

NATIONAL COALITION FOR CHILD PROTECTION REFORM

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BOARD OF SUPERVISORS, DCFS MUST STOP FOSTER CARE PANIC, NATIONAL CHILD ADVOCACY GROUP SAYS

This release and related material can be found online at www.nccpr.org/lafor2009vx.pdf

LOS ANGELES - The Los Angeles County Board of Supervisors and the Department of Children and Family Services must stop a “foster care panic” from sweeping through the county and causing thousands more children to be needlessly torn from everyone they know and love, a national child advocacy group said Thursday.

“Children’s lives – literally - may depend on stopping such a foster care panic,” said Richard Wexler, executive director of the National Coalition for Child Protection Reform. He joined local advocates and members of DCFS – Give Us Back Our Children! at a news conference Thursday.

Wexler said a combination of high-profile child abuse tragedies and poor leadership almost guarantees foster-care panics - sudden sharp increases in the number of children torn from their homes. “And that’s exactly what’s happening in Los Angeles County right now.

“After seeing scores of their colleagues transferred to desk jobs, seeing one County Supervisor falsely blaming fatalities on efforts to keep families together, and seeing another declare that heads will roll, every caseworker is running scared,” Wexler said.

“They know that they can take away hundreds of children needlessly, stash them in foster care, bounce them from foster home to foster home, probably expose at least one-third of them to abuse in foster care itself, let them emerge years later unable to love or trust anyone, and leave four of five of them unable to do well as adults – but the caseworker who

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made that initial removal will suffer no consequence. But let one child die in his own home and that caseworker's career may well be over.”

But it isn't just the children wrongfully removed who suffer, Wexler said. “Everyone knows that Los Angeles County caseworkers are overwhelmed. They don't have time to give any case the time and attention it deserves – and that almost always is the real reason for the horror story cases that rightly make headlines.

“A lot of what is overwhelming these workers is false allegations of maltreatment, cases in which family poverty is confused with neglect, and wrongful removal of children. A foster care panic only worsens all of these problems. Caseloads get even higher, workers have even less time for each case – so there are more terrible mistakes, in all directions.

“That's why, all over the country, foster care panics have been followed by increases in child abuse deaths.”

Wexler said any such a panic is likely to be even worse in Los Angeles County, “which already takes away children at a rate much higher than most other large metropolitan areas. And, contrary to what at least one county supervisor appears to believe, the number of children taken from their parents each year has increased almost every year since 2003.”

Wexler said that even after a small decline last year, Los Angeles County still took away 23 percent more children in 2008 than it did five years earlier.

“If the take-the-child-and-run approach that some Supervisors seem to want were really the answer, Los Angeles would have some of the safest children in the country,” Wexler said. “In fact, the only systems with national reputations for improving child safety take children at much lower rates than Los Angeles County. In those communities workers spend less time on false allegations and needless foster care, so they have more time to find children in real danger.

“The Supervisors and DCFS need to send a very different message. They need to make clear to frontline caseworkers that wrongfully removing a child from a safe home is

every bit as dangerous as leaving a child in a dangerous home. And they need to make clear that while caseworkers will be held accountable for all mistakes, they will be scapegoated for none. DCFS must show it will be equally aggressive at rooting out incompetent employees and defending the majority, who are dedicated professionals trying to do their best in an extremely difficult job.

“Unfortunately, the track record of the longtime members of the Board of Supervisors does not suggest that such statesmanship is imminent.

“Our organization follows child welfare all over the country,” Wexler said. “And when it comes to child welfare, no local governing body has a worse reputation for preening, posturing, pandering, pontificating and micromanaging than the Los Angeles County Board of Supervisors. Indeed, the most dangerous place in Los Angeles County is between certain members of the Board of Supervisors and a television camera.”

Wexler said he exempted from this criticism supervisor Mark Ridley-Thomas who was just elected last year “and should not be held responsible for the errors of his long-serving peers.” But as for the rest:

“Their reputation is legendary,” Wexler said. “Mention the Board of Supervisors at gatherings of child welfare professionals and those professionals are likely to roll their eyes, shake their heads and thank their lucky stars they don’t work in Los Angeles County.

“In 1954, Sen. Ralph Flanders of Vermont denounced his notorious colleague Joe McCarthy in words that need be changed only slightly to explain the *modus operandi* of the Los Angeles County Board of Supervisors in child welfare cases. To paraphrase Flanders: They don their war paint; they go into their war dance; they emit their war whoops; they go forth to battle -- and proudly return with the scalp of a social worker.

“There are a lot of good people in DCFS trying to do good things for the county’s vulnerable children,” Wexler said. “I had the chance to meet some of them on a trip to Los Angeles early last year. They deserve better than the kind of leadership they have gotten from

the Board of Supervisors. And, more important, so do the county's vulnerable children."

Wexler said the problem with what he called the "take-the-child-and-run approach" can be seen in the very phrase so often used to justify it.

"It is falsely assumed that only parents suffer when their children are taken away needlessly, so, child welfare agencies claim, they have to 'err on the side of the child.' In fact, there probably is no phrase in the child welfare lexicon that has done more harm to children than 'err on the side of the child.'

"When a child is needlessly thrown into foster care, he loses not only mom and dad but often brothers, sisters, aunts, uncles, grandparents, teachers, friends and classmates. For a young enough child it can be an experience akin to a kidnapping. One recent study of foster care "alumni" found they had twice the rate of post-traumatic stress disorder of Gulf War veterans and only 20 percent could be said to be "doing well." How can throwing children into a system which churns out walking wounded four times out of five be 'erring on the side of the child?'

