other child residing in the same home may be removed if his immediate removal is necessary to avoid imminent danger to his life or health, N.J.S.A. 9:6-8.33.

Upon undertaking an emergency removal, the Division is required to file a complaint for the court's review and action immediately, or on the first court day after removal takes place, N.J.S.A. 9:6-8.30.

Summary of Activity

As you will note from the chart now displayed, 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 7.3% from almost 18,000 in 1986 to

over 19,000 in 1987, or from 35.7% substantiations to 38.4% in 1987. The national average for substantiation of referrals is approximately 40%.

This chart reflects the types of abuse reported in 1987. As you can see, neglect was the most often reported at 27,056 - over half of all referrals, followed by physical abuse reported in 16,450 incidents.

This same chart also displays the types of substantiated abuse and neglect for 1987. Again, neglect was most often substantiated (over 10,000 times) followed by physical abuse over 7,000 times.

This next chart shows the sources of referrals, the number of referrals received from each source, and the numbers of substantiations and rates from each source. The largest number of referrals, over 8,000 or (16%), came from anonymous sources, followed by schools, 7,353 (14.6%), and neighbors, 7,240 (14.4%) substantiations were made at the highest rate 2,217 or 58.4% of referrals received from police and are followed by self referrals and school referrals. The lowest substantiation rate, 22% for 1,765 instances, was noted on anonymous referrals followed by neighbors 1,005 or 27.7%, and parents 1,563 times or 33.8%.

The next chart reflects the fact that in 1987, in 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 emergency removal (without parental consent and without a Court order) of only 128 children. This represents only .66, less than 1% in such instances.

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 August 31, 1988, and compares that to the situations 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. I believe this shows our success in strengthening and keeping families together.

We do place children out of their homes on an emergency basis, as I've shown you before, on a court order basis and on a voluntary basis. We placed a total of 2,129 such children outside their own homes in 1987. The next chart compares that total with our average monthly service active caseload in 1987.

The next chart shows that of the total of 2,129 children placed out of their homes in 1987, only 375 or less than 18% of such placements were done on an involuntary basis.

I hope the proceeding statistics will give you an overview of the scope of our activity in New Jersey.

Next I will now describe the methods, logistics, procedures, and protocols of our process for investigation of referrals.

DYFS runs a 24 hour system for the investigation of allegations of abuse and neglect and to respond to emergencies that might place children at risk.

Referrals

Referrals are received and screened at District Offices (D.O.), at least one in each county, the Central Institutional Abuse Unit (IAIU), and at the Office of Child Abuse Control (OCAC).

Referrals received at OCAC are passed on to the DO or to special response workers (SPRU) for referrals received at night, on weekends, or holidays requiring prompt response. Referrals alleging abuse in a non-DYFS institution are investigated by specifically designated personnel. It is Division policy to accept referrals from all sources in writing, by phone, or in person - including referrals from anonymous sources. Most referrals are made by phone.

Screening

A caseworker (screener) takes information from the referrant and asks questions which will aid in determining the extent of risk or harm to the child or children. The screener obtains such information as: names, addresses, ages of children, current whereabouts in case they are not at home and need immediate services, the identity and location of parents, caretakers, and the person or persons allegedly responsible for the injury or risk to the child and the specifics regarding incidents leading to the injury or risk, medical treatment sought, etc. The screener also provides information to the referrant when appropriate; for example, general procedures for investigation and policies regarding confidentiality. Referrants are not required to identify themselves but are encouraged to do so.

The screener documents the referral and all relevant information on a standard form and passes that to a supervisor. All referrals are registered on the computer. All referrals are looked up in manual files and on the computer to make any existing records available to the investigating worker. The supervisor reviews the content of the referral, determines the urgency of the child's situation, and assigns the case to an investigating worker for response.

Investigation

Depending on the risk to the child, the need to preserve evidence, and other factors, the response must begin within certain timeframes according to the following guidelines:

Immediate response when referral alleges or implies:

- o current physical abuse
- o medical treatment needed as a result of abuse or neglect
- o lack of supervision
- o "Hospital Hold"
- o family known to DYFS is in severe crisis
- o doubt about severity of reported incident

No later than 24 hour response when:

- o reported abuse does not fall into above categories
- o abuse has taken place but no evidence of immediate danger to child

No later than 3 working days response when:

- o physical neglect that does not indicate an immediate threat to the child's health or safety
- o emotional abuse or neglect when no crisis of threat is imminent is alleged

In situations involving possible criminal activity, the prosecutor's office is notified of the referral or the presenting situation. The DYFS investigation and an investigation by the prosecutor's office may be done together or separately, but one does not preclude the other. Referrals are made to the prosecutor's office when the situation includes:

1. death of child;
2. the subjecting or exposing of a child to unusual or inappropriate sexual activity;
3. any type of injury or condition resulting in hospitalization or more than superficial emergency room treatment;
4. any type of injury or condition that requires more than superficial medical attention (e.g., treatment for a broken bone at physician's office);

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5. repeated instances of physical violence committed against a child, or substantially depriving a child of necessary care over a period of time; or,
6. abandonment of a child.

In situations that may be very dangerous to the worker, both the client or police may be asked to accompany the worker.

The fact-finding process, conducted by a trained DYFS worker, involves the following steps:

- o interviewing the child, parents, caretakers, and the alleged abuser, if not the parent, independently as well as observing their interaction with the child.
- o observing the child's behavior and physical condition and the nature and extent of any injury.
- o observing the condition of the home or the physical circumstances in which the child is alleged to have been harmed.
- o determining, if possible, whether the parents/caretakers were involved in or aware of the situation.

- o reviewing relevant documents or records, such as school records and medical records.

- o understanding the relationship, actions and motives of the person who made the report.

- o gathering other necessary information from persons who by nature of their relationship, if necessary, to the child and family, can provide relevant facts - this may include school personnel, doctors and other health professionals, the police, relatives or neighbors.

- o arranging for medical or psychological examinations to help determine the nature and scope of any alleged abuse and the need, if any, for remedial treatment.

Risk Assessment

Assessing risk to children is complex. It includes an evaluation of all aspects of a child's physical and emotional environment as well as an assessment of the abilities and willingness of his parents and/or caretakers to protect him. The more members in a family, the more factors to be evaluated. Sometimes these evaluations must be done very rapidly.

Caseworkers make these evaluations, with supervisory support whenever possible, using a risk assessment matrix. The matrix

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contains many of the factors that correlate to risk. The circumstances of the case being assessed are compared to the factors on the matrix thereby showing whether a child may be at high, low, or medium risk. The factors considered include:

- o age and mental capabilities of a child;
- o level of cooperation of the caretakers and their abilities and control;
- o rationality of behavior of the perpetrator and access to child;
- o factors about the incident - extent of injury, location of injury, history of injury;
- o environmental factors - availability of support and stress factors - divorce, fire, birth of baby, death, etc.

All information regarding the investigation is confidential. Only information that is necessary to conduct the investigation or to ensure the safety of the child may be shared with the above sources to further the investigation or treatment (if the person who made the report wishes to know the outcome of an investigation, the DYFS worker can tell the person only that the investigation has been completed and if DYFS has decided to provide any further services).

The worker assesses all of the information gathered to determine if child abuse or neglect has occurred and if immediate intervention is needed to protect the child. That decision is made with the review of supervisory personnel and is often assisted by expert in-house medical and clinical staff, as well as outside consultants. Substantiation decisions are based upon the civil standard of the preponderance of the evidence. This is a less rigorous standard than the "beyond a reasonable doubt" standard utilized in the criminal proceedings handled by the Prosecutor. Thus, it is possible for a civil determination of substantiation of abuse or neglect to be made by DYFS and the Family Court while the alleged perpetrator may be found not guilty in the related criminal court proceedings.

Our workers also assume a helping role, offering support to the family if needed. If during the investigation, the family is found to need assistance and the family agrees, a service plan is drawn up with the DYFS staff and others concerned, based on the family's particular needs.

If there is no evidence or insufficient evidence to support a finding of abuse or neglect or risk of abuse or neglect, the case may be closed for protective services. However, support services may be continued if a family is experiencing severe stress or other problems.

When there is evidence of child abuse or neglect, a service plan is developed that defines the specific responsibilities of the parent and DYFS for the actions needed to protect the child, reduce family stress, and improve the family's ability to function. All service plans are individually tailored to meet the needs of the particular child and family, and reflect the mutual obligations of both the family and DYFS.

The DYFS District Office, through its staff and contracts with local community agencies, can provide a host of services to strengthen the family and address the particular needs of its members. These services can include advocacy, counseling, legal services, self-help groups, parent education, child care, foster care, homemakers, parent aides, employment assistance and transportation, to mention just a few.

If a child must be separated from his family, the priority is to return the child to the family as soon as, and if, possible. The service plan for every child placed out-of-home must be reviewed by a Family Court judge and a citizen Child Placement Review Board (CPRB) as an arm of the Court. All efforts are made to utilize relative resources to either prevent placement or serve, if appropriate, as the first placement option.

The CPRB reviews the need for and appropriateness of the placement and makes a final recommendation to the Court which issues a formal order.

If after an extended period of time the family conditions which contributed to or caused the abuse or neglect have not been alleviated, the family or parent remains not to be a viable caretaker, DYFS may petition the Family Court to terminate parental rights and move for adoption. DYFS arranged for the adoption of almost 700 children in 1987.

The criminal investigation of institutional abuse cases is conducted by the institutional abuse unit, a special unit in the Division of Criminal Justice in the Office of the Attorney General.

Finally, computer and manual files and records of all case and investigative activity, including the names of children, families, alleged and substantiated perpetrators, are maintained on a strictly confidential basis. These files and records are utilized for internal purposes only: for background and guidance in responding to new allegations, for reviewing applications of individuals to be foster or adoptive parents, or DYFS employees with child contact responsibility.

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I will now discuss the role of the Attorney General, Prosecutor, Public Advocate, and courts during and after abuse/neglect investigations by DYFS.

In addition to DYFS, others play a role in taking action on behalf of abused and neglected children.

The Office of the Attorney General represents DYFS in all legal matters. No court action is initiated by DYFS without the review and consent of the assigned Deputy Attorney General (DAG). The DAG files complaints on behalf of DYFS under Titles 9 or 30. The DAG prepares court orders. The DAG advises field offices in matters involving litigation in abuse/neglect cases.

Every child who is the subject of a child abuse or neglect proceeding is represented by a Law Guardian to help protect his interest and to help him express his wishes to the court. Law Guardians are attorneys, regularly employed by the Office of the Public Defender (Department of the Public Advocate), N.J.S.A. 9:6-8.23. In some proceedings brought solely under Title 30 provisions, another attorney is appointed by the court to represent the child.

N.J.S.A. 9:6-8.36a requires DYFS to report to the county prosecutor those cases of alleged abuse and/or neglect that involve suspected criminal activity. Rules for compliance are contained in N.J.A.C 10:129-1 et seq.

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The court is involved in cases of child abuse and neglect under several circumstances.

DYFS may petition the court for:

- o An order to investigate under N.J.S.A. 30:4C-12 when the parent refuses to cooperate or impedes an investigation and the referral of abuse or neglect alleges that the child needs protection.

- o An order for Protective Services (supervision) under N.J.S.A. 30:4C-12 when the child requires protective services, which do not necessitate his removal from his home, and the parent refuses to cooperate with DYFS in the provision of such services. This would occur in situations requiring medical or psychiatric treatment of the child, education services, or services to ameliorate family problems that endanger the child's physical and/or emotional well-being.

