

***EMERGING FROM
THE SHADOWS***
A 12-Step Program to Fix DCF

**National Coalition for
Child Protection Reform
53 Skyhill Road (Suite 202)
Alexandria VA 22314
(703) 212-2006
www.nccpr.org**

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By Richard Wexler, Executive Director, National Coalition for Child Protection Reform
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ABOUT NCCPR

The National Coalition for Child Protection Reform is a non-profit organization whose members have encountered the child protective system in their professional capacities and work to make it better serve America’s most vulnerable children. **Board of Directors: President:** *Martin Guggenheim*, Director of Clinical and Advocacy Programs, New York University Law School. **Vice President:** *Carolyn Kubitschek*, attorney specializing in child welfare law, former Co-ordinator of Family Law, Legal Services for New York City. **Treasurer:** *Joanne C. Fray*, attorney with extensive experience with litigation involving the care and protection of children and termination of parental rights, Lexington, Mass. **Directors:** *Elizabeth Vorenberg*, (Founding President) former Assistant Commissioner of Public Welfare, State of Massachusetts; former Deputy Director, Massachusetts Advocacy Center; former member, National Board of Directors, American Civil Liberties Union; *Annette Ruth Appell*, Associate Professor, William S. Boyd School of Law, University of Nevada, Las Vegas; former member of the Clinical Faculty, Children and Family Justice Center, Northwestern University Law School Legal Clinic, former Attorney and Guardian ad Litem, office of the Cook County, Ill. Public Guardian; *Marty Beyer, Ph.D.*, clinical psychologist and consultant to numerous child welfare reform efforts; *Ira Burnim*, Legal Director, Judge Bazelon Center for Mental Health Law, Washington, DC; former Legal Director, Children’s Defense Fund; former Staff Attorney, Southern Poverty Law Center; Prof. Prof. Dorothy Roberts, Northwestern University School of Law, author *Shattered Bonds: The Color of Child Welfare*. **Staff:** *Richard Wexler*, Executive Director. Author, *Wounded Innocents: The Real Victims of the War Against Child Abuse*. (Prometheus Books: 1990, 1995).

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NATIONAL COALITION FOR CHILD PROTECTION REFORM

53 Skyhill Road (Suite 202)

Alexandria VA 22314

www.nccpr.org

Phone/Fax: (703) 212-2006

e-mail: nccpr@aol.com

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INTRODUCTION

When the little girl died in November the headlines rocked the child welfare system. The following January, a tough-minded former prosecutor took over the child welfare agency.

The new agency chief and the chief's boss were sure they knew exactly what was wrong: Too many children left in abusive homes in the name of "family preservation." So the new agency director demanded changes. Huge numbers of additional children were taken away from their parents because, the agency chief said, that would make children safer. The answer to every child welfare problem became: Take the child and run.

But it didn't work.

With so many more children overwhelming the system, workers didn't have time to find children in real danger. Instead of declining, child abuse deaths of children previously known to the agency actually increased.

Florida, November, 1998 to the present?

No. New York City, November 1995 through 1998.

The child who died was named Elisa Izquierdo, not Kayla McKean. The former prosecutor named to run the agency was Nicholas Scoppetta, not Kathleen Kearney.

Other than that, the stories are pretty much identical, and so are the tragic results – up to a point.

There is one crucial difference between Nicholas Scoppetta and Kathleen Kearney: Scoppetta learned from his mistakes. Kearney has not.

In 1999, as a result of a settlement of a class-action lawsuit, a Special Child Welfare Advisory Panel was formed to help the New York City system change. The panel was made up of national experts, under the auspices of the Annie E. Casey Foundation.¹ The Panel had complete access to information from the city child welfare agency, but it had little power beyond the power of persuasion.

Many observers, including NCCPR, were skeptical. But the panel did, in fact, persuade Scoppetta to radically alter course. He abandoned the take-the-child-and-run approach. The number of children taken from their homes dropped back to where it was before he took office. And child abuse deaths dropped as well.

By the time he was getting ready to leave the job, in August, 2001, Scoppetta – once virtually a Kearney clone – was telling *The New York Times*, "I'm absolutely convinced we have too many children in foster care."²

New York City still has a long, long way to go. Right to the end of his tenure, Scoppetta had significant blind spots. For example, he refused to face up to the widespread practice of tearing children from battered mothers solely because those mothers had been beaten by abusive husbands or boyfriends. Though witnessing domestic violence can be bad for children, tearing them from non-abusive mothers is far worse (a fact that has not stopped Florida from engaging in similar practices). In a scathing, 183-page decision, a federal court had to order Scoppetta's agency to stop the practice.³

But while the agency hasn't done the necessary 180-degree turnaround, it has

been about 135. And now, the city child welfare agency is moving, slowly and painfully, in the right direction.

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promised to put “child safety”
ahead of “family preservation.”
In fact, she has given the chil-
dren of Florida neither.**

New York City is not the only large system to learn from its mistakes. Illinois underwent the same kind of foster care panic from 1993 to 1997. By 1997, Illinois had more children in foster care, relative to its child population, than any other state. And to this day, Illinois also has serious problems, including the mislabeling of large numbers of innocent parents and other caretakers as child abusers. But Illinois also is learning from its mistakes. Since 1997, Illinois has cut its foster care population by more than half – and made children safer – largely by changing financial incentives for private agencies, an issue discussed in more detail later in this report.