"A second study, of 15,000 cases, is even more devastating. That study found that even maltreated children left in their own homes with little or no help fared better, on average, than *comparably-maltreated* children placed in foster care.

"That's not as surprising as it may sound," Wexler said.

"Contrary to the common stereotype, most parents who lose their children to foster care are neither brutally abusive nor hopelessly addicted. Far more common are cases in which a family's poverty has been confused with child 'neglect.'"

Wexler cited a Los Angeles case from 2008, in which, he said, "an appellate court issued a scathing decision excoriating DCFS for taking children from their father solely because he lacked housing – and then pursuing the case all the way to termination of parental rights.

"And have we forgotten Gilbreania Wallace, taken from her grandmother because the

basement of their rented home flooded, only to die in foster care?”

Wexler said other cases fall between the extremes, “the parents neither all victim nor all villain. What these cases have in common is the fact that there are a wide variety of proven programs that can keep these children in their own homes, and do it with a far better track record for safety than foster care.

“All the harm of foster care can occur even when the foster home is a good one. The majority are. But the rate of abuse in foster care is far higher than generally realized, far higher than revealed by official statistics, and far higher than in the general population. That same alumni study found that one-third of foster children said they’d been abused by a foster parent or another adult in a foster home. (The study didn’t even ask about one of the most common forms of abuse in foster care, foster children abusing each other). Switching to orphanages won’t help -- the record of institutions is even worse.

“Furthermore, the more a foster care system is overwhelmed with children who don’t need to be there, the less safe it becomes, as agencies are tempted to overcrowd foster homes and lower standards for foster parents. If a child is taken from a perfectly safe home only to be beaten, raped or killed in foster care - like Gilbreania Wallace - how is that ‘erring on the side of the child’?”

“But even that isn’t the worst of it,” Wexler said. “The worst is what we noted earlier: The more that a system is overwhelmed with false allegations and trivial cases, the less time workers have to find the children in real danger.

“None of this means no child ever should be taken from her or his parents. Rather, it means that foster care is an extremely toxic intervention that must be used sparingly and in small doses. But for decades, America’s child welfare systems have prescribed mega-doses of foster care.

“For awhile, it looked like Los Angeles County understood this,” Wexler said. He cited state data showing that from 1998 through 2003, entries into foster care declined

significantly. “But beginning in 2004, entries began to rise again, to the point that, by 2007, virtually all of the gains had been eroded.

“Another foster care panic now would send Los Angeles County child welfare careening full-speed backwards.”

Wexler released a seven point plan for immediate reform of Los Angeles County child welfare, intended to prevent a foster care panic. He supplemented it with recommendations for bolstering services and legal protections for families.

Among the recommendations, he called on the Board of Supervisors to:

- Expand any investigation of high-profile death cases to include equal attention to cases of wrongful removal.

- Seek changes in state law to provide for “total transparency” including opening court hearings in child welfare cases, and most case records, to press and public.

- Establish clear public benchmarks for progress, post the data prominently on the DCFS website and commit to measuring DCFS by those outcomes, not by whatever happens to be on the front page that morning. “This would curb Supervisors’ ability to undermine reform with their constant grandstanding.”

Wexler also urged DCFS to suspend the use of “Structured Decision Making” in which computers decide when to remove children based on questionnaires filled out by caseworkers. “Instead of eliminating human biases, this system magnifies them,” said Wexler. In particular the system magnifies the racial bias that permeates child welfare.

Though, like so much in child welfare, SDM was created with good intentions, it has become computerized racial profiling,” Wexler said.

See the pages below for additional material about Los Angeles child welfare

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Seven steps to reforming child welfare in Los Angeles

1. Stop the foster-care panic. Right now every caseworker is terrified of having the next tragedy on her or his caseload. You can bet that means they're rushing to tear apart even more families. That does enormous harm to the children needlessly taken. *It also overloads the entire system, making it more likely that children in real danger will be missed.*

The Board of Supervisors and DCFS leadership must send a clear message to the frontlines: Taking a child needlessly is as harmful as leaving a child in a dangerous home. Workers need to know they will be held accountable for all errors in either direction – but scapegoated for none. Workers whose decisions go wrong because they are genuinely too overloaded or reasonably could not have foreseen a tragedy must know they will not have to take the fall for systemic failings.

2. The Board of Supervisors must stop its demagoguery about child welfare. That means the criterion for measuring success or failure at DCFS can't be whether or not there is a high-profile tragedy in the news. Because if that is the measure, no child welfare system in America has succeeded, is succeeding, or ever will succeed. It is well-known that the most dangerous place in Los Angeles County is between certain County Supervisors and a television camera – but there should be no place for that kind of grandstanding when children's lives are at stake.

Nationwide, when it comes to child welfare, there is no governing body in America with a worse reputation for preening, pandering, posturing, pontificating and micromanaging than the Los Angeles County Board of Supervisors. Child welfare professionals across the country privately roll their eyes when the Board of Supervisors is mentioned, and thank their lucky stars they don't work in Los Angeles County.

There are members of the Board of Supervisors who have been in their jobs longer than

most people at DCFS have been in theirs. Yet over and over, the Supervisors point fingers at everyone else and repeatedly proclaim themselves shocked – shocked! – at the latest tragedy. Why are the Supervisors never held accountable for the fact that, during almost all of *their* tenure, the Los Angeles system has remained mired in mediocrity?