- o An Order for Protective Services Custody when:
 - a. DYFS determines that a child's safety requires removal and the parent refuses to consent, including a situation where one parent agrees and the other refuses to consent, N.J.S.A. 9:6-8.28 or 30:4C12;

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- b. The child is in placement under voluntary agreement, the parent revokes the agreement and DYFS determines that returning the child to the parent would likely result in some form of demonstrable detriment to the child, N.J.S.A. 30:4C-12;
- c. The child is in need of protection and no parent or legally responsible caretaker can be found, N.J.S.A. 30:4C-12; or
- d. A parent is willing to sign a voluntary placement agreement but wishes to place conditions on the placement that prevent DYFS from fully carrying out its responsibility to protect the child, N.J.S.A. 9:6-8.27. In such an instance, any special conditions of a placement must be written into the signed agreement.
- o Special Orders when the conditions of the case require special relief in the form of probation supervision of the parent or guardian, N.J.S.A. 9:6-8.56, therapeutic services for the parent, N.J.S.A. 9:6-8.58, or setting forth condition of behavior on the part of the parent, such as:
 - (a) staying away from the home;
 - (b) allowing visitation of the child;
 - (c) abstaining from offensive conduct against the child or person having custody of the child;
 - (d) giving proper attention to the home; and
 - (e) refraining from acts

which tend to make the home not a proper place for the child, N.J.S.A. 9:6-8.55.

- o Guardianship under N.J.S.A. 30:4C-15 a-d when:
 - a. After reasonable effort to locate the parents of a child who appears to have been abandoned, DYFS should act to terminate parental rights as soon as possible;
 - b. After repeated and consistent efforts by DYFS to rehabilitate the family situation have resulted in an insufficient improvement to insure the child's safety within the family and after one year no further efforts or resources available can reasonably be expected to be successful, DYFS may act to terminate parental rights if an alternate permanent plan can be made.

A very important safeguard for children and families is the Child Placement Review process.

The Child Placement Review Boards (N.J.S.A. 30:4C-50 et seq.) affords every child placed outside his home by the Division, the opportunity for eventual return to his home or other permanent living arrangement. It affords this opportunity by mandating regular administrative and judicial review of each child's placement in order to ensure that such placement meets the child's best interest. These reviews provide for an

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objective review of the Division's plans and actions taken on behalf of children.

The Child Placement Review process provides for prompt action by the court in that the Act requires that DYFS notify the court (Family Part) within 5 days of any voluntary, out of home placement. The court, within 15 days of receipt of the notice, must determine whether reasonable efforts were made to prevent the placement, whether continuation in the child's home would be contrary to his welfare and either order the return of the child or approve the continuation of the placement. Once the necessity of placement has been established, reviews are required on a regular basis to ensure that movement is made promptly. To do that, the law requires that within 45 days of placement, and no less frequently than annually thereafter, a review conducted by an independent citizens panel appointed by the court, which must consider at a minimum the following:

- a. The appropriateness of the goal and objectives of the placement plan;
- b. The appropriateness of the services provided to the child, the parents or legal guardian and the temporary caretaker;
- c. Whether the child has siblings who are also placed outside of their home;

- d. Whether the wishes of the child were considered regarding placement and development of the placement plan, when appropriate;
- e. Whether the Division, the parents or legal guardian and the temporary caretaker are fulfilling their respective responsibilities in accordance with the placement plan;
- f. Whether the parents or legal guardian have been afforded the opportunity and been encouraged to participate, in a program of regular visitation with the child;
- g. Whether there are obstacles which hinder or prevent the attainment of the placement plan objectives and goal; and,
- h. The circumstances surrounding the placement.

When making its findings, the board is mandated to give priority to the goal of return to the child's parents or legal guardian unless that goal is not in the best interest of the child. If the return has not been achieved within one year, and after considering the family's efforts, the Division's provision of reasonable and available services, or other relevant factors, the board may recommend another permanent plan for the child which may include permanent placement with a relative through adoption or legal custody or adoption by a non-relative. But, if return to a child's parents or legal guardian, permanent

placement with a relative or adoption is not possible or is not in the best interest of the child, the board must recommend an alternative long-term plan for the child.

The act provides for notice to parents, children, the Division and other interested parties to be heard and/or provide written testimony. It also provides for sanctions should any party not follow the actions ordered by the court. .

I would now like to provide for the Committee an overview of the rights and recourse of a parent/guardian when a child is placed voluntarily or non-voluntarily.

1. When considering placement as an alternative for a child, parents are provided with information about placement and their rights and responsibilities. Parents signing a voluntary placement agreement are provided the information about rights and responsibilities in 2 written forms:
 - A. The placement agreement itself, and
 - B. A handbook which includes in part, the following list of parental rights:
 - o To have concerns listened to and responded to by DYFS.

- o To work with the social worker to develop a service plan for the child.
- o To be consulted when a change in the plan is being considered.
- o To know why the child is in or needs placement.
- o To know what DYFS expects from the parent and child and know what needs to be done before the child is returned home.
- o To know what services are available to the parent and child.
- o To receive help and/or counseling for problems that need to be resolved before the child returns home.
- o To participate in meetings concerning the child's adjustment to substitute care.
- o To participate with DYFS when there is a review of the child's placement in substitute care.
- o To participate with the Child Placement Review Board when they hold a review of the child's placement.

- o To be advised by the social worker of the child's health, behavior, and progress in school.
- o To request the return of the child and have the request responded to by DYFS, (within the time frame stated in the voluntary placement agreement), by returning the child, notifying the Child Placement Review Board, or applying for an Order of Custody.
- o To talk with an attorney at any time to be represented by an attorney in any court hearing asked for by the parent or by DYFS concerning the child or affecting parental rights.
- o To be present at all court hearings about the child, his/her placement plan, and parental rights.
- o To visit the child as agreed to in the service agreement or as stated in the court order.
- o To know why a decision has been made to limit visitation rights, if this should happen.
- o To be advised if the child is seriously injured.
- o To approve surgery or serious medical care if needed by the child, except when the parent cannot be reached and

it is an emergency, and to be notified as soon as possible when this occurs.

- o To request an Administrative Review when the parent is not satisfied/disagrees with decisions made by DYFS (not court ordered) and the parent has not been able to resolve the problems by talking with the social worker, his or her supervisor, or the District Office Manager.
- 2. Parents of children placed non-voluntarily are provided recourse through the court. If DYFS seeks an order to place prior to removal, the parent is afforded the opportunity to tell a judge at a hearing why the child should not be removed. The parent is entitled to be represented by an attorney. If a child is removed without consent and without (prior to) a court order, there is a court hearing within 3 days of the removal. The parent is entitled to be represented by an attorney.
- 3. Parents of children in placement also have access to the court through the Child Placement Review system. Every child's situation is reviewed by the court within 15 days of notice of placement and by a citizen's review panel within 45 days of placement and at least annually thereafter. Parents are provided notice of the reviews and have a right to be heard.

4. The Division provides administrative processes through which parents may exercise their rights to express concerns, and request relief.
 - A. The case of each child in placement is reviewed by a panel of persons at least one of whom is an objective third party, at 7 months from placement and annually thereafter. Parents are invited to attend and participate. Results of the review are provided to the parent in writing.
 - B. There are administrative reviews and hearings available through the Division's Advocacy Office, a special unit of the Division, outside of field operations, that receives and acts upon complaints. Access may be gained by request through local field offices, OCAC, Regional or Central offices or the Citizen Action Line.

The Citizen Action Line office maintains a toll free hotline weekdays from 9:00 a.m. to 5:00 p.m. Its purpose is to respond to questions about DYFS, act as an advocate for persons having problems with DYFS, and provide informal mechanisms for resolving concerns with DYFS services.

The Action Line is available to DYFS clients - adults and children - as well as foster and adoptive parents, community service providers, public officials, and the public in general. The hotline number is 1-800-331-DYFS.

This unit is available to assist callers and the

- Division Director in providing access to the Division, timely responses in emergencies, and further review of field activities.

C. Additionally, the Office of the Public Advocate pursues complaints about the Division.

All of the preceding roles and responsibilities for workers I have mentioned are obviously demanding and require significant skills. The primary workforce we utilize for this purpose are the Family Service Specialists. There is a career ladder for these workers with the entry level being Family Service Specialist III. Workers with enhanced experience can move up the ladder to the Family Service Specialist II and Family Service Specialist I positions.

The salary, educational, and experiential requirements for these positions are as follows:

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Family Service Specialist III

Starting Salary \$22,410.94

Education - Graduation from an accredited college with a Bachelor's degree.

Experience - One year of professional experience in social work, direct support counseling, guidance, or casework involving high risk child abuse and neglect or other problematic situations involving counseling services to clients with social, emotional, psychological or behavioral problems which has included responsibility for gathering and analyzing information, determining needs and planning and carrying out of treatment plans.

Family Service Specialist II

Starting Salary \$24,708.24

Education - Graduation from an accredited college with a Bachelor's degree.

Experience - Two years of the above-mentioned experience.

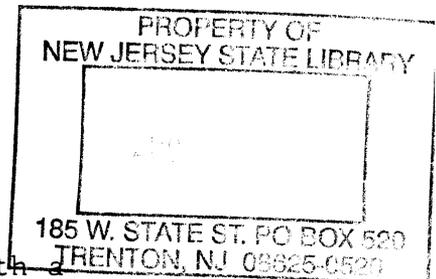
Family Service Specialist I

Starting Salary \$27,242.17

Education - Graduation from an accredited college with a Bachelor's degree.

Experience - Three years of the above-mentioned experience.

A Master's degree in Social Work, Psychology, Guidance and Counseling, Divinity or other related behavioral science area may be substituted for one (1) year of experience.



Applicants who do not possess the required degree may substitute additional experience on a year for year basis.

All new workers receive a required twenty (20) day pre-service training consisting of 13 classroom days and 7 field days.

Topics include:

- o Intro to Child Protective Services
- o Dynamics of Child Abuse and Neglect
- o Risk Assessment
- o Intake and Investigation
- o Interviewing
- o Medical Indicator
- o Case Recording
- o Permanency Planning
- o Sexual Abuse
- o Legal Issues
- o Termination

In addition, our training office offers a very broad array of more specialized and advanced training geared toward enhancing the job related skills and career development of our workers.

As I indicated earlier, it is our plan to develop a training academy to systemize, strengthen and perhaps expand our current offering. I have had positive statements of interest to join

with us in developing the academy from some key individuals in New Jersey's universities and State colleges.

Outstanding Issues

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, any violations might jeopardize significant receipts of Federal revenues. Yes, it is true that confidentiality not only protects children and innocent parties, but it does shield the Division from public case accountability and having to admit mistakes in certain situations.

Some time ago, prior to my tenure as Director, the Division wrote to the Federal government to seek a waiver of a 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 public first with the 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, to

be accountable, to maintain the 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 am 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 weigh the balance here very carefully indeed and we need the guidance and good judgement of our elected officials and the expert advice and recommendations from the Governor's Task Force on Child Abuse and Neglect.

Anonymous Referrals

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 may recall, in 1987, over 8,000 such referrals were received and the substantiation rate for these referrals was the lowest of all sources - only 22% as compared to the statewide average of over 38%. There are those that contend that the Division should not accept referrals that are anonymous - that clearly many of the false and malicious allegations may fall in this category.

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Yet, if we did not accept such referrals, I would be concerned as to what might have happened, in 1987 for example, to the 1,765 children substantiated to have been abused or neglected that were identified through anonymous referrals and received protective services from DYFS. Also, some alleged perpetrators seem potentially violent or dangerous to referrants and they say they do not want to bet their safety on our pledge and ability to maintain their identity confidentially.

The national consensus of experts in this field advocates for accepting anonymous calls. Some states are attempting to screen and discount certain calls. This is something that must be done with extreme caution and great expertise. We will carefully monitor their progress.

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 on these files, there is the legitimate concern that these names in particular be expunged or erased after a certain period of time has elapsed. No one of us like having our names in such files. I understand the Governor's Task Force is studying this issue and will formulate some recommendations for consideration.

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I believe, personally, this concern has merit, but in our work, as always, care, caution, and balance again 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, if the worker knew the history, only perhaps, greater care and depth might have been used in investigating the last referral.

Agency Structure

Our agency does experience an inherent goal conflict in our work - the two sides of the pendulum - child protection and family preservation are difficult to balance and some would say cannot effectively co-exist within the same work unit or structure. This is certainly a legitimate issue currently being studied by numerous states. The options are difficult ones. The creation of new beauracracies, or even separate work units within an existing beauracracy, 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 or unit which is solely responsible for child protection. Often the goal conflict helps

balance the approach of the worker and pressure and expectations on both sides of the equation help abate overzealousness.