Other systems, notably Alabama and Pittsburgh, Pa., are even farther ahead. These recognized national models of how to do child welfare right are discussed in NCCPR’s two previous reports about Florida.

But unlike her counterparts in Illinois and New York City, Kathleen Kearney has not learned. Kearney apparently still believes the answer to every child welfare problem boils down to take-the-child-and-run. And that is why, as we sadly predicted almost three years ago, she has plunged an already bad system into chaos and presided over an increase in deaths of children previously known to DCF.

One Kearney defender says “DCF has been so dysfunctional for so long that it's like turning the QE2.”⁴ But the Florida Department of Children and Families is not turning. It is sinking.

The disappearance of Rilya Wilson is only the latest scandal during the Kearney years. Before that there was the “Model”-orphanage-that-isn’t scandal and before that the case closings scandal and before that the stash-the-children-in - a - mental - institution scandal and before that the dispensing-dangerous - psychiatric - drugs - to - foster - children scandal and before that the Lake County privatization scandal.

Kathleen Kearney promised to put “child safety” ahead of “family preservation.” In fact, she has given the children of Florida neither.

But that does not mean the situation is hopeless.

Outside Florida, some commentators have been surprised about how little outrage the case of Rilya Wilson seems to have generated among Floridians. But that may be unfair. It’s not that Floridians aren’t upset. It’s that, faced with scandal after scandal after scandal, many of them are numb. They believe nothing can be done to fix child welfare, so why become outraged, why write to a legislator and why spend any more tax money on it?

DCF has been complicit in spreading this despair. According to *The Palm Beach Post*:

“This time, even many of the people devoted to watching out for the ... children under state care are dubious whether any governmental reforms can conquer a societal breakdown and a cultural stew that makes South Florida a particularly difficult place to keep children safe.”⁵

But South Florida has no more societal breakdown than Chicago and it's no more of a cultural stew than New York City. These places are on the road to reform, while Florida is not.

It is, of course, in the interest of DCF officials to claim the problems can't be fixed -- if people fall for that, they won't blame DCF for not fixing them.

Unfortunately, some journalists have bought it. One columnist wrote: "DCF cannot be reformed, no matter how much more money it gets or who heads it."⁶

Like Hell it can't.

The task is extremely difficult -- perhaps the most difficult in American child welfare. There is no guarantee that even with enormous effort, DCF will be fixed. But there is no question that with the right approaches -- and the necessary funding -- DCF *can* be fixed. There are model systems and model programs all over the country that can show the way.

Anyone in the Florida Department of Children and Families who thinks the agency can't be fixed, should get out of the way and make room for those who *know* that it can.

In this report, our third on the child welfare crisis in Florida, the National Coalition for Child Protection Reform offers a series of recommendations to help the reform process begin. DCF is addicted to child removal as a "solution" for child welfare problems. In this report, we present a "12-step Program" to help free DCF from its addiction.

THE FOSTER CARE PANIC

Kathleen Kearney became Secretary of DCF in January 1999. Between March 31 and September 30 of that year, federal data show that the foster care population shot up more quickly in Florida than in any other state. The number of foster children

increased from 24,930 to 34,292, an increase of more than 37 percent.⁷

And as we documented in our previous reports, *Shadow on the Sunshine State* and *The Lengthening Shadow*, in some parts of the state, the increases were much, much greater.

Anyone in the Florida Department of Children and Families who thinks the agency can't be fixed, should get out of the way and make room for those who *know* that it can.

In Hillsborough County, the number of abuse investigations increased by 34 percent -- but, in a reflection of Kearney's priorities, the number of children taken away from their parents shot up by 73 percent.⁸

And in Lake County, where Kayla McKean died, the increase in the number of children taken from their parents was 400 percent.⁹

These are "snapshot" numbers -- that is, the number of children in foster care on one particular day. Another way to measure a foster care panic is to look at how many children are taken away during the course of any one year. And in Florida, the number of children taken during FY 1999-2000 was double the number taken during the previous fiscal year.¹⁰

There may have been some decline the number of foster children since then. That's how foster care panics usually work. After a couple of years, people do calm down and make somewhat more rational decisions. The figure for the number of children in Florida foster care cited in several news accounts -- 32,000 -- may be accurate.¹¹

Then again, it may not. If there's one thing we've learned over the past three years it is that DCF numbers are not always reliable. (See "Statistics Abuse," page 8). And as this report goes to press, there are the first indications that the panic may be starting up again.¹²

News accounts giving much lower figures, however, almost always mean that DCF is playing games – specifically, DCF almost certainly is giving only the figure for children placed with strangers, while excluding "kinship care" placements with relatives. The standard apples-to-apples comparison used by the federal government includes both.

As we further documented in our previous reports, citing data from a survey of guardians ad litem and the assessment of numerous experts – including three former regional DCF directors – many of those children could have remained safely in their own homes, had the proper services been provided.

The Jacksonville case described on page 5 is one example. There are others:

- Broward Circuit Judge Marcia Beach says she regularly sees developmentally disabled children falsely labeled abused, neglected or abandoned because caseworkers believed it was the only way to get the children services.

One caseworker tearfully recalled tearing a disabled nine-year-old girl from her family because, as the *Miami Herald* reported, "state budget cuts and policy changes made it impossible for her to remain at home.