We exempt from this critique Supervisor Mark Ridley-Thomas, who is new to the board and should not be judged by the behavior of his peers.

3. Any investigation of DCFS must be expanded beyond the most recent fatality cases. Investigating only such cases will almost always lead to the wrong solutions. It inherently leaves the impression that the mistakes go only one way, toward leaving children in dangerous homes. So such investigations almost always lead to phony "solutions" involving taking away children more easily and making it harder to return children home. That only further overloads the system and actually increases the chances that more children in real danger will be overlooked. So *any investigation must be expanded to include a sample of cases alleging wrongful removal of children from their homes.*

This kind of comprehensive investigation must become the norm. Therefore --

4. The Board of Supervisors and DCFS should agree in public, to a specific set of criteria by which DCFS shall be judged.

These performance measures should be the subject of regular public updates, with complete data made available on the DCFS website. Ideally, these measures would include an annual "case reading" by a respected, neutral expert. The expert and her or his team would examine a statistically significant random sample of cases, to determine what failings are the norm at DCFS, not the exceptions – and also what is being done right and should become more common.

The case readings should be supplemented by examining key safety indicators such as

reabuse of children and foster care “recidivism.” These data already are readily available online from the University of California at Berkeley Center for Social Services Research. The data go back to 1998, and any examination of these data should look at long-term trends and at other counties. The data show that some of the counties with the best safety records take, proportionately, the fewest children.

An advance agreement to judge DCFS based on reliable measures of overall progress – or lack of progress - would reduce, though not eliminate, the ability of the Supervisors to undermine any success DCFS may achieve by exploiting child abuse tragedies for cheap soundbites.

5. The Board of Supervisors and DCFS should adopt a policy of seeking total transparency. That means seeking laws to make all court hearings in child abuse and neglect cases public. That is currently the norm in 15 states, two more allow access to reporters. Not one of the states that opened courts has closed them again – because the Chicken Littles were wrong and none of the calamities that were predicted actually occurred. On the contrary, the quality of justice improved because, as the then chief judge of New York’s highest court said when she ordered that state’s family courts opened: “Sunshine is good for children.”

But opening courts is not enough. The picture of child welfare is distorted when records are made available only in fatality and near fatality cases. There should be a rebuttable presumption that almost all records are open to press and public in every case. Lawyers for children or parents should be allowed to petition the court to close records where they can show that release of those records would cause specific, serious harm to a child victim.

In addition, DCFS should seek state legislation allowing it to comment on any specific case that already has been made public by anyone else. Arizona, New York, and Maine have laws which allow agencies to comment in most such cases.

6. Suspend all use of “Structured Decision Making.” SDM, in which workers fill out checklists and a computer then instructs them on whether to remove a child from the home, was created with good intentions, but it is actually *computerized racial profiling*. A comprehensive study by the Center for the Study of Social Policy found that, rather than taking human biases out of the equation, SDM magnifies those very biases. For example: Poor people and minorities are far more likely to be wrongly accused of child abuse, but SDM counts multiple reports as a “risk factor” even if the reports are false. Similarly, SDM may call for removing a child from the home due to “lack of supervision” regardless of whether the lack of supervision was caused by a parent out partying or a parent who desperately needed to keep her job and couldn’t find a sitter. Use of SDM should be suspended until a bias-free version is created and thoroughly tested.

7. Investigate why DCFS hasn’t gotten more value from its child welfare waiver. Among the legacies left to DCFS by the leadership of David Sanders was a waiver from federal funding restrictions. Unlike almost everywhere else in the country, Los Angeles County is free to use hundreds of millions of dollars normally restricted to funding foster care on better alternatives as well. The County’s children clearly have benefitted from this. Most notably, the county has been able to reduce the use of the worst form of care, group homes and institutions. But while the State of Florida has used a similar waiver to begin a dramatic transformation of a system once synonymous with failure, Los Angeles County has accomplished far less.

Florida has cut entries into foster care by an average of nearly 13 percent per year in the two full years for which data are available since its waiver began - *and an independent evaluation has found that key child safety indicators have improved*. The success was dramatic enough to earn Florida’s reform a feature story in *The New York Times*.

In contrast, Los Angeles didn’t start its waiver until a year later than Florida, and, in the one year for which data are available, it reduced entries into care by less than six percent.

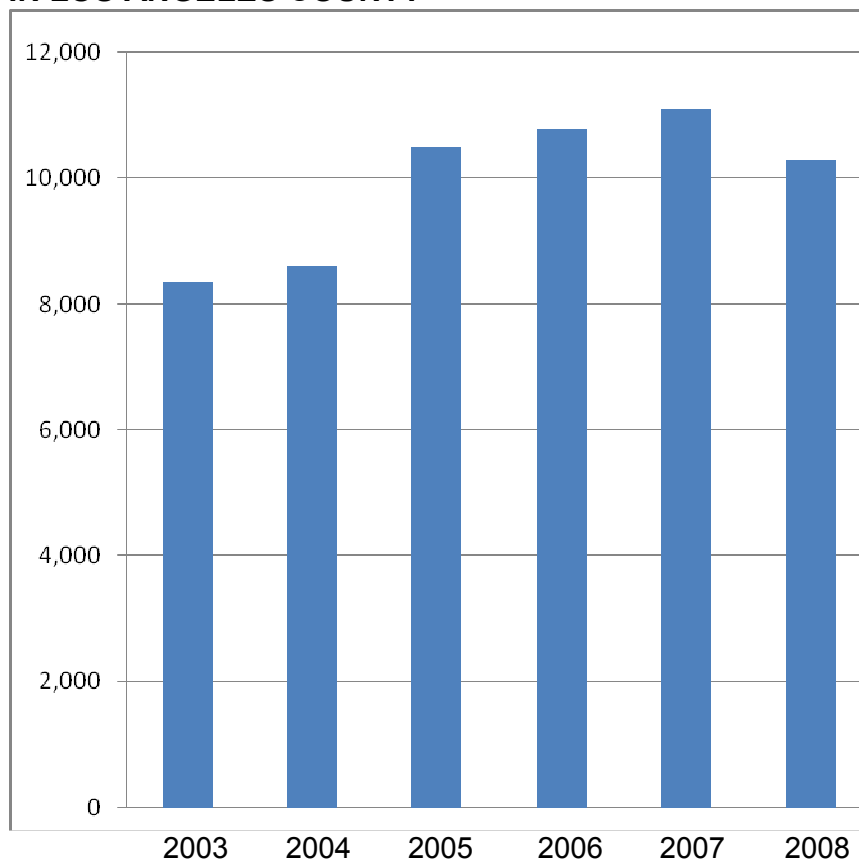
The number of children torn from their families in Los Angeles County is INCREASING