Experienced practitioners tell us that families are more amenable to change, to receive, accept, and benefit from services at the time of crisis.

Finally, our experience is that families are often confused and services fragmented when additional workers and agencies become involved.

This issue obviously has no easy answer and we in the Division constantly study and explore internal workload distribution and structural improvements. This is not a structural change that we would undertake without a broad scale consultation with advocacy and constituency groups.

False and Malicious Reporting

I believe that one of the worst abuses that occurs within our system is false and malicious reporting. There are times when divorcing spouses, with an eye towards enhancing their property settlement or child custody position, use this Division as a tool, a club, or 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 neighbor 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 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 discretely, no matter how professionally, or appropriately we conduct an investigation of this type, a legacy of pain, suspicion and doubt often remains. 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, both abusive behavior long held secret, as well as the anger and rage that leads to false accusations.

I believe it is time for New Jersey to balance its law. We provide in the laws for 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 place a chilling constraint on those citizens who would make legitimate referrals, and we would need to reconcile this concept with our continuing need 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 and an assault on the privacy and dignity of the individual and family.

Summary

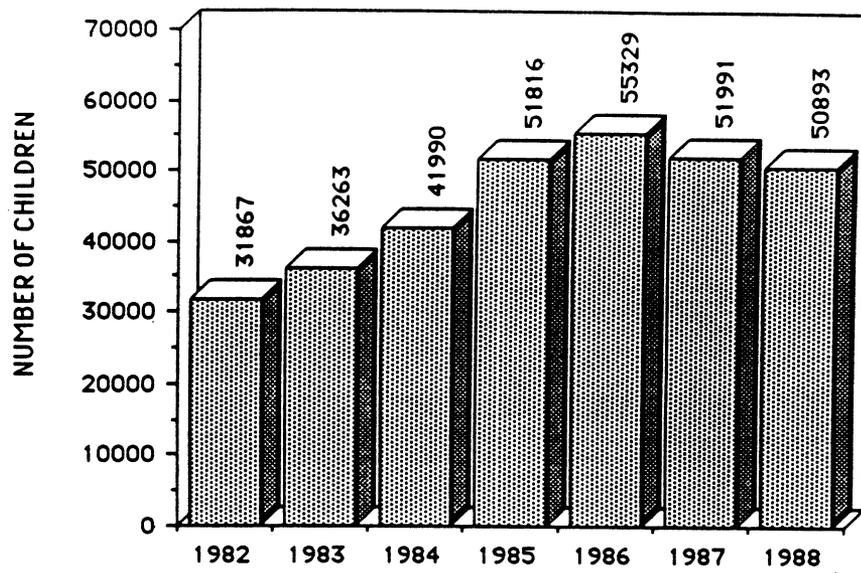
In closing, my thrust here today has been to provide you with an overview of how the child protective system works in New Jersey and to frame some troubling issues in a fair and balanced way. I hope this will assist you in your deliberations and your examination and analysis of our laws, policies, and procedures.

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. All of these must be directed to help us better achieve that delicate balance I have constantly referred to throughout my preentation. The delicate balance which 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, the DYFS story, in a prestigious public forum, for the chance to communicate our issues, thoughts, aspirations and experience and

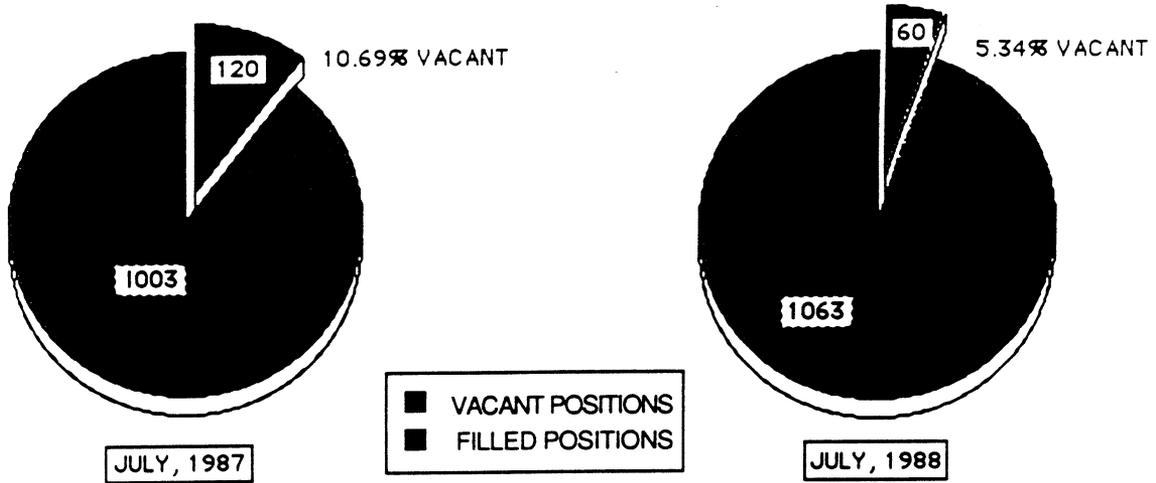
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SERVICE ACTIVE CHILD CASELOAD: 1982 - 1988



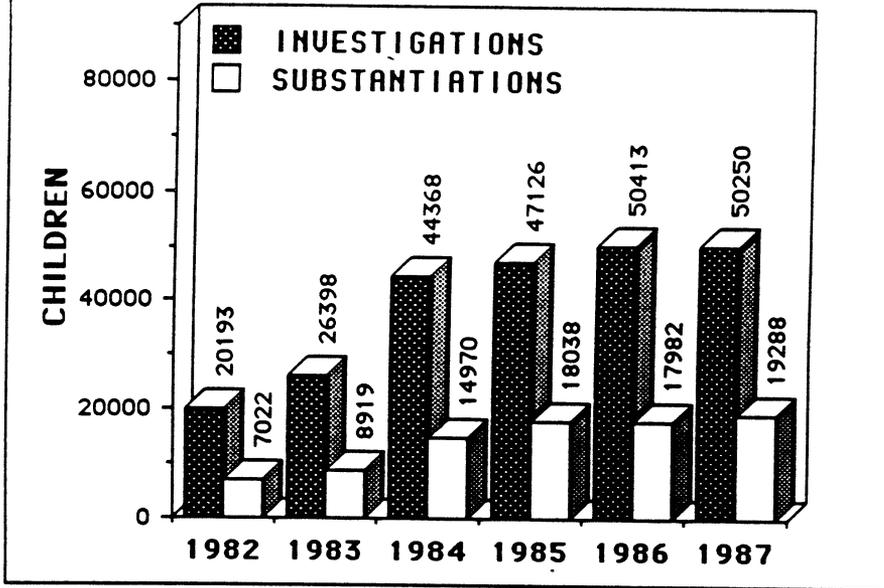
AS OF DECEMBER 31 FOR 1982-1987; AUGUST 31 FOR 1988