"We have torn up families, and made people move to group homes," the caseworker said.¹³

- In two separate cases within the past eight months, grandparents who provide foster care for grandchildren came within days of having their own homes foreclosed

on them because the expenses were too great and the state offered little or no help.

In both cases, newspaper readers and charities stepped in where DCF would not.¹⁴

And, according to the *Tampa Tribune*:

"Attorneys in Hillsborough County who deal with the child-welfare system said DCF brings on much of its caseload burden itself ...Career worries and fear that they might make that next tragic mistake taint the judgment of many in DCF, they said, which in turn results in too many children being taken from their families."

- Attorney Tracy Sheehan: "They throw such a wide net that they can't provide the quality as they should."

- Attorney William Sites: "They are overstressing the system by bringing in marginal cases."

- Attorney Norman Palumbo: "If there is any inking of any kind of problem in the home, they yank the kid out. They say they do it last, but I think they do it first."¹⁵

Even Sen. Anna Cowin, who sponsored the law that did so much to create the current climate of hysteria, the law formerly known as the Kayla McKean Child Protection Act, says DCF has gone too far (while denying that her law had anything to do with it).

Cowin told the *Miami Herald* that a Lake County 17-year-old was taken from her parents after DCF received a report that she was not eating properly.

"This is not abuse," Cowin said. "They were so afraid of being caught with another injured child, they went overboard in pulling kids from homes."¹⁶

Still other examples can be found in NCCPR's previous reports, available at www.nccpr.org.

Governor Bush says that “at the end of the day, if we don’t have wholesome, loving families ... you’re going to have these kinds of things happen.”¹⁷

He’s right. But it would help if his child welfare agency would stop taking chil-

dren from the wholesome loving families they already have – as well as from families that really are troubled, but where children could be kept safely in their own homes with the right kinds of help.

Poverty as “Neglect” In Jacksonville

The home in Jacksonville was dirty and crowded. The electricity and the water had been turned off. But no one has ever accused Ricardo Young and his wife Antoinette of abusing their eleven children. On the contrary, neighbors call Mr. Young “a tireless worker and family man who kept his kids fed, healthy and happy.”

There is no question the family needed help. They needed rental assistance to find a bigger house. They needed emergency cash for water and utility bills.

Instead, DCF took ten of the children and ran. So did the father, who said he wanted to protect his oldest son, who desperately wanted to avoid foster care placement. They later surrendered to police.

As *Florida Times Union* columnist Tonyaa Weathersbee wrote:

“The children’s father admitted he was struggling with financial problems. Yet the state’s response was to take the kids and jail him and his wife for child neglect -- as if they could cough up the cash to pay a \$25,000 bond any quicker than they could come up with money to pay their utility bill. Their neighbors’ answer, however, was to raise \$13,000 to help that family address the financial source of their plight.

“The neighbors had it right.”

The oldest child is now with his mother. But the other ten are now in six different foster homes – trying to cope with a trauma far greater than living in a dirty home. They’re also taking scarce places that should be reserved for children in real danger.¹⁸

Jacksonville is the home of the one innovative national family preservation effort underway in Florida: Community Partnerships for Child Protection. (The foundation grants to set up the program preceded Kathleen Kearney’s becoming DCF secretary, which probably is why it still exists). Kearney claims to support this program, and it even got a mention in the Blue Ribbon Panel report’s token paragraph about prevention. And in fact, among *some* DCF administrators and caseworkers there is genuine support for the effort.

But the partnership has run into constant hostility from many at DCF, including frontline workers who are afraid to use what it has to offer. (There is more about the partnership on Page 24).

And when this case arose, DCF did not turn to the partnership. The partnership intervened after learning about it through news accounts. Partnership workers promptly did what DCF should have done in the first place:

- The partnership brought together friends, neighbors, and an array of service providers to see how the family could be helped.

- The partnership found a new rented home for the family and paid the rent through the end of the year.

- The partnership arranged for the local Habitat for Humanity group to build the family a home in January, 2003.

- The partnership found other providers to offer child care and counseling for the whole family.

All DCF workers needed to do was complete a little paperwork. But they couldn't even manage that much.

When the case came back to court, not only the partnership and the parents' lawyers, but all three volunteer guardians ad litem assigned to the 11 children argued that they should be returned home. (This is almost unheard-of. GALs generally give the benefit of the doubt to DCF). Though Governor Bush and Kathleen Kearney now regularly sing the praises of GALs, in this case, DCF urged the judge to ignore the GALs and hold the children in foster care.

Why? Supposedly they still needed to do a "home study" of the new rented house and arrange "counseling" for the children.

But by the date of the court hearing, they'd had the address of the home they needed to "study" for two weeks. They just hadn't gotten around to doing it. As for counseling, that had been arranged by the Partnership a month previously - but DCF hadn't done the paperwork.

But in another illustration of a chronic problem - judges who wield rubber stamps instead of gavels - the judge went along with DCF. Now, the children may well be stuck in foster care for another six weeks.

As for why the children need counseling at all: It actually was requested by their mother - to help them cope with what DCF has done to them by tearing them from their parents and each other.

Of course, DCF always says they're just keeping children safe – just “erring on the side of the child.”¹⁹

But this is the same region in which seventeen-month-old Latiana Hamilton was placed in foster care with a couple that had faced multiple complaints while serving as foster parents in Michigan. DCF never got all the information in the Michigan file – a file that turned out to have more red flags than a Soviet May Day parade. Even worse, DCF's regional director said, after seeing the file, that even if DCF had known what was in it, the agency still probably would have licensed the foster parents.