The number of children taken from their parents each year in Los Angeles County is up sharply in recent years.

After declining steadily from a peak in 1998 the number of children torn from their parents soared from 8,352 in 2003 to 11,102 in 2007. Even with a small one-year decline in 2008, the number of children taken from their parents still is 23 percent higher than just five years before.

And with every worker now terrified of being scapegoated for the next tragedy, odds are 2009 will see another increase in needless removals of children as those children endure a foster-care panic.

**NUMBER OF CHILDREN TAKEN FROM THEIR PARENTS
IN LOS ANGELES COUNTY**



Source: University of California at Berkeley Center for Social Services Research,
http://cssr.berkeley.edu/ucb_childwelfare/

(over)

There may be confusion about this because of a totally different number, the number of children trapped in foster care on any given day; known as the “point-in-time” or “snapshot” number. That number is going down. But that number can rise or fall for a variety of reasons unrelated to the number of children being taken from their homes.

- If a child is taken from his parents in January because a caseworker panicked, and returned at the end of February, much the worse for the experience, because DCFS realized it made a terrible mistake, that child won't be counted when the “snapshot” is taken at the end of March. Indeed, since 2003 the number of children torn from their families and then “thrown back” *in a week or less* has tripled. While the number of such cases is still under ten percent of the total, there probably are many more children taken for more than a week but less than, say, three months. This suggests a widespread problem of panic-stricken “churning” of children through the L.A. County system.

- The snapshot number can go down because of a rush to terminate parental rights and make quick-and-dirty, slipshod adoptive placements.

- The snapshot number can go down simply because a lot of children may be turning 18 and being thrown out of the system without ever having found a permanent home.

So the snapshot number tells us very little. If you want to know how a child welfare agency feels about taking children from their parents the number to look at is the number of children the agency actually takes from their parents.

IF YOU ASK DCFS FOR MORE RECENT DATA:

- Be sure to ask for ENTRIES into care during a specific time period, such as the past month, the past three months or the past six months. If you don't ask for entries, DCFS may give you only the figure for number of children in foster care on any given day, which is misleading.

- Be sure to ask for ALL “child welfare” entries regardless of length of placement. Otherwise, DCFS might give you the figure only for children who stayed in foster care for eight days or more.

- Be sure to ask for ALL ENTRIES. Otherwise, DCFS might give you the figure only for children taken away for the first time.

Los Angeles County takes away children at a rate far higher than other major metropolitan areas

But it's some of those other places that are making children safer

Los Angeles County takes away children at a rate far higher than many other large metropolitan areas. The tables on the following page compare America's five largest metropolitan areas, as well as several other cities where child welfare has been much in the news. As the first table shows, when one compares entries into care to the number of impoverished children living in each community, **Los Angeles County takes children at a rate 40 percent higher than New York City, double the rate of Miami and more than four times the rate of metropolitan Chicago.**

We believe this is the fairest way to compare, because poverty is so closely tied to actual maltreatment, as well as so often being confused with neglect. But for those who disagree, we've included a second table, comparing entries to total child population. Run the numbers that way, and the performance of Los Angeles County remains dismal.

And it is clear that Los Angeles County's higher rate of removal has done nothing to make children safer.

On the contrary: The state-run system in Illinois repeatedly has been cited by independent court-appointed monitors as, relatively speaking, a national model, having made significant improvements as it cut entries into care. Florida's turnaround, from a system once synonymous with failure, to one that is vastly improved – by emphasizing family preservation – was the subject of a recent feature story in *The New York Times*. An independent evaluation found that, as entries into care declined, child safety improved. And Florida did it by using wisely the same waiver from federal funding restrictions that Los Angeles County got. But Florida was able to put its waiver to better use.

A low rate-of-removal does not necessarily indicate a good system – there is a right way and a wrong way to keep entries into foster care down. There is clear evidence that Chicago and Miami are doing it the right way. But a high rate-of-removal almost always is a sign of a bad system.

Indeed, Philadelphia, which takes children at a higher rate than Los Angeles by either measure, and Milwaukee with takes children at a higher rate by one of them, have been the subject of one scathing news story and independent commission report after another – with most of the news coverage focusing on those communities' inability to prevent deaths of children "known to the system."

Whether it's at the local level or the state level, the only child welfare systems that are improving child safety are those doing more, not less, to keep families together.