FAMILY SUPPORT SPECIALIST III POSITIONS

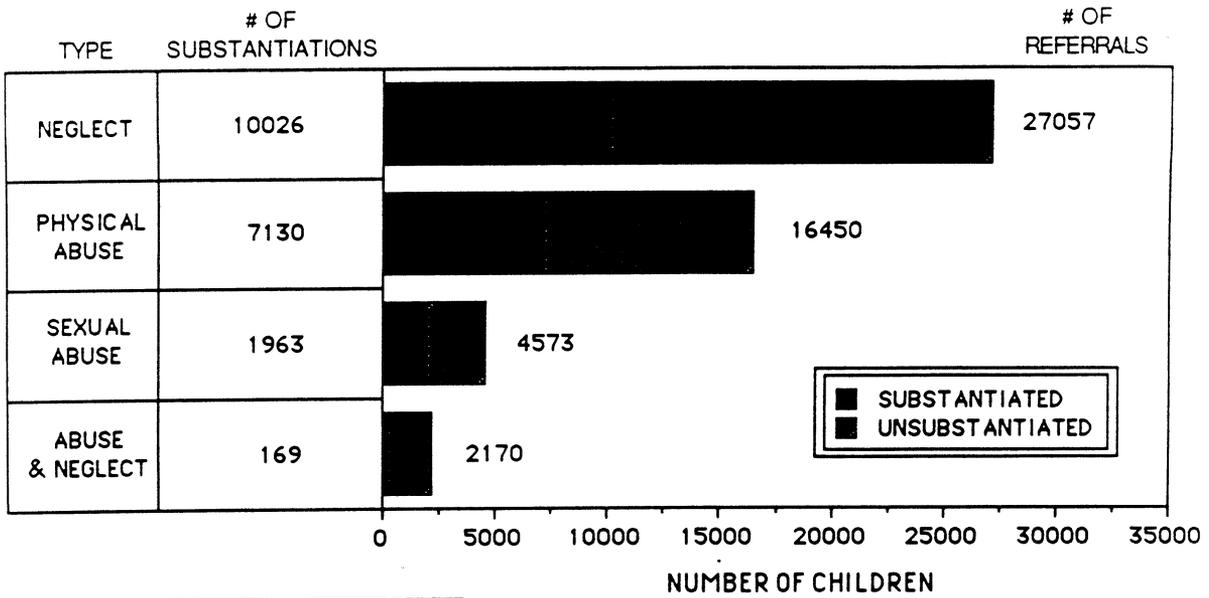


IT IS EXPECTED THAT AT LEAST 5% OF THE 1,123 ALLOCATED FAMILY SUPPORT III POSITIONS BE VACANT AT ANY GIVEN TIME

CHILD ABUSE/NEGLECT REFERRALS 1982 - 1987

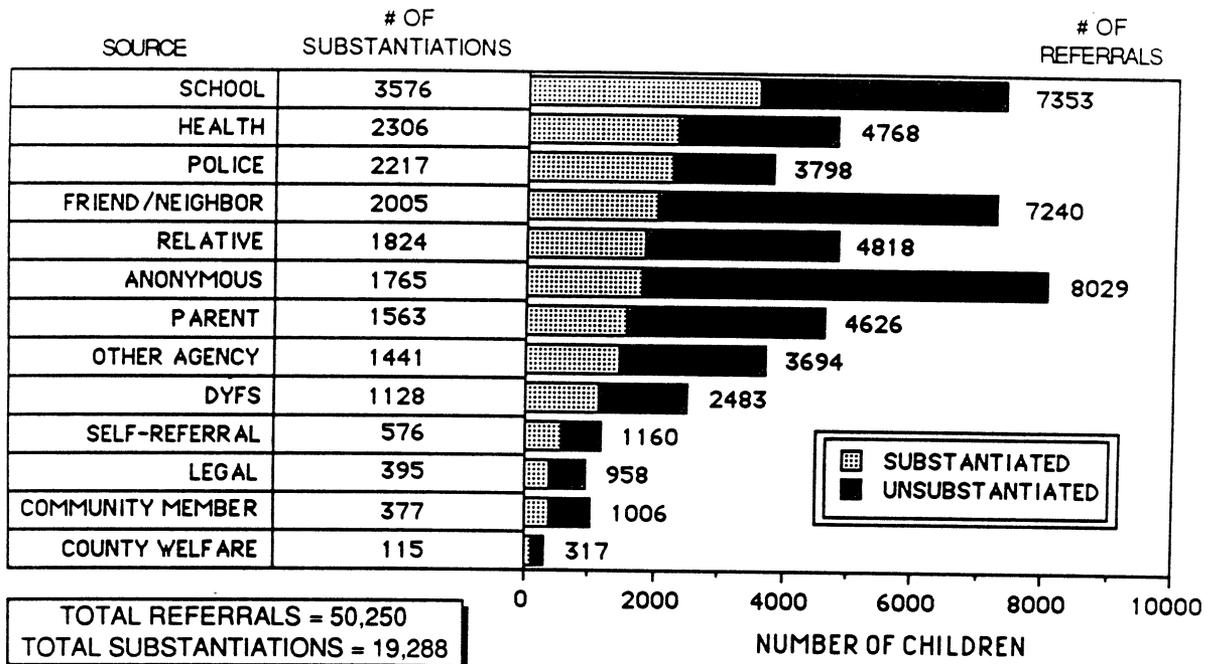


TYPES OF REFERRALS AND SUBSTANTIATIONS: 1987

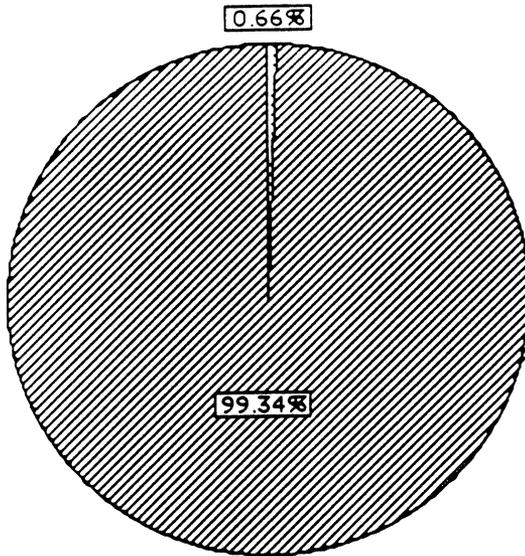


TOTAL REFERRALS = 50,250
TOTAL SUBSTANTIATIONS = 19,288

SOURCES OF REFERRALS AND SUBSTANTIATIONS: 1987



CHILDREN REMOVED FROM THEIR HOMES ON AN EMERGENCY BASIS IN 1987



CHILDREN REMOVED ON AN EMERGENCY BASIS

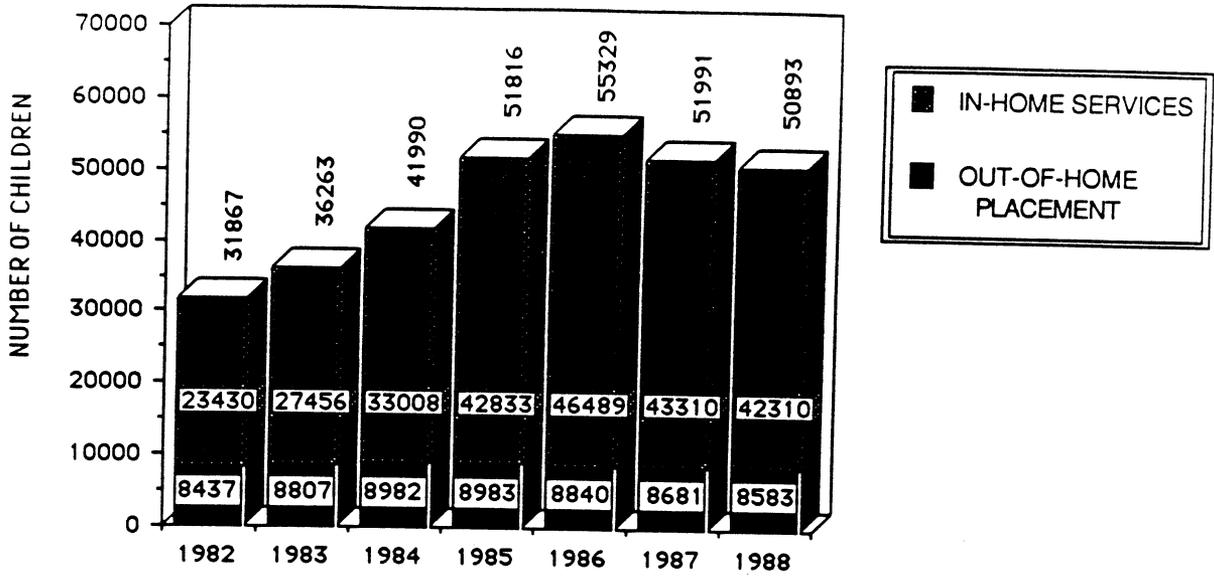
IN 1987, 19,288 CHILDREN WERE SUBSTANTIATED AS VICTIMS OF CHILD ABUSE AND/OR NEGLECT.

OF THIS AMOUNT, LESS THAN 1% (128 CHILDREN) WERE REMOVED ON AN EMERGENCY BASIS FROM THEIR HOMES IN ACCORDANCE WITH NJSA 9:6-8.29

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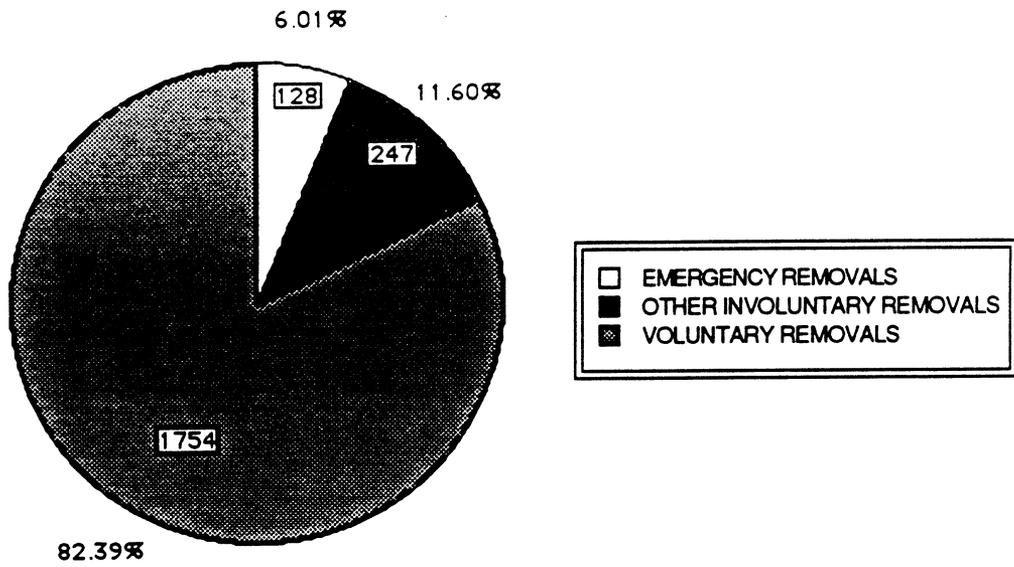
SERVICE ACTIVE CHILD CASELOAD: 1982 - 1988



AS OF DECEMBER 31 FOR 1982-1987; AUGUST 31 FOR 1988

70A

CHILDREN PLACED OUT OF HOME DURING 1987



A TOTAL OF 2,129 CHILDREN WERE PLACED DURING 1987

79x

State of New Jersey
GOVERNOR'S TASK FORCE ON CHILD ABUSE AND NEGLECT
1 SOUTH MONTGOMERY STREET
CN 717
TRENTON, NEW JERSEY 08625
609-292-0888

THOMAS H. KEAN
Governor

September 7, 1988

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TO: The Senate Committee on Children's Services

The Governor's Task Force on Child Abuse and Neglect has recognized a need to review certain policies and procedures of the Division of Youth and Family Services so that problem areas may be identified and recommendations for improvement may be made -- all to the end that the children of New Jersey and their families may be better served by the child protection systems of our Government and that the public confidence in its institution may be enhanced. Our concern is to assure that the process is fair to all who come in contact with it; there can be no doubt that a complete and responsive system for protecting children is necessary.

A Working Group composed of Task Force members has met to discuss the issues and to identify a proposed framework for action. The Group will focus its attention on two major areas:

Due Process

The issue of due process contains two concerns: do procedures used by DYFS insure that parents' rights are duly respected; and can current Division practices lead to unfair or inconsistent actions being taken against or in regard to its clients, or others.

Specific areas which are of concern to the working group include:

The accused's right to know (about the Division's investigation: why, what, how long, results, and what will happen next);

The accused's right to expungement of Division records;

80x

The accused's access to the Division Administrative Review process;
and

The accused's access to the Court.

The Division does not have a policy regarding the expungement of client records/identifying information from its computer file. When an accused's name is entered into the computer, based on an allegation of abuse/neglect or a service request, his or her name remains in the system indefinitely, no matter what the findings of any subsequent investigation. These records are, of course, confidential and the public has no access to them.

Currently, the Division has no clear and concise definition of what constitutes a substantiated case of child abuse. Individual workers and supervisors may use different criteria for substantiating allegations. Decisions may vary from office to office, and even within offices.

Better statewide guidelines need to be developed and issued to aid staff in determining when abuse/neglect has been substantiated. Once "substantiation" has been defined and operationalized it will be more likely that an expungement policy can be instituted which will be fair and adequate. The issues of investigative techniques, evidence gathering, and training will be addressed in the context of substantiating cases.

In order to develop a plan to address the issues of due process, the working group proposes that input be gathered from three major sources:

- 1) Caseworkers, to gain an understanding of the issues and problems from their perspective and to ask for their suggestions.
- 2) Advocacy groups such as ACNJ, Legal Services of N.J. and the ACLU.
- 3) The review of actual DYFS case records, if possible, to further determine the extent and impact of the problems these issues create and determine additional possible solutions.

Public Awareness/Public Image

The second major concern of this working group is the public's image of the Division of Youth and Family Services and the Child Protective Services System as a whole. The members of this group believe that the Division usually does its job well and provides services that are needed and used to the benefit of many of New Jersey families. However, it is extremely important that the public have confidence in the efficiency and fairness of the Division in order to assure the public's cooperation in reporting suspected incidents of child abuse. In addition, those who have occasion to

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seek out the services of the Division must feel that they will be treated fairly.

The Working Group will make suggestions on how the Division can educate the public as to the services it offers and also sensitize them to protective service issues.

The Working Group will report its findings and recommendations to the Task Force who will review them and make them available to the appropriate agencies.

867

ACNJ

Association For Children Of New Jersey

TO: The Honorable Catherine Costa, Chairperson
Members, Senate Committee on Children's Services

FROM: Ciro A. Scalera, Executive Director
Cecilia Zalkind, Assistant Director
Association for Children of New Jersey

DATE: September 27, 1988

RE: PUBLIC HEARING ON DYFS CHILD ABUSE INVESTIGATION

We are here today, along with many other groups and individuals, to discuss the responsiveness of the State Division of Youth and Family Services (DYFS) to allegations of child abuse. We intend to be direct in our comments and specific in our recommendations, since we believe that changes can and should be made to improve a service delivery system that has so great an impact on the children and families of our state.

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. But the difficulties and complexities of this system should not excuse DYFS from justifying its actions to its clients and the public nor from providing adequate services to the children and families in its care.

We have said repeatedly that if DYFS were assessed on the basis of its policies, there would be no need for hearings such as this

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one. The problem is in implementation. This year our comments are bolstered by hard evidence of serious shortcomings in this system through the findings of our federal grant project which examined the foster care system and our review of a report which assessed the functioning of the DYFS institutional abuse investigation units.

The findings of our grant project, published in Splintered Lives: A Report on Decision-making for Children in Foster Care, were discouraging. In many instances, standards for case practice were not clearly defined, timeframes for task completion were absent and monitoring of case progress was 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.

The similarity of the institutional abuse report to Splintered Lives is notable. This report is a highly critical internal assessment of DYFS investigation of abuse allegations in residential settings, schools and child care centers. It cites DYFS compliance with investigatory timeframes as very low, the quality of investigations as inadequate and the quality and timeliness of reporting as poor.

The report also found that the standards for substantiating whether or not 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 DYFS unit is responsible for this operation statewide, it did not analyze the reports sufficiently to be able to identify patterns of abuse in particular centers or facilities.

These findings have led us to conclude that the child welfare system in our state is in serious trouble. For the last several years, DYFS 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 basic DYFS practice in this area.

Our recommendations today involve efforts to fix a system that, frankly, we have begun to fear cannot be changed. Through our endeavors of the last several months, we are beginning to believe that only major system and structural changes will improve DYFS and the other state systems that impact on children and families. We have committed ourselves to exploring that concept over the next several months.

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

accountability through:

1. The establishment of clear, consistent practice standards, understood by DYFS staff and accessible to clients.
2. The development of formal mechanisms to protect the rights of parents.
3. The expansion of independent representation to protect the rights of the child.
4. The creation of a service delivery system based upon client need.