Why is that so bad? Because Latiana Hamilton is dead, and the foster mother is charged with killing her.²⁰

The more that DCF takes away children who don't need to be in foster care -- like the Young children -- the greater the temptation to overcrowd foster homes and lower standards for foster parents.

It is this massive removal of children who didn't need to be taken away, this "foster care panic" that is at the root of all the scandals that followed.

That's because it is the huge influx of children who don't need to be in foster care that leaves workers so overwhelmed they can't find children in real danger -- or even do such basic chores as visit children every month.

This is not hindsight.

The author of this report makes about ten trips per year around the country to meet with journalists, and sometimes legislators and child welfare officials, to discuss child welfare reform. For the very first such trip, in July, 1999, we chose Florida.

That's because NCCPR was convinced then that, because of Kearney's take-the-child-and-run approach, Florida's system was in the greatest danger of going from bad to worse to chaos. We also believed Florida was the state where child abuse fatalities were most likely to increase because of these misguided policies.

A July 4, 1999 *Miami Herald* column (Appendix A) documents these predictions.

Kearney, of course, disagreed. In an interview for a program broadcast in October, 1999, Kearney told *Dateline NBC*: "I've been out there. I've gone to all of the districts. I'm aware how hard our staff is working. They are committed that there will not be another Kayla."²¹

They probably were, and are, committed to try. And no system can prevent all such cases. But Kearney's own policies ensured there would be more Kaylas. Regrettably, NCCPR's prediction came true.

In the four years before Kearney took office there were an average of 25 deaths of children previously known to DCF. In 1999, Kearney's first year, that figure rose to 30. In 2000, it was 30 again.

FLORIDA CHILD ABUSE DEATHS

YEAR	TOTAL DEATHS	CHILD PREVIOUSLY KNOWN TO DCF
1995	62	19
1996	82	21
1997	73	34
1998	86	26

Kearney takes office, January, 1999

1999	85	30
2000	85-90	30

Sources:

ALL DATA FOR 1995-1998 and TOTAL DEATHS in 1999: Florida Department of Children and Families, Child Abuse and Neglect Deaths: Calendar Year 1999 (released March 2001).

TOTAL DEATHS 2000: Jackie Hallifax, Lawmakers Get Stats on Deaths of 60 Fatally Abused Children, Associated Press Florida Wire, Nov. 29, 2001.

"PREVIOUSLY KNOWN," 1999 and 2000: Florida Department of Health, Florida Child Abuse Death Review System, presentation to Florida legislature, Nov. 29, 2001.

But it wasn't really a matter of predicting at all. Since exactly the same kinds of misguided policies had produced exactly the same kinds of results in Illinois and then New York City, it was clear what would happen in Florida.

And how has DCF responded? By trying to undermine the independent child

death review team that blew the whistle on Kearney's failure.

- DCF tried to censor the team's reports before they were made public.

- DCF's deputy director of family safety reminded several team members that their terms were about to expire, and they could be replaced.

- DCF has delayed providing the team with records it is entitled to by law, to the point that the team agreed to subpoena the records.²²

“[Miami Dade Circuit Judge Jeri Beth] Cohen says she has often considered not instructing police to look for runaway [foster] children because she knows nothing better awaits them.”

--Miami Herald, May 16, 2002

But no matter how much DCF tries to hide and to stonewall, the evidence is overwhelming that what was already a bad agency has become a pathetic national disgrace. One comment, by Miami Dade Circuit Judge Jeri Beth Cohen may sum it all up. According to the *Miami Herald*, “Cohen says she has often considered not instructing police to look for runaway [foster] children because she knows nothing better awaits them.”²³

STATISTICS ABUSE

As America sank deeper into depression, Herbert Hoover was fond of saying that “prosperity is just around the corner.”

Similarly, as DCF gets worse and

worse, Kathleen Kearney keeps telling us that things are improving.

In an attempt to make the case, however, DCF has repeatedly committed acts of “statistics abuse.” Indeed, were there a hotline to which statistics abuse could be reported, the top management at DCF surely would have their rights to their pocket calculators terminated.

Many of DCF's claims of “improvement” raise the question, “compared to when?”

The Legislature's Office of Program Policy and Government Accountability (OP-PAGA) has released two reports on DCF in the past two-and-a-half years. The first report was released in March 2001.²⁴ Its most recent data generally were for FY 1999-00. The second report was released in March 2002,²⁵ and added data from FY 2000-01.

DCF was quick to crow about slight improvements found in the second report. But typically, the “improvements” were only in comparison to the previous year. In other words, even if the data are accepted at face value, they show only that after getting worse under Kearney, things started to get slightly better.

The data do not indicate improvement compared to before Kearney took over DCF.

For Kearney to claim improvement by comparing the present only to her administration's own previous record is like tearing down a ten story building, then rebuilding the first floor and demanding praise because it's better than a vacant lot.

And even the numbers showing improvement compared to DCF's own previous performance are suspect:

- DCF claims to have increased the number of calls answered at the state child abuse hotline, reducing the number of callers who give up when no one answers the phone. But as a veteran hotline operator revealed to the *Miami Herald* last year, DCF

has changed the definition of an answered call. Now, when hotline operators are overwhelmed, they grab the phone, scrawl down a name and number and promise that someone will call back. Sometimes the call is returned, sometimes it's not. But either way DCF counts the call as "answered."²⁶

There is substantial evidence that even as it provided data to OPPAGA showing a reduction in backlogged cases, and even as it bragged about progress after the OPPAGA report came out, DCF *knew* that there were extremely serious problems with the way cases were being closed.