For details, see the tables on the other side of this page.

**TABLE ONE, RATES OF REMOVAL IN LARGE METROPOLITAN AREAS,
FACTORIZING IN CHILD POVERTY**

City/county	Entries into care	Impoverished child population	Rate-of-removal per thousand impoverished children	Time period
Philadelphia	3,730	121,011	30.8	yr ending 10/07
Los Angeles County	10,287	536,561	19.2	CY 2008
Atlanta (Fulton & DeKalb)	1,093	57,823	18.9	yr ending 3/09
Milwaukee County	1,225	65,401	18.7	CY 2008
New York City	7,529	514,999	14.6	yr ending 05/09
Detroit (Wayne County)*	1,834	161,943	11.3	CY 2008
Miami-Dade County	930	108,522	8.6	CY 2008
Houston (Harris County)	1,980	259,582	7.6	FY 2008
Dallas County	999	167,374	6.0	FY 2008
Chicago (Cook County)	1,234	281,408	4.4	FY 2009

**TABLE TWO, RATES OF REMOVAL IN LARGE METROPOLITAN AREAS,
WITHOUT FACTORING IN CHILD POVERTY**

City/county	Entries into care	Child population	Rate-of- removal per thousand children	Time period
Philadelphia	3,730	441,121	8.5	yr ending 10/07
Milwaukee County	1,225	287,482	4.3	CY 2008
Los Angeles County	10,287	3,252,329	3.2	CY 2008
New York City	7,529	2,527,502	3.0	yr ending 05/09
Detroit (Wayne County)**	1,834	704,987	2.6	CY 2008
Atlanta (Fulton & DeKalb)	1,093	503,633	2.2	yr ending 3/09
Harris County (Houston)	1,980	1,297,334	1.5	FY 2008
Dallas County	999	762,253	1.3	FY 2008
Miami-Dade County	930	700,839	1.3	CY 2008
Chicago (Cook County)	1,234	1,673,931	0.7	FY 2009

***DETROIT FIGURES ARE A PROJECTION BASED ON TEN MONTHS OF DATA**

SOURCES: POPULATION

Child Population: U.S. Census Bureau, *American Fact Finder*

http://factfinder.census.gov/servlet/ADPGeoSearchByListServlet?ds_name=ACS_2007_3YR_G00_&lang=en&ts=267872279516

Impoverished child population: U.S. Census Bureau, *Small Area Income and Poverty Estimates*, 2007,

<http://www.census.gov/did/www/saipe/>

SOURCES: ENTRIES INTO CARE

Atlanta: Fostering Court Improvement, State Data Page, Georgia, <http://www.fosteringcourtimprovement.org/ga/>

Chicago: State of Illinois Department of Children and Family Services, *Executive Statistical Summary*, June 2009,

<http://www.state.il.us/DCFS/docs/execstat.pdf>

Dallas and Houston: Texas Department of Family and Protective Services, *2008 Databook, Removals by Race and Ethnicity*, available online at

http://www.dfps.state.tx.us/documents/about/Data_Books_and_Annual_Reports/2008/Databook/CPSRemovals.pdf

Detroit: Personal communication, Michigan Department of Human Services.

Los Angeles: University of California at Berkeley Center for Social Services Research, http://cssr.berkeley.edu/ucb_childwelfare/

Miami: University of South Florida, Center for Child Welfare, *Child Welfare Trend Report*, available online at

<http://centerforchildwelfare.fmhi.usf.edu/kb/default.aspx>

Milwaukee: State of Wisconsin, Department of Children and Families, Bureau of Milwaukee Child Welfare, *Settlement Agreement Second Semi-Annual Report, January 2008 – December 2008*.

New York City: Administration for Children's Services, Monthly Update, Available online at

http://www.nyc.gov/html/acs/html/statistics/statistics_links.shtml

Philadelphia: Personal Communication, Philadelphia Department of Human Services.

What can you learn from investigating a “fatality case”?

A lot about what went wrong in that particular case, but almost nothing about systemic failings in agencies like DCFS. Indeed, investigating only fatalities actually can divert attention from an agency’s biggest problems, and make the next death of a child “known to the system” more likely.

The reason for this is one for which we all should be grateful: Though each is the worst kind of tragedy, let us be grateful that the number is far too low to tell us if the problems in those cases are typical of problems in the agency.

Think about it how bizarre it is to use death as a threshold for an investigation. Would DCFS really be a good agency if five times as many children suffered, say, broken bones, but fewer actually died? It would *look* like a better agency as long as we focus only on fatalities and blind ourselves to every other failing. Think how dangerous that really is.

Zeroing in on the fatality cases also may leave us blind to far more common failings that endanger far more children on a day to day basis – the very failings that may lead to the next death of a child “known to the system” or the one after that.

And, when this is the only kind of case that is investigated, it only accelerates the foster-care panic almost certainly underway in Los Angeles County right now. **It reinforces the message to caseworkers that they can take away hundreds of children needlessly, stash them in foster care, bounce them from foster home to foster home, probably expose at least one-third of them to abuse in foster care itself, let them emerge years later unable to love or trust anyone, and leave four of five of them unable to do well as adults¹ – but the caseworker who made that initial removal will suffer no consequence. (Even if one of those children dies in foster care, odds are that will be deemed some other worker’s fault, not the fault of the one who made the initial removal.)**

But let one child die in his own home and, as a County Supervisor Gloria Molina already has promised: “there are heads that will roll.”² (Molina didn’t say why she wants an investigation *after* already drawing her conclusions. Apparently she believes in the “give ‘em a fair trial, *then* hang ‘em” school of investigation.) And when Molina says “Anytime a child dies on our watch, we pay attention,” the unspoken part is: But fail a child any other way and we’ll ignore it, so you’re free to practice take-the-child-and-run social work all you want. And another supervisor, Zev Yaroslavsky, already has linked the deaths to alleged pressure to keep children out of foster care, even though the number of children taken from their parents over the courts of a year actually is up 23 percent since 2003.³

The solution, however, is not to investigate less. The solution is to investigate more.