I. ACCOUNTABILITY FOR CLEAR, CONSISTENT CASE PRACTICE

The present 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 DYFS staff as well. In the area of child protection, the standards for substantiating child abuse in institutions are unclear. There are no standards for the investigation of abuse allegations made against foster parents. The result is highly individualized, inconsistent decision-making that is almost impossible to scrutinize.

Additionally, timeframes for completing certain tasks are non-existent and those timeframes that do exist are often unmet. Monitoring by supervisory and administrative personnel within DYFS and by external review systems, such as Child Placement Review (CPR) is insufficient either to provide oversight for specific cases or to identify broader problem areas.

We offer the following recommendations to improve case practice:

1. DYFS must develop and articulate clear standards for all areas of practice. Splintered Lives and the institutional abuse report are compelling examples of the need for standards. In the area of child protection, DYFS must clearly define what constitutes abuse and neglect and outline the procedures for conducting investigations and acting on findings. Although the DYFS policy manual addresses this in part, it is cumbersome and not uniformly utilized within the agency. A more realistic practice guide is

needed particularly in the area of substantiation of child abuse referrals.

Additionally, any standards that are developed must address the parent's right to understand how and why DYFS has intervened. Procedures to investigate child abuse reports must also address the rights of parents to understand the investigation and its outcomes.

2. Practice standards must be promulgated into regulation, not merely confined to the DYFS internal manual. The public, primarily DYFS clients, must have a clear understanding of the agency's practices and procedures in order to adequately protect their rights. The regulatory process allows for public input in the development of standards and for the continuing oversight of their implementation. Regulations also provide a framework for parents to understand what DYFS can and cannot do. If DYFS is not willing to promulgate regulations, legislation should be proposed directing it to do so.

3. Areas of practice that present a conflict of interest should be removed from DYFS. At a legislative hearing on child protection in 1984, we recommended that the responsibility for conducting institutional abuse investigations be removed from DYFS and vested in another entity.

Currently, the Public Advocate's Office investigates allegations made in DYFS-run facilities. DYFS, however, remains responsible

for all other institutional settings, including those in which they place children. We question whether DYFS can objectively investigate an abuse allegation made by a child against a residential facility in which it has made efforts to place the child. We think that the risk of conflict is too great for DYFS to be responsible to conduct an independent investigation and follow through on the outcomes.

4. The DYFS Quality Assurance program should be expanded and strengthened. The DYFS Bureau of Research contains a quality assurance unit which conducts independent assessments of case practice in specific areas. The assessments are used to develop corrective action plans to address those areas that need improvement both statewide and in specific offices. DYFS contends that this has been a highly successful program.

We recommend that this program be expanded to include all areas of practice. We also feel strongly that it must be opened to public scrutiny to ensure the independence of the process. Otherwise, valid questions will be raised about the ability of DYFS to monitor itself.

In fact, for the last four years, DYFS has concentrated its Quality Assurance reviews on child protection. It would be timely and appropriate for the results of this review to be discussed publicly.

II. ACCOUNTABILITY TO PROTECT THE RIGHTS OF PARENTS

Since the release of Splintered Lives, we have received many troubling calls and letters from parents, social workers and other individuals describing their experiences with DYFS. Although the individual cases varied, there were some common themes. All were confused about the Division's role in their lives. Their rights and obligations had not been sufficiently explained. Explanations that were offered were given at a time when they were too upset to fully understand.

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 interests and rights in a system that was, at best, confusing and, more often, arrogant. Many were fearful of reprisals if they complained or even raised questions.

This is a very significant problem because DYFS intervention is based primarily on the voluntary acceptance of services. The majority of cases supervised by DYFS, either through in-home supervision or in out-of-home placement, are opened on the basis of the parent's voluntary consent. This makes the parent wholly dependent on DYFS. They are not entitled to an attorney nor is there a court process to explain their rights and obligations.

Although the development of clear practice standards that are accessible to public scrutiny will alleviate some of this

problem, we offer the following recommendations to better protect the rights of parents:

1. The system of voluntary consents must be evaluated and improved. Whether or not voluntary consent to DYFS intervention provides sufficient protection to parents and children must be examined. In the area of out-of-home placement, several other states have enacted legislation to limit voluntary placements to short-term situations such as the hospitalization of the parent. In those states, all other placements must be court-ordered in order to protect the parent and the child.

Because many children come into placement through voluntary parental consent, clear standards for revoking that consent must also be articulated and explained to parents so that they are aware of their rights and understand that DYFS intervention is not an open-ended process.

2. DYFS must develop formal mechanisms to inform parents about their rights and responsibilities as well as the basis for DYFS intervention in their lives. Although DYFS has developed a general parent handbook, more information must be given to parents about their specific case situation. Parents should be given, in writing, a statement which identifies the family problems and outlines the plan to remedy the problem, including DYFS and parent rights and responsibilities. A staff person not connected with the case

should also be available to review this plan with the parent.

Additionally, The Citizen Action Line should be strengthened to be more responsive and independent. If parents have conflicts or questions about case handling, they need access to an independent resource to advocate for them. Although the DYFS Citizen Action Line exists for this purpose, clients say that it merely refers cases back to the original office for follow-up. Our own limited experience with the Citizen Action Line has found it to be unresponsive.

This is an important function which must be strengthened. Staff persons that handle complaints must be trained to be sympathetic, responsive and objective. Consideration should be given to whether this unit should report directly to the DYFS Director or even be housed outside of DYFS to maintain its objectivity and independence.

3. Clients must be given greater rights to an appeals process. The majority of DYFS clients have no legal right to a review of their complaints by the Office of Administrative Law (OAL). The Administrative Hearings Unit within DYFS has the power to determine if the client has a right to an OAL review. Internal administrative reviews of complaints can be requested by clients. Again, there is no right to an administrative review and the DYFS director has the discretion to grant a review or deny the request. We suggest that legislation be proposed to mandate DYFS to participate

in the administrative law process so that client's rights can be adequately protected.

III. ACCOUNTABILITY TO PROTECT THE RIGHTS OF CHILDREN

Despite its mandate to act in the best interest of the child, DYFS intervention does not necessarily mean that needed services are always provided to children. As noted in Splintered Lives, children were incidental to case planning, their needs were not uniformly met nor were they involved in decision-making.

We were also 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, such as abuse allegations that arise in the context of divorce and custody, DYFS is reluctant to investigate or seems to investigate under a different standard.

Additionally, the systems in place to independently represent children are not working. As noted in Splintered Lives, the child placement review system has not been fully or effectively implemented. For all of these reasons, we believe that it is critical to provide children with independent representation in several instances:

1. The Law Guardian program should be expanded to represent more children, such as those placed in residential treatment centers who allege that they have been abused. The Law Guardian program in the Public Advocate's Office, which provides attorneys to children who are the subject of court-involved abuse cases, provides independent representation to children when their rights conflict with those of their

parents. We believe that this program should be expanded to protect children in other areas such as termination of parental rights, prolonged foster care placement or cases in which the child alleges that he or she has been abused in an out-of-home placement setting.

We are currently supporting legislation to expand this program to termination cases. There is, however, no reason why the Public Advocate's Office cannot expand their ability to represent children through a budget request.

2. A Guardian ad litem should routinely be appointed to represent children in contested custody cases or in divorce cases where an allegation of abuse has been made against one of the parents. Minnesota has recently enacted 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. Since New Jersey has experienced difficulty in recruiting attorneys to represent children on a pro bono basis, legislation should include a funding mechanism such as that used by the Public Defenders Office for pool attorneys.

3. The Court-Appointed Special Advocate (CASA) program should be expanded. Two pilot CASA programs, in Union and Essex counties, provide an independent advocate to act in the interest of children in foster care. The CASA volunteers are

unique in that they supplement the child placement review system, which is largely a paper review, with an advocate who actually meets the child and represents his or her independent interests. Legislation expanding this program would be appropriate. ACNJ would be glad to share with this committee a draft proposal which we developed several years ago to provide a CASA program in every county.

4. The effectiveness of the child placement review system (CPR) must be examined. As noted in Splintered Lives, the CPR system has not proven to be fully effective. In fact, New Jersey faces a loss of federal dollars next year due to the inadequacies of the review system for children in foster care. Legislative hearings should be held to examine the implementation, effectiveness and potential of this system.

IV. ACCOUNTABILITY FOR A SERVICE DELIVERY SYSTEM BASED UPON CLIENT NEED

The child protection system poses some inherent conflicts in that it requires DYFS to act in both an investigative and helping role with families. Compounding these difficulties are the lack of adequate staff resources due to vacancies and turnover and the lack of sufficient program development to help families.

We are concerned because these problems directly impact on family functioning and the ability of vulnerable families to remain intact. We believe that the issues of resources and of role definition are interrelated and can be addressed in a more client-oriented way that will help those families needing services from DYFS.

1. **DYFS must conduct an assessment of whether its child protection services are sufficiently targeted for the families in its care.** The findings of **Splintered Lives** raised some interesting questions about the kinds of families who are referred to DYFS for intervention. For the most part, the children in the study who entered placement did so because of neglect, not abuse. Interrelated were problems of poverty and homelessness.

The result is that such families are penalized twice. They do not have the financial means to care for their children and are classified as neglectful parents because of circumstances not fully in their control. This, of course,

is not the case of all families referred to DYFS because of neglect but we suspect that it has become more common than the agency admits or knows. Unfortunately, the children of these families are usually the children who end up in foster care.

We question what programs DYFS has developed to treat these families. The traditional services offered to an abusive family -- therapy, parenting skills training and homemaker assistance -- will not do much for a family that has no place to live or for a family who cannot exist on their AFDC grant.

As we have recommended in the past, we believe that DYFS must conduct an assessment of who their clients really are and what services exist to meet their needs. DYFS funds many community-based programs. An assessment of the services they provide, the quality of those programs, and whether or not they are directed at the families who should be a priority for the agency is long overdue.

2. DYFS should clarify its investigative versus its helper role. There has been discussion for some time about whether DYFS should separate its protective service responsibilities from its family support functions. The feasibility of this proposal should be explored since families do have difficulties relating to DYFS in this dual role.

In the meantime, DYFS should explore disengaging itself from functions that are more appropriate for other entities. For

example, DYFS responsibility for investigating non-familial abuse allegations should be re-considered. Abuse allegations in out-of-home settings may be more appropriate for law enforcement to investigate.

3. Legislation should be explored to provide a deterrent to false reporting. We are interested in exploring legislation to amend the child abuse reporting laws to include a provision for penalties for false and malicious reporting. In light of increasing evidence that some parents involved in divorce and custody cases make false allegations against their spouses, such a provision might discourage individuals from misusing the child protection system in this way and decrease the number of inappropriate referrals that DYFS must investigate.

CONCLUSION

We have tried to be productive and helpful in our suggestions before you today. In fact, we have worked on some of these issues with DYFS as a result of Splintered Lives and our other advocacy efforts. We are hopeful that DYFS has made an honest commitment to act on the problems we have identified and will be reviewing its corrective action plan over the next several weeks.

We firmly believe that the most effective way of holding DYFS responsible for its actions is through an ongoing public forum to discuss problems, review issues and determine the adequacy of 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.

TESTIMONY FOR PUBLIC HEARING HELD SEPTEMBER 27, 1988
BY THE 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

My name is Cathleen Dillon-McHugh. 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.

On December 17, 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 snowballed from there. By the time she was finished being questioned by teacher, nurse, guidance counselor and principal, she was so distraught that all involved believed it had to be true. A DYFS caseworker was called and my sister was taken to the police station.

In the meantime, my parents had been calling the school, and riding around looking for her because she was late coming home from school. Calls to the school, to school transportation produced no answers. Finally, the police called my parents to come to the station. All they were told was that she was involved in a serious matter.

When my parents arrived at headquarters, they were not allowed to see my sister. My father was arrested on charges of sexual assault. He waived his rights because he had nothing to hide. When our lawyer was called, he tried to stop the questioning, but 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 the 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 17 year old, even though she functions emotionally and mentally at an age 12 level. There are words in the report that had to be put into her mouth and head as 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 this could all be an error. You see, DYFS has known this family for years -- they have been foster parents for 23 years raising around 16 children for various lengths of time. This child, who was confused, but not molested, had been a foster child from the age of 4 to the age of 10 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 any of this, or bother checking prior records. They were determined to railroad an innocent man.