- OPPAGA credited DCF with reducing the backlog of uncompleted investigations. But there were some things DCF knew that OPPAGA apparently didn't.

Days after the second OPPAGA report was released, the *Miami Herald* revealed allegations that a private firm hired to help reduce the backlog, the Florida Task Force for the Protection of Abused and Neglected Children, was putting workers on a quota system. They would be rewarded for closing cases quickly, creating an incentive for shoddy work.²⁷ Former employees of the private firm allege that workers falsified reports and closed cases without doing any work at all.²⁸

Then the *Herald* revealed that in December, 2001, DCF itself had audited 16 cases closed by the Task Force and concluded in every single case that the firm had

failed to assess children's safety.²⁹ And then the *Herald* revealed that an even earlier report, from DCF's own Inspector General's office, had raised questions about how the Task Force handled allegations of serious abuse in a Central Florida foster home.³⁰

Officials of the Task Force vigorously deny the charges. They say their contract was only supposed to cover already-opened low-risk cases, but in fact they say 60 to 70 percent turned out to be new cases or high-risk cases.³¹ They say the case files came with little or no documentation, forcing the task force to start from scratch. And they say they repeatedly complained about these problems to DCF to no avail.³² Sometimes, they say, they found files in garbage cans or, in one case, hidden in a drop ceiling.³³

Yet for months before, and days after, the problems were exposed by the *Herald*, DCF did not cancel its contracts with the Task Force. That happened only when the publicity put the heat on the agency. Now DCF and the Task Force are suing each other.

Regardless of which side's charges are correct, this much is known: There is substantial evidence that even as it provided data to OPPAGA showing a reduction in backlogged cases, and even as it bragged about progress after the OPPAGA report came out, DCF *knew* that there were extremely serious problems with the way cases were being closed. Thus, case closings as a measure of "progress" is meaningless. If DCF alerted OPPAGA to the problems with how cases were being closed, there is no indication of that in OPPAGA's report.

And the case closing scandal is not the first time DCF engaged in statistics abuse to make its backlog numbers look better. DCF also "reduced" the backlog by getting the legislature to redefine a backlogged case as one open more than 60 days. It used to be a case open more than 30 days.³⁴

- The first OPPAGA report cites official DCF data showing that eight percent of foster children were abused in foster care during FY 1999-2000.

But during approximately the same time period, DCF was conducting its own audits of a random sample of files from every region. NCCPR obtained results for many districts and included the results as an appendix to *The Lengthening Shadow*.

NCCPR obtained data on the percentage of sampled cases in which abuse or neglect was found in foster care for seven districts. The results are as follows:

District 14:	7%
District 10	11%
Sarasota	12%
Manatee	17%
District 12	21%
District 13	21%
District 11	31%

In addition, lawyers bringing a class-action suit against DCF recently released the figure for District 9: 22%.³⁵

In each of these districts except one, the auditors found evidence in DCF's files of a greater rate of abuse in foster care than is shown in DCF's official numbers.

Of course, it is possible that, by bizarre coincidence, the results in all the other districts are incredibly low, and the statewide figure still averages out to 8 percent.

DCF claims even the eight percent figure is high. According to the second OPPAGA report, DCF says its earlier methodology for coming up with the eight percent figure was flawed. DCF says the rate of abuse of foster children from April 2000 through March 2001 actually is "only" 4.5 percent.

But it is more likely that both this number and the earlier, eight percent number provided to OPPAGA by DCF are underestimates. That's because, in all likelihood, data on the full extent of abuse in foster care doesn't always work its way up

from the raw case file to aggregate figures. The case-by-case random sample audits – with their higher figures – probably are more reliable estimates.³⁶ The DCF official in charge of the audits personally vouched for the audit methodology and the reliability of the results in a January, 2001 interview with NCCPR.³⁷

DCF counts as "returned home" children who run away. It also counts children who "age out" of the system at age 18. And children who wind up in jail. And children who die. To the Florida Department of Children and Families, a permanent home can be a grave.

But even the audit results probably are underestimates. That's because when DCF investigates an allegation of abuse in foster care it is, in effect, investigating itself. That creates an incentive not to believe the allegation and not to look too closely. All over the country, "official" statistics on abuse in foster care tend to be significantly lower than what scholars find when they actually interview current or former foster children.³⁸ Indeed, when it comes to abuse in foster care, there is an enormous incentive for DCF to see no evil, hear no evil, speak no evil and write no evil in the case record.

- And then there's the number DCF simply doesn't talk about: The increase in deaths of children "known to the system" on Kearney's watch.

- But there is another bit of statistics abuse that may be even more revealing, be-

cause it illustrates the depths of the callousness and cynicism at DCF: DCF claims improvement in the percentage of children returned home within 12 months. But according to the second OPPAGA report, DCF counts as "returned home" children who run away. It also counts children who "age out" of the system at age 18. And children who

wind up in jail. And children who die. To the Florida Department of Children and Families, a permanent home can be a grave.³⁹ Because it is so hard to believe that an agency would do something like that, we have included the page from the second OPPAGA report where this is discussed as Appendix B.