- Short term, any investigation of recent deaths should be expanded to include a sample of cases in which families allege their children were wrongfully removed.

- Long term, there should be a mechanism for an annual investigation of a statistically-significant random sample of cases. The only way to find out DCFS’ typical failings – and come up with real solutions – is to examine typical cases. That’s why lawyers do just this sort of “casereading” when they bring class-action suits against child welfare systems - it’s the only evidence that can pass muster in a court of law.

- But most important, there should be no “filter” no “expert panel” or anything else standing between us and what went wrong in *any* case. That’s why California law should be changed to open court hearings and create a rebuttal presumption of open records in every case.

This all goes to show why, as is discussed on the other side of this page, one of the most common complaints of caseworkers is wrong.

When it comes to taking away children, you're *only* damned if you *don't*

We have a lot of sympathy for frontline caseworkers. They are not jackbooted thugs who relish destroying families. Most of the time they are dedicated, well-meaning people who truly want to help children. Sometimes they are clueless. Often they are overwhelmed.

But we lose sympathy for caseworkers, and especially their bosses, when they make one claim they have to know is not true. On those rare occasions when a reporter might ask about wrongful removal, they will sigh and say “we’re damned if we do and damned if we don’t.”

But in 33 years of following child welfare, we have never seen a caseworker fired, suspended, demoted, transferred to a desk job, or even slapped on the wrist for taking away too many children. All of these things have happened to caseworkers, including outstanding caseworkers with exemplary records, if they left a child in his or her own home and something went wrong.

Indeed, without waiting for any actual investigation of recent child abuse deaths in Los Angeles County, Supervisor Gloria Molina already has declared that “there are heads that will roll.”⁴

Similarly, it is disingenuous of caseworkers or their bosses to say “we don’t take away children, a judge has to approve everything we do.” In fact, DCFS workers can and do take away children on the spot, entirely on their own authority all the time. The parents have to go to court days later to fight to get them back.

And judges have just as much to fear as caseworkers if they send a child home and something goes wrong – and nothing to fear if they simply let a child languish in foster care until he emerges years later unable to love or trust anyone. So they are far more prone to wield rubber stamps than gavels.

When it comes to taking away children, if you work for DCFS, you’re not damned if you do or damned if you don’t. You’re *only* damned if you *don't*.

And, as is discussed on the other side of this page, it seems that the Los Angeles County Board of Supervisors is determined to reinforce this double standard.

¹ For full citations for data on foster care outcomes, see the publications in this packet called *The Evidence is In* and *80 Percent Failure*.

² “Call for investigation into kids’ deaths,” *KABC-TV*, Aug. 11, 2009.

³ Troy Anderson, “L.A. County votes to overhaul oversight system for social workers,” *Los Angeles Daily News*, Aug. 5, 2009.

⁴ *KABC*, note 2, *supra*.

How DCFS confuses poverty with “neglect”

It's the horror stories that make headlines – but only the ones reporters can see. Below, an example of the kind of everyday horror that befalls families caught in the DCFS net – horrors that normally are invisible, hidden by closed court hearings and confidentiality rules. This one came to light only because of a scathing ruling by an appellate court.

Gerardo R., as he is known to the California Court of Appeal, Second Appellate District, Division Eight, was a loving, caring father to his two sons. He saw them nearly every day. And when their mother lost her parental rights, Gerardo immediately sought custody.

Gerardo never beat the children, he did not torture them, he did not starve them. Indeed, the Los Angeles County Department of Children and Family Services did not accuse Gerardo of doing them the slightest harm. Yet not only did DCFS refuse to let the children live with Gerardo, they moved to terminate his parental rights, cutting him out of their lives completely.

Why? Because the single working father couldn't afford housing that DCFS deemed suitable.

That's not just our conclusion. That's the conclusion of the Court of Appeal, which, in February, 2008, unanimously reversed the juvenile court decision terminating Gerardo's parental rights.

According to the decision, Gerardo

*“ ... has been involved with his sons throughout their lives, before and during this dependency proceeding. He always provided financial support, visited regularly, participated in the boys' schooling by helping with homework, and attending an [Individualized Education Plan] meeting and awards ceremony, and maintained contact with DCFS even when he lacked a place to live. **The record strongly suggests the only reason Gerardo did not obtain custody of the boys was his inability to obtain suitable housing for financial reasons.** But poverty alone, even abject poverty resulting in homelessness, is not a valid basis for assertion of juvenile court jurisdiction.” [Emphasis on the word “only” is from the original, boldface is added.]*

Quoting from an earlier decision, the court declared that:

“Judges and social workers ... have an obligation to guard against the influence of class and lifestyle biases.’ DCFS abandoned its guard here.”

And DCFS used some pretty sleazy tactics to hide the fact that it had abandoned its guard. It charged that Gerardo didn't really care about his sons because he didn't attend some early hearings. “What [DCFS] neglects to mention,” the judges replied, “is that DCFS had failed to locate or give Gerardo notice of that action.”