10/4

Without going into too much detail, my sister was placed with my older sister so she could spend Christmas with family as long as she and my father were not alone at any time. However, a foster child was allowed to remain in my parents' home after she was questioned and it was determined that she was in no danger.

The following Tuesday, December 21, 1987, when a caseworker learned that we had asked my younger 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. She was then placed with a foster family.

At the same time, the foster child was removed by police from my house while I was watching her because DYFS said all children had to be removed until the case was resolved and they had made a mistake in allowing her to remain with my parents five days before.

We had to hire two attorneys, one civil, one criminal, to help resolve the matter. My parents hired private attorneys, spending thousands of dollars they do not have to get their daughter home. We had to fight for visitation rights which were not granted for three weeks.

My parents were ordered by DYFS to go to a psychiatrist, which they promptly did. The psychiatrist sent a report to DYFS indicating that no abuse had occurred. When the report was received by DYFS, they decided a mistake had been made - my parents were supposed to go to a psychologist. 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 already gone through, reduced the supervision to 30 days. A court order still required my 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 July 1988 because all the experts agreed nothing had happened. To heap insult upon injury, we had to fight to get the bail released. This was only resolved last week due to a letter my father wrote to the "Troubleshooter" column in the Asbury Park Press.

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. 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; less than that are actually proven as having occurred.

102x

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 the child's ability to understand.
- 2) Children should not be removed unless it is proven that they are in immediate danger.
- 3) Visitations should begin between child and family within one week of 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 has been proven as having 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 fully recover.

In summary, here was a man DYFS destroyed. He is 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 can 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 a 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. And DYFS, not only lost a great set of foster parents, but through 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 the change the laws and prevent the tragedy that happened to us from happening to another innocent family.

103x



STATEMENT - PUBLIC HEARING BY THE SENATE COMMITTEE ON CHILDRENS SERVICES
TO EXAMINE POLICY ISSUES RELATING TO INVESTIGATIONS BY THE DIVISION OF
YOUTH AND FAMILY SERVICES OF REPORTS OF CHILD ABUSE - HELD IN TRENTON, N.J.
SEPTEMBER 27, 1988

My name is Nancy J. Havemann and I am attending these hearings as a concerned public citizen.

My father is a man married for 45 years with two natural born, married daughters. He and my mother have been foster parents to many children over the past 20 years, one of which my dad walked down the aisle on her wedding day, even though her natural father was able to do so.

In 1975, my parents received a four year old neurologically impaired foster child. In 1977, they applied to adopt this child and with the assistance of DYFS, after three years, the adoption was finalized. She has always been a good child, getting along well with the other children my parents have tried to help throughout the years. She is 17 years old but due to her disabilities, she functions on the level of a 13 year old. In December of 1987, she accused my father of sexually abusing her.

One day, during lunch, my sister mentioned to a friend of hers that my father had ~~sexually abused her~~. This friend advised my sister to tell a teacher, which she did. The teacher told her to go to the nurse. The next day, the guidance counselor was asked to speak with my sister. At this point, DYFS was called in and then my sister was taken to the police station. My sister thought she was doing the right thing, being she is easily led and listens to others, instead of making her own decisions. It became evident very quickly that she did not know the difference between good touches and bad touches. Additionally, she was not questioned by people thoroughly trained in matters such as these, nor was she questioned on a level of her intelligence quotient. After extensive questioning at the police headquarters, my sister was taken to the hospital where all examinations proved negative.

My father was arrested, my sister was placed in a foster home, and two attorneys and over \$5,000.00 later, 30 days of psychological counseling and seven months time, all charges have been dismissed.

Who is going to return the time and money? My father is a 65 year old man, forced to retire due to quadruple by-pass surgery, 11 month prior to his arrest. My

I touched her and she felt uncomfortable.
njff

parents live on a fixed income consisting of a small savings account and social security. There is no money to spare. Who is going to reimburse my parents?

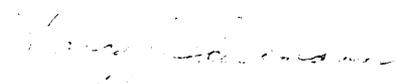
Most of all, who is going to erase all the hurt our family has gone through? Who is going to remove from our family's memory, the jail cell my father was placed in or the fingerprinting he underwent, not once but twice.

The Division of Youth and Family Services has put our family through a living hell. My parents would never consider taking another foster child and the agency has lost a good clean, loving home. I am glad our family is strong as it was only through our faith and love that we have survived this nightmare.

The tactics of the Division of Youth and Family Services and its employees must change. Someone must become accountable for their actions and inactions. The public should be aware of the continuous errors in judgement made by this agency. The percentage of cases substantiated by DYFS is less than 36 percent of all charges made. Too many families are destroyed by an agency that can do as it pleases and answers to no one. WHY?????????????????

In closing, I feel a fund should be set up to reimburse the falsely accused. The funds could come from the federal funds provided to the counties based on the amount of cases that are brought into the Division of Youth and Family Services.

Respectfully submitted,


Nancy J. Havemann
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08527

NEW JERSEY PTA

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TO: Senate Children's Services Committee

FROM: Mia Andersen, Chairman
Legislative Activities

DATE: September 27, 1988

RE: DYFS Investigations; The Rights of the Child as Balanced
Against the Rights of Parents.

New Jersey PTA is the State's largest and oldest child advocacy organization dedicated to ensuring the health, welfare, safety and education of children and youth. We appreciate the opportunity to share our concerns with you on this important issue.

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 these issues as a whole.

In discussing this issue - DYFS investigations and the rights of the child as balanced against the rights of the parents, we must be forthright and admit to a strong bias in favor of the children; the blameless and helpless targets/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 the "US" are too often the ones who have been the target of investigations/too often have a vested interest apart from the unbiased concern for the development of solutions that are crafted based on the best interests of children rather than the adults in charge.

The circumstances that surround abuse allegation evaluations 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 break up of the marriage center around maltreatment of the children. But too often an abuse allegation will be ignored or downgraded because it is lodged by one parent against another parent during or after divorce proceedings. So, practically, what are we to do? Ignore abuse allegations by parents involved

/s/

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 be maimed both emotionally and physically; because if we do, children will die.

Deciding which abuse allegations are valid and which are not for the purpose of initial referral for investigation requires extensive training and experience as well as intelligence and sensitivity. There is an old Chinese curse that wishes enemies to live in "interesting times." We live in interesting times. Poverty, homelessness, drug and alcohol abuse, teen pregnancy, youth suicide and unbelievable student drop out rates are 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 reflects 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 interests at heart. How to decide which report is valid and which is not, which report should be investigated immediately and which can wait for 24 to 72 hours is a critical issue. We believe that the policy upon which 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.

But I doubt that there is one District Office in the State that has a full compliment of staff and the turn over of staff is close to 50% a year. 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. 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 gets the report. The Division must do more with developing cooperative agreements with other Departments as well as non governmental agencies. And confidentiality of the reporter must be better protected.

It 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 child first philosophy - a philosophy that mandates that 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. And we can be grateful that our strong child protection laws that have resulted from this recognition have protected our states children

better than many other states.

We all know that DYFS is charged with investigating all allegations of child abuse and neglect. It bares the major burden for ensuring 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 play a major role in determining the final outcome of an investigation. DYFS cannot remove a child without Court approval. The Probation Department is charged with the responsibility to do a best interest investigation and report in many instances. Judges are required to weigh these best interest reports when deciding on the placement of children.

The protection of the child must rise above the rights and sensitivities of the parents/guardians not only because it is a moral obligation of a society to protect its most vulnerable citizens, but because adults have safeguards and protections available to them that are not available to children.

1. DYFS cannot take a child from a parent/guardian without approval by the Court.

DYFS cannot, on its own, go into a home and remove a child 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.

2. An adult can hire a lawyer at any time. Lawyers will be provided for the indigent.
3. The adult parent/guardian does not have to sign any voluntary agreement offered by DYFS. That is, the parent/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; when a parent(s) is a drug abuser and/or alcoholic, DYFS cannot force that parent to go for rehabilitation; when a parent(s) has serious psychological problems the result is the same. Unless the child is faced with imminent danger that warrants removal from the home and that can be proved in court, DYFS' only recourse is to get the parent(s) to voluntarily agree to services. Does DYFS coerce unwilling parents to accept services after an abuse or neglect allegation has been substantiated? I hope so.

There 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.

1. 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.
2. The Division must be given the authority to develop strong cooperative agreements with other Divisions and Departments.
3. The Division must develop strong cooperative agreements and processes with non governmental agencies.
4. The Division be provided with sufficient resources to develop and provide appropriate training for workers.
5. Permanency planning and oversight must be improved. Children are staying in foster care far to long without appropriate permanent goals being set for them.
6. When children are freed for adoption, cases must be processed more quickly.
7. Continuity for clients must be better. Workers must not be continually shifted. It is not uncommon for a case to have five or more different workers in one year.
8. Turf protection/competition/disparagement between D.O.'s must be controlled.
9. In order to function well each D.O must have sufficient staff.
10. There must be a significant reduction in staff turn over if the Division is to effectively meet its mandate.
11. There must be sufficient resources in each D.O area to which the Division can refer its clients.
12. There must be better coordination between the Crisis Intervention Units and the Division.
13. There must be better coordination between the Division and the Probation Department with regard to best interest reports.
14. Probation officers making best interest reports must be required to:
 - a. observe the children with both households;
 - b. interview all persons who do or will care for the children;
 - c. interview pediatricians and medical personnel knowledgeable about the children;in addition to interviewing the custodial and non custodial

parents.

15. When more than one District Office. Is involved in an investigation, all communications between the investigating workers must be included in the running record/dictation sheets.
16. Significantly more resources need to be dedicated to prevention as well as family preservation.
17. The current funding, training and general structure of our foster care system needs significant study.

The governor's task force on child abuse and neglect is currently in the process of beginning and in depth analysis of the division and the laws, regulations and procedures under which it operates. Njpta urges the 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 welfare of the child first.

110x

STATEMENT
OF
ALFRED A. SLOCUM
PUBLIC ADVOCATE OF NEW JERSEY

BEFORE
THE
SENATE COMMITTEE ON CHILDREN'S SERVICES

SEPTEMBER 27, 1988

11/1

GOOD MORNING MADAME CHAIRWOMAN AND MEMBERS OF THE COMMITTEE.

I AM PLEASED TO BE HERE TODAY PURSUANT TO SENATE RESOLUTION 28 TO DISCUSS WITH YOU THE CHILD ABUSE REPORTING AND INVESTIGATION POLICIES OF THE DIVISION OF YOUTH AND FAMILY SERVICES (DYFS), 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 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 INTERFACES WITH DYFS IN 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 CARE.

AND 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 CITIZEN 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 PROFESS THEIR INNOCENCE. INDEED, MY OFFICE, THAT OF THE COMMISSIONER, HAS BEEN ASKED BY COMPLAINANTS TO INVESTIGATE DYFS BECAUSE OF SIMILAR ALLEGATIONS.

THE DEPARTMENT OF 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,¹ 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.²

1. N.J.S.A. 9:6-8.10

2. N.J.S.A. 9:6-8.14

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 ADOPTED 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 LAW 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 THE 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 SERVICES 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 BOTH FAMILIES AND CHILDREN, AND A LARGE AND MULTIFACETED 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 IMMEDIATE 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 HUNDREDS OF CHILDREN AND FAMILIES WHO ARE, OR SHOULD BE, SERVED BY DYFS. IN ADDITION, WE SERVE ON 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 DECISIONMAKING 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 INDIVIDUAL 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 INSENSITIVE. 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 CHILD.