The Other Scandals

With all the attention that has been given to the case of Rilya Wilson, it can be easy to forget how many other scandals have rocked the Florida child welfare system during Kathleen Kearney's tenure.

These other scandals don't involve just one case, they often involve entire institutions or counties and scores, sometimes hundreds or thousands of cases.

• *The Lake County Boys Ranch scandal. DCF's first experiment in privatization crashes and burns.*

The 32-year-old Lake County Boys Ranch was given control of all substitute care services in the county. Months after the Boys Ranch and DCF got into a dispute over who was responsible for the death of Kayla McKean, Boys Ranch was indicted on criminal charges of Medicaid fraud.

The criminal case was dropped. The prosecutor says that's because it is now pointless to proceed, since the charges themselves led to a cutoff of all state contracts, driving Boys Ranch out of business. The Boys Ranch denies the charges.⁴⁰

As we noted in *The Lengthening Shadow*, "If, in fact, Boys Ranch is guilty – and, in fairness, the agency has yet to have a chance to defend itself in court – then DCF contracted with a bunch of thieves. If, on the other hand, Boys Ranch is innocent, then DCF helped drive the agency out of business and plunged its own privatization experiment into chaos."

• *The dispensing-dangerous-psychiatric-drugs-to-foster-children scandal. The Miami Herald reveals that huge numbers of foster children, perhaps as many as one in three,⁴¹ are routinely drugged, often not to help them, but to make them more docile for overburdened caretakers.*

"Many of the kids are taking untested combinations of the drugs," the *Herald* reported. "Children as young as one year have been prescribed drugs only approved for adults."

Antoinette Appel, a neuropsychologist appointed by Broward judges to review the cases of a dozen children told the *Herald*: "For many children whose cases I have reviewed, there was no objective justification for putting children on medication."

The one-year-old was given three powerful psychiatric medications after being diagnosed with bipolar disorder. “I haven’t a clue how you diagnose bipolar disorder in a one-year-old,” said Appel. “They’re messing with his brain – in a way virtually certain to have long-term deleterious effects.”⁴²

- *The case closings scandal (see page 9).*

- *The stash-the-children-in-a-mental-institution scandal. The Orlando Sentinel reports that “Foster children as young as 3 are being held for months in a locked crisis unit for the mentally ill in Orange County, often because [DCF] has nowhere else to put them.”*

Even if a child is mentally ill, he should not be held in this kind of facility for more than ten days – and some of the children are not mentally ill at all. Yet a five-year-old was trapped in the facility for more than three months and four six-year-olds were confined there for between 39 and 103 days.

Said Carolyn Salisbury of the University of Miami Law School: “if a natural parent left a child and didn’t pick him up, they’d be arrested.”⁴³

District administrator Robert Morin was indignant about the story. In an op ed column he replied that there were only two three-year-olds involved, they really were mentally ill and they stayed for only six and two days respectively. He condemned “passions whipped up by deliberate inaccuracies and omissions...”

He omitted any mention of the five- and six-year-olds.⁴⁴

- *The ‘model’-orphanage-that-isn’t scandal. The South Florida Sun-Sentinel reveals that SOS Children’s Village, a 50-bed orphanage⁴⁵ in Coconut Creek, is rife with abuse, with problems dating back at least seven years – and DCF knew it.*

Touted not only in Florida but nationwide as a model institution that supposedly proved orphanages are a viable alternative, the real story, as disclosed by the *Sun-Sentinel* is different.

-- Though orphanage proponents say such institutions provide “stability” because children aren’t moved from foster home to foster home, the real measure of stability is the human beings in a child’s life. And at SOS 13 “house parents” and 14 “parent assistants” quit or were fired, just from 1999 through 2001.

-- During that same time period 33 reports were filed with the state hotline alleging abuse of children at the 50-bed facility. 21 were “substantiated” or “indicated.”

-- Though incidents of abuse, including forcing a child to walk around a house naked as punishment, date back as far as 1995, it wasn’t until 2001 that DCF put a moratorium on sending children there. The last straw apparently was an incident in which a 16-year-old girl claims she was impregnated by her “house mother’s” boyfriend. After the housemother was fired, however, the moratorium was lifted.

SOS officials were questioned by a grand jury investigating Broward County foster care. And, as the *Sun-Sentinel* reported:

“The panel completed its work in early October, but a report of its findings has yet to be made public. The Broward State Attorney’s Office said the report was being challenged in court, but refused, under penalty of law, to name the person or organization blocking the document.

“Earlier this month, in a case filed against the state by SOS, the 4th District Court of Appeal in West Palm Beach denied the state’s request for permission to publish the report, according to the Clerk of Court’s Office. The proceedings remain under seal.

“SOS executives and board members declined to discuss the investigation or their interest in keeping the report sealed.”

In response, the Executive Director of SOS largely blamed the children. Many of the incidents involved teenagers, and the director said, essentially, that teens will be teens, adding: “we never promised or intended to be perfect. But we do our darndest to be near it, and to minimize risk and ensure safety for the kids.”

SOS Children’s Village is now getting help to do better – from the Broward County region of DCF, according to the region’s Deputy District Administrator Mary Allegretti. She says she is now satisfied that the children are safe. “It’s not like we’re ignoring it,” Allegretti says. “We’re continuing to work with them.”⁴⁶

THE LEGISLATURE MUST SHARE THE BLAME

Although much responsibility for the failure of child protection in Florida rests with DCF, the Florida Legislature must share responsibility.