The appellate court also noted the perverse financial incentives that permeate child welfare, condemning the “absurdity” of terminating Gerardo's parental right because he couldn't afford housing even as

“the dependency system pays foster families to help defray the cost of children placed in their care, and subsidizes adoptive assistance payments until children reach majority. ... It makes no sense for the government to subsidize the care of a child by relatives or strangers but not his presumed father, even though the sole impediment to placing the child in that parent's custody is the parent's dire financial condition.”¹ [Emphasis in original.]

For another kind of horror story, see the other side of this page.

¹ All information about this case is from the appellate court's decision in *In re G.S.R. et. al.*, Jan. 2, 2008, available online at <http://www.courtinfo.ca.gov/opinions/archive/B197000.PDF>

Cases like this didn't go away, just because we're not reading about them right now.

Los Angeles Times July 31, 2002

Tearful Apology in Boy's Death;

County: A \$1-million payout is OKd. Molina, moved by a mother's plea, vows answers in foster care case.

By Garrett Therolf, Times Staff Writer

A mother's plea for a criminal investigation into the death of her son—whose life ended while he was in the Los Angeles County foster care system—Tuesday elicited a trembling and tearful apology from county Supervisor Gloria Molina, who pledged to demand answers from county officials about what happened.

Hours later, Molina and her colleagues approved a \$1-million settlement in the lawsuit brought over the boy's death.

Molina's remarks and the board action followed an emotional appeal by the boy's mother.

Debra Reid, 44, entered the hearing room grim-faced, flanked by eight family members dressed in black. At her side was her son Debin, who was placed in foster care for 15 months in 1997. His older brother, Jonathan, was taken away at the same time. The children were taken from their mother after social workers concluded that she was unstable and not tending properly to their medical needs.

But Jonathan died six weeks after being placed in foster care, where social workers, by the county's admission, failed to inform medical workers of his severe asthma. Reid has been fighting the county in the courts ever since.

"This is five years in coming," Reid began.

Racked with sobs, Reid recalled how she begged social workers to treat Jonathan's asthma. Social workers had dismissed Reid's account of the severity of the child's asthma, county officials acknowledged.

"They said my child was healthy," Reid told the board. "Well, that child now lies in an Inglewood cemetery."

None of the social workers has been disciplined in the case, county officials said. Reid begged supervisors to launch a criminal investigation, alleging that social workers had falsified reports to take the boy from her.

"We have sought true justice and we have not received it until someone sends this case for criminal investigation," Reid said. "All we have received is a payoff, and we're not satisfied with a payoff."

"Not one person from the county," Reid said, "has bothered to apologize."

Reid's appeal to the board is one of many that the supervisors have heard involving the foster care system.

Virtually every week, a parade of parents come before the supervisors, pleading for help in getting their children out of that system. Most weeks, they leave empty-handed, as supervisors insist that they cannot involve themselves in matters that are before the courts. The pleas often meet with indifference from county officials, who typically talk among themselves as parents address the supervisors.

Tuesday was different.

As Reid spoke, the hearing room went silent. Aides and department heads dabbed at tears. In an adjacent chamber where county administrators eat snacks and drink coffee, all movement ceased.

Supervisor Yvonne Brathwaite Burke asked Reid whether she was satisfied with the settlement. After conferring with her attorney, Reid said she was, but reiterated her call for justice.

Then Molina spoke, her voice trembling, her eyes watering.

She recalled how supervisors routinely rebuff requests for help in foster care cases, and how she had told a congresswoman pleading on Reid's behalf that she had to trust the courts to do the right thing.

"I don't know that my apology to you will help you at all," Molina said. "I can only say I apologize for not being more attentive."

Promising to personally pursue the issue, Molina said, "We've got to really take the gloves off on this thing, because this is a real battle. If that department [the Department of Children and Family Services] could not protect those children, then we should not be empowering that department to carry out this work."

Supervisor Mike Antonovich quickly added his apology. Supervisor Zev Yaroslavsky said the whole board apologized for what happened to Jonathan.

After the meeting, Reid said Molina's apology "meant a lot. She was sincere. That is the first sign of remorse I have seen in the county."

Reid said Tuesday's hearing and the conclusion of two civil cases filed over Jonathan's death and Debin's placement in foster care were gratifying milestones in her family's quest for justice.

The determination to press for further action on Jonathan's death has occupied Reid and her family for years, she said Tuesday. At each step of the way, nine family members have gathered to vote on strategic decisions about how to pursue the case, she said.

Along the way, the family has turned to one lawyer after another--seven in all.

"Every time a lawyer didn't believe in me or in this case we got rid of them," Reid said. "Jonathan is still very much a part of this family."

Times staff writer Nicholas Riccardi contributed to this report.

It's called "Structured Decision Making," but it's really **COMPUTERIZED RACIAL PROFILING**

Child welfare is a field permeated with racial and class bias. Broad, vague "neglect" laws make it easy to confuse poverty itself with neglect.

The problem is compounded by racism. Black families are no more likely to abuse children than white families, but Black parents are far more likely to be reported as alleged child abusers and more likely to have those cases "substantiated" by untrained, often inexperienced caseworkers. Worst of all, Black children are far more likely to be taken from everyone they know and love and thrown into foster care.

And that shouldn't come as a surprise. There is no reason to believe that the racial bias that guarantees that a Black man will find it harder to hail a cab at night or more likely to be followed by a security guard in a department store somehow ends at the child welfare agency door. Indeed, in one study, when caseworkers were given otherwise identical hypothetical cases, they were more likely to rate a child "at risk" if the family was described as Black.¹

In several places around the country, including Los Angeles, the problem has been compounded – by a computer.