WHILE THIS BROAD ISSUE LOOMS OVER DYFS LIKE A CLOUD, OVER THE YEARS, THE DEPARTMENT'S OFFICE OF CITIZEN 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 OF 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 18 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 ALTERNATIVE HOME SETTINGS BEFORE CRIMINAL HISTORY BACKGROUND CHECKS HAVE BEEN CONDUCTED. THESE PROBLEMS MUST BE ADDRESSED IN ORDER TO ENSURE FULL COMPLIANCE WITH THE LAWS 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; NON-COMPLIANCE WITH MANDATED TIME FRAMES FOR INITIATING INVESTIGATIONS; FAILURE TO PROVIDE PARENTS WITH INFORMATION ON POTENTIAL BEHAVIORAL PROBLEMS AND AVAILABLE SERVICES; FAILURE TO INTERVIEW ALL WITNESSES OR INVOLVED STAFF; LACK OF DEMONSTRATED EXPERTISE IN WORKING WITH PSYCHIATRICALY HOSPITALIZED CHILDREN AND A TENDENCY TO DISBELIEVE THEIR ACCOUNTS, RESULTING IN OVERRELIANCE 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 9-5. INCREASED TRAINING FOR THOSE INVESTIGATORS IN THE AREA OF SENSITIVITY TO CHILDRENS' 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 ALLEGATION OR ITS INVESTIGATION BECAUSE OF THE STATUTE.³ UNDER THE STATUTE, DYFS ABUSE INVESTIGATIONS ARE STRICTLY CONFIDENTIAL, AND THE REPORTS CANNOT BE RELEASED UNLESS ONE OF NINE NARROW EXCEPTIONS IS MET. BREACH OF THESE CONFIDENTIALITY PROVISIONS IS A CRIMINAL OFFENSE CARRYING A POSSIBLE THREE-YEAR PRISON SENTENCE.

PARENTS OF CHILDREN ALLEGED TO HAVE BEEN ABUSED IN OUT-OF-HOME PLACEMENTS ARE NOT ONE OF THOSE 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 CHILDRENS' WELL-BEING WHILE IN DYFS CARE. THEY ARE ENTITLED TO KNOW THE DETAILS OF THE ALLEGATION (OFTEN

3. P.L. 1977, C.102, SEC. 1 (N.J.S.A. 9:6-8.10(a))

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 OBTAINED.

THIS DILEMMA COULD BE RESOLVED BY ENABLING PARENTS -- NOT ALLEGED TO HAVE ABUSED OR NEGLECTED THEIR CHILDREN -- TO BE INFORMED OF THE DETAILS OF THE INVESTIGATION AND REPORT WHEN A THIRD-PARTY IS THE ALLEGED ABUSER.

FINALLY, WHILE THE POWER THAT DYFS HAS MAY AT TIMES IMPINGE UPON INDIVIDUAL CIVIL LIBERTIES, WE THINK A MORE COMMON FAULT, 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 TO SET THE POLICIES OF THIS STATE TO GUARANTEE THAT THE GOAL OF EFFECTIVELY PROTECTING OUR CHILDREN IS MET.



New Jersey Association of School Administrators

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Testimony Before The Senate

Children's Services Committee

September 27, 1988

My name is Margaret C. Murphy. I am Assistant Counsel for the New Jersey Association of School Administrators and speak on behalf of the Association.

The New Jersey Association of School Administrators fully supports the protection of children by stringent child abuse laws.

We encourage strengthening the resources of the DYFS so that children are protected from abuse at every level and in every institution in our society.

The laws as written, however, seem overly broad in some instances as applied to schools. For example, under the definitions in N.J.S.A. 9:6-8.9 the following would be instances of suspected child abuse that would be required to be reported. Failure to report these instances could mean that a school staff member could be judged a disorderly person under N.J.S.A. 9:6-8.14.

1. An eighteen year old senior gets into a fight with a student who is under eighteen years of age. Under the statutes, the 18 year old should be reported as suspected child abuser.
2. In a junior high school, a fight erupts in the boys lavatory or in a corridor at a time when no staff is supervising that area. Under the statute, the principal and staff should be reported as suspected child abusers for failing to supervise.
3. In a senior high school, two students, one age 18 and one age 16, engage in sexual activity. No staff is aware of their activity at the time. When it becomes known, staff and principal should be reported as suspected child abusers for failing to supervise.
4. A child is having problems with a teacher who is "tough," that is, the teacher has high standards for academic performance and behavior. The teacher has had an exemplary record for 15 years of service. The student falsely reports to another staff member that the teacher slapped him/her. According to the DYFS, there should be no investigation of the report at all. The staff member receiving the report must pick up the phone, based on the child's statement, and report the teacher for suspected child abuse.

We don't believe the legislature meant to include illicit activities between students to come within the purview of the child abuse statutes. We know that it is impossible to have staff supervise every corner of the school building every moment of the day. If you were an adolescent planning an illicit activity (e.g., a love affair or a fight) would you choose the corridor where the teachers are or would you find a secluded area? Did the legislature intend to label school staff as suspected child abusers under these circumstances? We don't think so.

In schools we have trained and dedicated teachers and administrators as well as persons who are specialists in dealing with troubled youngsters. Yet a principal is precluded from using these resource persons to conduct even a preliminary investigation of a student's accusations. A staff member who has an exemplary record will likely be suspended and may be the subject of a prolonged investigation based on a child's false accusation. The teacher's reputation is tarnished and his/her commitment to teaching may be seriously eroded. Yet under the DYFS proposed definition of "reasonable cause to believe" found in N.J.S.A. 9:6-8.10, a child reporting that he/she had been slapped constitutes "reasonable cause to believe."

While it is understandable that the view of the DYFS is that every adult is a potential child abuser, there has to be an element of common sense included in the statutes so that school

personnel may exercise some judgement in determining whether the situation should be reported and permitting school personnel to conduct preliminary investigations before making the decision to report to the DYFS or not.

We are hopeful that the legislature will recognize that, in this very difficult policy area, while the rights of children to be free of abuse are paramount, the rights of the falsely accused are equally important. The damage to both personal and professional reputation is significant and the toll in human suffering is also substantial.

In sum, the legislature has at its disposal a substantial amount of data based on the implementation of the present statutes. It may now wish to use this experience base to amend the statutes so as to avoid the waste of DYFS resources in the investigation of situations that are clearly outside our common understanding of child abuse. It may wish to recognize the devastating effect an allegation of child abuse has on the falsely accused and to permit local school personnel the opportunity to even preliminarily investigate the validity of a child's allegation before proceeding with a formal complaint.

In our dealings with the DYFS, we are concerned about the high turnover rate at the caseworker level and the effect that it has on continuity in dealing with these troubled families. A high turnover rate also means that the training and experience level of the caseworker is less than what it should be for one

entrusted with such serious matters. We understand that this is a stressful position and caseworkers often experience burnout after a short time. We would suggest that the pay scale for caseworkers be increased substantially from its current level of about \$21,000 per year to attract and keep bright, educated and committed professionals. We would also suggest that the DYFS be given the resources necessary to investigate and address the burnout issue so that caseworkers can stay in that position for three to five years without personal detriment.

In closing, we pledge our support in working with the DYFS as partners in the service of the children of New Jersey.

John T. Murphy
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(609) 935-6312



Life on the Farm
Farmstead

September 21, 1988

Mr. Randall Currier
Aide, Senate Committee on Children's Services
Office of Legislative Services
CN-068
State House Annex
Trenton, New Jersey 08625

Dear Mr. Currier:

I spoke to you on the phone the other day regarding upcoming hearing, September 27th. I lost my home, my farm, my daycare-nursery school, and summer camp for children in 1986 due to the unjust investigation of DYFS into allegation of child abuse.

I had cared for and taught children some 25 years with excellent reputation up to that point. Over the years, I had the children of pediatricians, school superintendents, psychologists, teachers, lawyers, etc., and never had any complaint from professional parents. My activities were evident to these knowledgeable people on a daily basis over years, and they would have recognized any possible abuse far more readily than poorly trained DYFS investigators. I have many letters of congratulation from these professional parents.

DYFS jumped on one specious allegation, and forthwith presented me with a letter, delivered in hand by three people, demanding that I get off the farm-school-camp immediately.

They took all my rosters from the past several years, and began calling parents all over the county. Some working mothers who had small children with me were called late at night (11:10 p.m.), and told: "There's an investigation into child sexual abuse at ----- school."

One father called me in the morning to say: "My wife was in tears last night over this call. What happened?" He brought the 22 month old girl in that day himself. I did not lose **one single** child of that enrollment. I enclose a letter signed by every one of my parents at that time.

129x

DYFS did not interview me, or my teachers, or parents, or any adult associated with the school-camp. They sought to interview the children only. DYFS investigators disrupted the school and camp, making it almost impossible to care for the children properly.

Five DYFS workers appeared in the daycare center at 9:30 a.m. one morning, standing around and talking. The teacher was in tears, because she could not conduct class. The kids were running all over the place, throwing things, and looking at these strangers. This was first week in July, and the teacher was just starting the summer with us, so she did not have all the little children in good composition as yet. She taught first and second grade in public school system fifteen years, and was in her second summer with us. Her own kids were in the summer camp for 5 to 12 year olds.

Completely distraught, she came out to the barn where I was working with the older camp children to tell me about this disruption in the schoolroom. I had to leave the camp children and go in to the school to argue with these investigators, who wanted to open large valises with dolls and materials to interview all of the little 3 and 4 year olds, without any parental permission. These DYFS workers lied that morning saying they had secured parental permission.

Several times in July of '86, I had to leave my important duties with the camp children, at the pool, at the horse ring due to blatant, unannounced interruptions of DYFS visitors.

With no evidence, they sought continually first with one judge, then with another, to get a court order banning me from my farm-school-camp-home. My lawyer advised me to sell as rapidly as possible, since it would be impossible for me to enroll children in the future.

Finally, I consented to an order to leave the property at the end of the summer, having found a buyer ready to take over immediately. When I told the lawyer from DYFS that I was bitterly disappointed, and that I would like to go to trial against them. He answered me: "I know, Mr. Murphy. Many people in your position feel that way. And if we went to trial, we might lose. But, if we did, we would appeal, and that would be costly for you."

He then went on: "And if we lost the appeal. No matter. Because I would feel that we were armed on that account to go back to the legislature and get stronger child abuse laws, so that we would not lose in future."

How is that statement for truculence? The legislature should be apprised of that sort of attitude in DYFS personnel.

My lawyer repeatedly advised me to consent to the court order to leave the property, as I "did not have the resources to fight DYFS in court".

DYFS investigators continually strove to establish my guilt in the minds of parents who had children with me. Parents told me of conversations. "Did you know Mr. Murphy was once a priest? Don't you see how it fits together? He never married." When my teachers approached two investigators one day, pleading: "You are all wrong about Mr. Murphy. He is a very good man. He does a lot of good for the children." The investigators replied: "Oh, yeah? How well do you know Mr. Murphy? Do you follow him around 24 hours of the day? Well, we know things about Mr. Murphy that you do not even know."

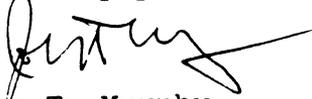
The first deal for the sale of the property fell through. I found an administrator to run the school in my absence, but we opened in September with only 9 children. Naturally, phone calls to hundreds of people around the county had its effect. Who could expect people to enroll children? The children enrolled were siblings of children I had in the past. The parents knew me well.

But, I had to close. I could not operate with 9 children. And I sold a month later. The property would have been worth several hundred thousand dollars more, had I been able to continue. It was a tremendous financial loss, but the loss of reputation and the nightmare of investigation did incalculable damage. Also, the separation of the children from the school that they loved, and the 'teacher' that they loved is a very large loss.

I would like ten minutes, or whatever time is allotted, to point out the abuses of the unchecked DYFS investigative procedures.

Thank you for your attention, Mr. Currier. With every best wish, I am

Sincerely yours,



John T. Murphy

Enclosure

Date: July 17, 1986

To: Fellow and Past Parents of the Farmstead Family

Re: Investigation of Alleged Child Abuse

Unfortunately, we find ourselves involved in an investigation of allegations which we feel are unfounded. What is even more unfortunate is that the state agency which is supposed protect the interests of the children, has conducted the investigation in what we consider an unprofessional manner. We are signing this letter to show our support of Mr. Jack Murphy who we feel is providing a needed, caring and loving male role in the day care of our children. More importantly we are authorizing Mr. Murphy to send this letter to parents of the Farmstead family. The purpose is not to impede investigation of the allegations but to elevate the methodology to higher standards and to bring it to a quicker resolution. I hope we can use this experience positively.