- Historically, the legislature has underfunded child welfare in Florida. As study commission after study commission offered recommendation after recommendation, the legislature routinely tossed out those that involved increased spending – particularly spending for prevention.

- Even now, the state is forcing counties to ration a vital service to prevent families from losing their children because of “lack of supervision” charges. The state is demanding that the counties provide child care for more preschoolers – a worthy goal. But instead of increasing funding, the state is forcing counties to reduce aid for after school care for older children.⁴⁷

- When the legislature finally did spend more, it accepted Kathleen Kearney’s skewed priorities. Most of the money was poured into more hotline operators more investigators and more foster care – but not into safe, proven programs to keep families together.

As a result, all the new spending did nothing to improve the system. That has severely damaged the credibility of advocates who say, correctly, that Florida must spend more on child welfare. Indeed it must. But as we said in our previous reports, it also must spend smarter.

If DCF won’t change its spending priorities, then the legislature must redirect funds from substitute care to both primary prevention and family preservation. (See, *The Meaning of Prevention*, page 18).

- The legislature passed the law formerly known as the Kayla McKean Child Protection Act. This law played a crucial role in exacerbating the Florida foster care

panic. Among other things, it terrified large groups of professionals into reporting their wildest suspicions of maltreatment out of fear of prosecution if they did not. Then it barred hotline operators from screening out many of these calls.

In its original form, the law also mandated “medical evaluations” – i.e. strip-searches -- of all children who were subject to most categories of abuse allegations – even emotional neglect -- and even if the DCF worker investigating the case thought there had been no maltreatment.

The stripsearching provision was modified, but the others were not. As a result, a state-commissioned study found that workers are overwhelmed tracking down false reports and trivial cases involving reports that should have been screened out at the hotline.⁴⁸

The prime sponsor of the law, State Sen. Anna Cowin, still is “in denial.” In March she said: “Unquestionably, the Kayla McKean Act saved lives.”⁴⁹ The overwhelming weight of the evidence suggests the opposite.

Sarasota: Triumph Of Mediocrity

“Under the leadership of Gov. Bush and Judge Kathleen Kearney ... Florida is now in the beginning stages of a full-fledged reform of the child-protection system. ... With [the governor's] significant financial commitment and the changes in policy and law that make the focus of the system 'child safety,' we ought to be shouting from the mountain tops!”

--Chris Card, then-director of the privatized child welfare system in Sarasota, March 23, 2000⁵⁰

One way DCF has sought to distract attention from the privatization debacles involving the Lake County Boys Ranch and the Task Force has been to claim the privatization experiment in Sarasota as a success.

That this is DCF’s idea of “success” is as good a testament as any to how bad things are everywhere else.

Sarasota is the great underachiever in Florida child welfare. The Sarasota experiment was born on third base, and still never managed to cross the plate.

Sarasota is one of the most affluent parts of Florida. Median family income is dramatically higher than the statewide average, while both the total child population and the child poverty rate are dramatically lower.⁵¹ That means the problems are likely to be less numerous and less difficult. It also means there is a lot of private wealth to tap into to supplement government funding – and that has been one of the key rationales for privatization.

Yet the results have been, at best, mediocre.

In *The Lengthening Shadow*, we disclosed the results of internal audits conducted in 2000 in which DCF checked a sample of case records from every region.

Here are some results from Sarasota:

AUDIT QUESTION: "If the child has siblings in placement, they are all in the same relative/nonrelative placement or foster home." Of the 11 districts for which NCCPR was able to obtain data, Sarasota's performance was, by far, the worst. Siblings in the sample cases were kept together only 14 percent of the time. The second worst performer did more than twice as well, keeping siblings together 33 percent of the time. And the average for the ten other regions was 46 percent.

The record for adoptive homes was worse. Sarasota kept siblings together in adoptive homes only ten percent of the time, the second worst record of the nine districts for which we obtained data.

AUDIT QUESTION: "Has the child's school placement been changed as a result of out of home placement?" In Sarasota this happened 67% of the time in the cases audited, the second worst record of 11 districts for which data are available.

Even where Sarasota was at or near the top, in many cases that's more a reflection on how badly other districts were doing. For example, where case plans called for regular visits with a child's father, it was happening only 50 percent of the time. Four other districts did better.

In the all-important area of whether caseworkers made their monthly visits to check on foster children, Sarasota had the third best record of 11 districts for which we obtained data. But it was still a lousy record. The visits were made in only 40 percent of sampled cases - and that assumes that all of the case records were accurate. Caseworkers met with birth mothers monthly, in cases where reunification was the goal, only 50 percent of the time.

The records also showed evidence of abuse in 12 percent of Sarasota foster homes.

The mediocre performance should come as no surprise. Until recently the "lead agency" running the Sarasota experiment was headed by Chris Card, who repeatedly has parroted Kathleen Kearney's party line. And he appears to back up his words with action. Card now runs the lead agency in Hillsborough County. When he got there, he quickly canceled contracts for some intensive family preservation programs and other prevention efforts.⁵²

Card also has belittled efforts to offer voluntary help to troubled families instead of tearing away their children. "When you go into their living rooms for the first time, they say, 'Get out of my house,'" Card told the *Tampa Tribune*. "We've implemented some voluntary programs for people and tried to prevent the abuse from happening. To think that's going to make a dramatic difference is a tough sell."⁵³

Card is flat wrong.