It's called Structured Decision Making (SDM). But, while it was not the intent of those who invented it or of DCFS, a better term would be Computerized Racial Profiling. DCFS Director Trish Ploehn has speculated that SDM has contributed to the rapid increase in children taken from their parents in Los Angeles County in recent years.² And DCFS has acknowledged that the racial disparity in the Los Angeles system has increased since SDM began.³

In SDM, caseworkers fill out a series of standardized questionnaires about a family. Each answer receives a certain number of points – the higher the point score the greater the level of supposed risk. And if the "risk" is deemed too high, the computer orders the worker to remove the child.

Defenders of SDM say it takes human bias out of the process. On the contrary – it magnifies those very biases. That was made clear by one of the most comprehensive studies ever done of racial bias in child welfare, by one of the nation's leading social welfare think tanks, the Center for the Study of Social Policy.

The study, called the *Michigan Race Equity Review*⁴ should be required reading for every child welfare policymaker – and every politician who presumes to issue pronouncements on the topic. (It is available online at <http://bit.ly/16LQBC>). More than a collection of data, the study reads like good journalism, interweaving real stories of real cases with the statistics. Though it focused on Michigan, the findings are applicable to any child welfare system in America. And because Michigan pioneered SDM, a section of the study zeroed in on SDM and its many failings.

Among the findings:

- Risk factors that appear to be race neutral are anything but. Simply being a young parent is deemed a risk. So is being a single parent. Black parents are more likely to be young and more likely to be single.

(over)

- Similarly, a *Los Angeles Times* story about SDM cites a case in which a mother's children are taken because she had to leave them home alone while she worked. When the *Times* met her, the children already had been torn not only from their mother, but from each other and placed, apparently for some time, in separate foster homes. The only aid offered by DCFS: help to get onto *waiting lists* for child care and mental health services.⁵

- A child is deemed at greater risk if a parent has been subjected to previous reports alleging maltreatment – even if those reports are unfounded. But, in part because of racial bias, Black families are more likely to be subjected to such reports. And, of course, such a criterion is an open invitation to harassment. Call in enough false reports, and the risk rating will keep going up.

Indeed, this could be seen when the *Los Angeles Times* observed the process:

An anonymous tip underscores this issue. The allegation? A young girl had been sexually assaulted by her mother's boyfriend. It's the third time the allegation has been received in as many months, and the girl must be examined by a doctor again. The accusation is related as if it were an eyewitness account, yet it provides an address for the mother and daughter that is long outdated.

As [caseworker Ladore] Winzer listens over the phone from her bare cubicle, the mother explains that she believes the anonymous tipster is her estranged husband who is angry about her new boyfriend.

"I know, ma'am. There is nothing I can do," Winzer says.

The girl is already classified because of additional factors as being at "high risk" for abuse and is in jeopardy of being placed in foster care. Now she must undergo an intrusive and time-consuming medical examination.

Winzer hangs up the phone. "She's tripping," Winzer tells the social worker in the next cubicle, "because this is a totally bogus referral. You know this is the husband trying to put this on the new boyfriend."⁶

- Other so-called risk factors are highly subjective. According to the Michigan study "Caseworkers are asked to rate parenting skills, self-esteem, hopelessness, motivation, and whether the caretaker(s) viewed the situation/investigation as seriously as the worker and cooperated with the worker." (The latter is particularly alarming, since it penalizes a parent for the perfectly normal reaction of being angry when accused of child abuse.) The *Race Equity Review* continues: "These are highly subjective assessments of parents and caretakers during an investigation of child maltreatment while there is a spoken or unspoken threat of a child being removed from parent or caretaker custody."

- In addition, SDM has other serious flaws not mentioned in the *Race Equity Review*. Though it supposedly measures a family's strengths as well as its weaknesses, the scoring method is such that, on some SDM questionnaires, if the "strengths" option didn't exist, the score would be unchanged – in other words, it's just window dressing. In addition, the strengths often were not strengths at all, but simply the absence of a weakness, such as noting that a mother did not have a drug problem. There was no place to measure real strengths such as creativity and resourcefulness.⁷

Los Angeles County should stop using computerized racial profiling. All use of SDM questionnaires should be suspended until a bias-free version can be developed.

¹ Details on this study and others, plus full citations are in NCCPR's Issue Paper, *Child Welfare and Race*, available online at <http://www.nccpr.org/newissues/7.html>.)

² Jack Leonard, "Far fewer children in L.A. County foster care," *Los Angeles Times*, Oct. 20, 2007.

³ Garrett Therolf, "How computers call the shots for L.A. County children in peril," *Los Angeles Times*, March 8, 2009.

⁴ Center for the Study of Social Policy (CSSP), *Race Equity Review: Findings from a Qualitative Analysis of Racial Disproportionality and Disparity for African American Children and Families in Michigan's Child Welfare System* (Washington: January 19, 2009). Available online at: <http://bit.ly/16LQBC>

⁵ Therolf, note 3, supra.

⁶ Ibid.

⁷ NCCPR has reviewed many of the SDM questionnaires. The higher the score the greater the risk. "Strengths" generally get a score of zero, therefore if the strengths line did not exist at all, the score would remain unchanged.

Click the link below to see what Florida accomplished with a waiver from federal funding restrictions – the same waiver Los Angeles County got:

http://www.nytimes.com/2009/07/25/us/25florida.html?_r=3&ref=us