Without our knowledge or approval DYFS, Division of Youth and Family Services, attempted to interview our children at the school. We recognize that allegations need to be investigated and having a governmental agency to do this might reduce child abuse. However we feel that the methods used and the atmosphere used could have a longer term effect of driving loving and caring child care providers (especially male) from the field.

We feel that when an investigation is launched, that the first contacts should be with adults. This would first include current and past staff. If the allegations are serious, we can even understand the reason to send monitors. However, we can not understand a demand that the provider immediately remove himself from the premises. When the charges are not specified, the natural resistance to answer questions, to resist unscheduled interruptions, to prevent children from being interviewed without parental consent or knowledge, and to withhold parents names until the provider has time to notify parents is the sign of a good child care provider. Then after the child care provider is aware of the allegation and has time to notify the parents, the parents should be contacted. Information acquired from the parents should include whether the parent has discussed what the child should do if he is exposed to child abuse from neighbors, day care, and/or family; whether the child enjoys the day care center; and how the parent can precisely determine the nature of the allegations.

If the above interviews indicate that the allegation is unfounded, then the background of the accuser should be investigated to determine if the allegation might be based on an incident from another party with which the child has exposure. Many of us feel that the allegation is unfounded as far as Mr. Murphy is concerned, but might be a result of the child's other experiences.

132x

Only after the above has been done should the children be involved and then only with the consent and knowledge of the parents. The older and more articulate ones should be first. Also the parent has the right to be present during the interview and only if your child says that he doesn't want you present should you allow him to be interviewed alone.

As author of this letter I am allowing, my daughter Kit Frederick to be interviewed even though the above procedure has not been followed and only children have been sought for interviews. We feel this will help resolve the issue and allow Mr. Murphy to return to what he loves to do, quickly. Kit has been at Farmstead for 2 years and is one of the first dropped off and the last picked up. Kit loves Farmstead, and even insisted on sending time with her Farmstead family while her beloved grandparents who came from Nebraska were here recently. The interview will be in our home with us present.

However, I would like to call on all present and past Farmstead parents and parents of other day care children to write their legislative representatives and to demand that the above procedure of interviewing adults first be adopted when child abuse allegations are investigated. I would hope that we would also take the opportunity to express our opinion in newspaper editorials, church groups, parent groups, or in any other forum you feel comfortable with. In our American system, you are innocent until proven guilty, and the current method of investigation creates division and disrupts the cooperative family atmosphere we try to have at home, and Mr. Murphy tries to have at Farmstead.

I believe the above method would get at the truth quickly and would provide the minimal disturbance to our children. I thank the parents who have signed this letter and those of you who receive it that help all the parents of New Jersey have a better way to protect their children.



Dr. James R. Frederick

Deane Bayne
Christine B. Muller
Selma Ellis
Doris Chiswick
Walter P. Strick
Benjamin Blake
Gertrude A. Blake

Mike Brown
George Adeline
Doris L. McManis
Mary M. Frederick
Ruth M. Curran

Suggestions for improving the investigating procedures of D.Y.F.S.

- 1) Required court order for all removals of children from home with families attorney present at the hearing. Except in cases of emergency the parents should have an opportunity to be at the hearing when D.Y.F.S. applies for order in order to get tested. E.G. When there is serious and imminent danger to the health and safety of child if notice is given to parents beforehand. Under any circumstance once the order for removal is entered a full hearing with witnesses should be heard within three-five days.
- 2) The dire need for a Civilian Review Board who has access to all records and is able to investigate Dyfs's actions even after a case is closed. Presently there is no unbiased contact with whom we the "victims" can voice complaints and oppositions to the way D.Y.F.S. handles an investigation. Every avenue we turned to was a dead end including the Public Advocate's Office. It is apparent that we were deprived of our rights and we were presumed guilty before, during and after the procedures - this is an obvious violation of our Human Rights.
- 3) Remove investigational procedures from D.Y.F.S. Place with County Prosecutor's Office. They have the expertise in such areas whereas D.Y.F.S. case workers lack the knowledge and the ability to conduct an effective investigation. D.Y.F.S. does not work weekends which delays important and timely decisions which could affect whether or not a child is permitted to stay with the natural family .
- 4) All case workers and supervisors should be licensed social workers. It is now state law that all social workers must be licensed with the exception of D.Y.F.S. workers. These workers should be competent enough to successfully evaluate a family situation. D.Y.F.S. workers are incapable. What are their credentials? They are thrown into an authoritative position lacking the ability to make any decisions without persistently contacting their supervisors. In turn the supervisors virtually ignore case workers reports and override the case workers recommendations and other observations.
- 5) Psychologists and Medical Personnel should not be "employed" by D.Y.F.S. This leads one to believe that these decisions will be biased in favor of D.Y.F.S. To obtain a second opinion is costly to the family involved - yet it is deemed necessary to prove one's innocence. That when medical or psychtric exams need to be performed in D.Y.F.S. opinion that Personnel is selected by court with parents having opportunity to object or have input.
- 6) There should be immediate medical care for the children, whether or not they are victims of child abuse. It is in itself a form of abuse to make the child wait to be treated until a D.Y.F.S. investigator can come to examine them. (For a more specific example allude to the Michaels' case.)
- 7) Establish better lines of communication between the different units in D.Y.F.S. as well as between supervisors and workers.
- 8) Hiring procedures should include a thorough screening of the applicant - better background checks of employees.
- 9) Comprehensive Training Program is imperative for D.Y.F.S. employees. They should not be permitted to use scare tactics and constantly threaten parents with court action and the placement of the child in a foster home if parents do not abide by D.Y.F.S. policy. The constant pressure and threats is a terrible form of abuse of authority by D.Y.F.S. In our case this abuse lead to my wife going into premature labor and endangering the health of our unborn child. This was a direct result of the stress placed on us by D.Y.F.S.
- 10) Family and family physicians during and after proceedings should have full access to all reports by D.Y.F.S. experts and case workers. Full access to entire file. How can you defend yourself without this? Example: We have not received the medical review of our daughter's x-ray which were used to re-open our case. Report was supposed to indicate another broken bone. This claim was negated by four other medical reports. At our last visit, our caseworker indicated that the report did not say there was a third break. This report has not been released to us, our lawyer, or our family doctor.

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From the office of
Arthur A. Fau, P.E.

**STATEMENT of Arthur A. Fau, P.E., Member of Parents Without
Parents, Initiator and Facilitator of K.I.D.S., and State
Delegate to F.A.I.R.**

Madame Chairwoman Costa, Honorable Vice Chairman Ambrosio, distinguished committee members, committee staff, and members of the public. I am a father of two boys, Andrew and Travis, who together are in the throes of an emotional battle that may go on for years. The need for a public policy that discourages "competitive parenting" in favor of "cooperative parenting", is in the best interest of these and other children.

The Division of Family and Youth Services are insensitive to experiences and needs of these children. I personally contacted the Division's Burlington County district office in June of 1988, requesting an investigation into the apparent "emotional abuse" of Andrew and Travis. I was directed to a intake caseworker who interviewed me. I offered the caseworker copies of a letter from the boys' pediatrician, wherein the doctor was suggesting that the boys seek counselling. The doctors expressed concerns were predicated on an alleged incident involving Andrew and a kitchen knife. It was further explained to the case worker that an attempt to discuss this matter with the boys' mom had been attempted with no success. The caseworker could not see how this was emotional abuse since the mother was the "primary residential parent", and there was no **physical, sexual, or neglect** actions demonstrated. Ladies and gentlemen, it **CANNOT** be the position of any caseworker, or any other individual in the division, to qualify the allegations, before an investigation.

During each and every intake investigation a caseworker should have to ascertain as much information about the case as is possible. One way to ensure that information is not improperly colored by emotions, would be for the reporting document to identify a pending matter. Why could the top of the form not have blocks to be checked off indicating custody, visitation, or support pending litigation.

In alleged child abuse cases judges rule on the side of caution. They rely heavily upon the testimony of the "do good" caseworker. How many of these caseworkers who investigate child abuse allegations, have educational training and practical experience in psychology, human behavior, child development, or parenting. Are not many of these caseworkers barely 25 years old, and childless. Yet the future of a child may be permanently damaged due to their most powerful and perhaps ignorant testimony.

Children can be taken from the family, due to **suspected abuse**, and placed in a foster home. The foster care system appears to motivate the agency to place the children with "other" family members first. There is little or no incentive for the caseworker to quickly resolve and make plans for the return of the children to parents.

There can be no reason why DYFS cannot become a clearinghouse of information based upon the investigations of the affects of the court proceedings on custody, visitation and support issues. Professionals trained to investigate allegations and claims of "harm" to the kids involved in divorce and separation can be no less than the public mandate. We need to examine government's role in family-life and perhaps ask: "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, "...in the best interests of the children...", everyday? Professionals known as "guardians ad litem", are appointed by these same judges to evaluate the families in a custody battle, yet no one is looking after the children when the battle lines are drawn and armed. Where are the social workers providing therapy for the children during the unlawful siege of the court during custody mediation/evaluation? How many social workers, caseworkers, and other professionals have served internships working with parents and children. How many of these same individuals are familiar with the support network, or better yet, how many in our state know how to use the NEW JERSEY SELF-HELP CLEARINGHOUSE, in Denville, New Jersey?

During the course of my testimony today, I have spoken about the needs of the kids involved in divorce and separation, and what today seems to be available from the Division of Youth and Family Services. I am now suggesting some preliminary state initiatives which need more careful analysis to determine which methods would most effectively reach these individuals:

1. Establish a certification program for caseworkers which will serve to motivate and promote continuing education by every individual in the agency affecting the lives of youth and family.

2. Increase the awareness of individuals in the division to the circumstances surrounding the incidents which are brought to the division, emphasizing the need for individual attention to each and every case brought to the division. This could be achieved by simply notating each and every intake report to reflect circumstances surrounding the interview.

3. Redirect the focus of the division from the singularly present intervention interests to ones that will provide prevention programs, such as peer support groups for children and parents in addition to the in place prevention programs.

Although the innovations that you have had described here today may be few and far between, each and every one are important nonetheless. They are concrete, practical evidence that small and 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, intact or divided, which show, I hope, that the need in our society is to promote that, cooperative parenting NOT competitive parenting as what IS IN THE BEST INTERESTS OF THE CHILDREN.

Thank You.

JOSEPH F. SHANAHAN
ATTORNEY-AT-LAW

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27 September 1988

STATEMENT TO SENATE CHILDRENS' SERVICES COMMITTEE

Members of the Committee:

I am Joseph F. Shanahan, an attorney in Lambertville, who for the past 8 years has had experience in the litigation field of opposing 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. As a result of that involvement I also defended in one criminal prosecution and I am familiar with the emotions that are brought about in the DYFS and prosecutorial staffs in pursuing such an investigation.

I am also familiar with the type of guideline book which is used in the sex ed classes and I 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 to show off - 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 all the physical aspects of the sexual act without ever having first hand 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 first hand experience. And I would have thought so myself except for the possibilities raised from my own particular experience. Great care must be taken at the scene of the first complaint by the child or justice may go awry.

Further, when you weigh the possibility of error in just the charging- even without a conviction- against ruining a man's or 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 an incompetent colleague.

If you know a man intimately for many years and he is accused of burglary you may be sure in that knowledge that he could not be a burglar- but if he is charged with assaulting his 2 year old daughter- no one can ever be sure that he is innocent.

There is another area that I have some familiarity and it is with anonymous calls. It has been my experience that when one of these calls has been found to be baseless DYFS still refuses to expunge the name of the one falsely charged from its records.

I am giving this statement only in the interests of justice so that the information I have just given may be considered by DYFS officials in their future investigations and operating procedures and passed on to the workers in the field that there may be another side to what at first blush may seem clear cut. Thank you for your courtesy in hearing me.

Joseph F. Shonk