In fact, 15 states have "dual track" systems in which, when less serious cases are phoned into child abuse hotlines, workers for private agencies are sent out solely to offer voluntary help instead of a traumatic investigation. They've been enormously successful at getting families to accept help, and a federal report has found that every study of this approach shows improved child safety.⁵⁴ Jacksonville's Community Part-

nership for Child Protection (see page 24) is another example of enormous success through offering voluntary help.

But for such programs to work, agencies must offer families a helping hand instead of a wagging finger. Then, most families will say “welcome” instead of “get out.”

Back in Sarasota, Card’s privatized program was not immune from the type of scandal that has plagued DCF.

In a case with parallels to both Kayla McKean and Rilya Wilson, a four-year-old named Steven was beaten with shoes, burned by cigarettes, starved and tied up, allegedly by his adoptive mother, a former DCF caseworker who also was a foster parent. Steven had broken bones in his hands, feet and shoulder, untreated ringworm and scratches and scars all over his body, according to police reports. (Unlike Kayla, however, at least Steven survived). The adoptive mother was allowed to plead guilty to neglect.

The caseworker for Lifelink, the subcontractor hired by Card’s “lead agency” to monitor the case for more than three years, regularly reported that Steven appeared “happy and healthy.” Questions have been raised about how often the caseworker visited the home.⁵⁵

Seven employees of Lifelink quit in the months after the abuse finally was discovered,⁵⁶ and this year Lifelink announced it was pulling out of Sarasota.⁵⁷

How could so many injuries be missed for such a long time? Perhaps all that shouting from the mountaintops drowned out one little boy’s cries.

THE “BLUE RIBBON PANEL”

Although it’s been branded “the whitewash panel”⁵⁸ “whitewash” implies that the panel discovered something and covered it up.

In fact, the process was so carefully rigged by Kathleen Kearney that it was impossible for the panel to discover anything meaningful in the first place.

It was the DCF Secretary who did the whitewashing.

- As both the *South Florida Sun-Sentinel* and the *St. Petersburg Times* revealed, Kearney effectively picked three of the four panelists.⁵⁹ That does not mean the panelists are not people of integrity. But it does mean she was likely to choose people with a similar world view – people she could count on to let her off the hook.

In addition, were the panel to seriously criticize Kearney, two of the panelists – the governor’s former counsel and a member of his transition team – effectively would be criticizing themselves.

- Kearney suggested what the panel should investigate. So the panel looked largely at only one DCF region. And it concentrated on problems related to one specific scandal – the disappearance of Rilya Wilson.

But the odds are the next scandal won’t involve a foster child disappearing for 15 months before DCF notices. It will involve some new twist on the same old DCF failings.

For a panel to be of any use, it must focus on what all the scandals have in common.

So when the panelists say Kearney should stay because there is no evidence her

“malfeasance” caused the disappearance of Rilya Wilson, they miss the point.

The issue isn’t just the disappearance of Rilya Wilson. The issue is all the scandals on Kearney’s watch.

- Kearney suggested the absurdly short time frame for the panel. That doomed any hope that the panel could get past the DCF party line on any given issue.

DCF drowned the panel in minutiae, and with little time to do its work, the panel could not sort it all out. So the panel offered up a report that stated the obvious and re-stated existing policies. It concentrated on tinkering with the details and largely ignored the big picture.

And it offered up a way for Kearney to falsely claim “progress” in a few months. All DCF has to do is make the minor changes suggested by the panel and, one can reasonably expect, the panel then will congratulate the agency for its “progress.”

Yes, the panel’s report has a token paragraph about prevention -- almost exclusively the politically popular, “net-widening” kind, (see page18). But even there, the panel would not even recommend full funding for Healthy Families Florida, recommending that only for Miami-Dade “and other major urban areas with high numbers of children in care.” There also was a sensible call to raise caseworkers’ pay.

But those ideas have been put forward and rejected before, and Governor Bush is showing no enthusiasm for them this time around.

And the report is internally contradictory. The panel members save their greatest degree of outrage not for the problems at DCF but for those who dare say that recommendations from past studies have been ignored. Indeed, the panel, chaired by a former newspaper publisher, brands that assertion “a libel.”

But later, the report declares that “the chief issue is – and always has been – the same: Florida’s child welfare system is overburdened, overwhelmed, understaffed, and underfunded.”

The panel is stunningly silent on the issue of child abuse fatalities. Not only does the panel not hold Kearney or anyone else responsible for the increase in fatalities on her watch, the issue is not mentioned at all.

But that’s partly because so many previous panel recommendations to improve funding and staffing have been ignored. The fact that DCF implemented minor, low-cost recommendations from previous panels while governors and legislators rejected the big-ticket items only reinforces the fundamental point: Past panels were ignored in the areas that really count.

And the panel is stunningly silent on the issue of child abuse fatalities. Not only does the panel not hold Kearney or anyone else responsible for the increase in fatalities on her watch, the issue is not mentioned at all.

The panelists behaved like mechanics who have before them an automobile that is one step away from the junkyard. The tires are flat, the transmission is shot, and the brakes gave out years ago. It’s also out of gas.

The mechanics remember to suggest filling the tank. But instead of recommending a complete overhaul, they spend the rest of their time worrying about where to find a set of bright, shiny hubcaps.

But the panel's biggest failing is the fact that it was distracted by the wrong "elephant."

The panel referred to privatization as "the elephant at the door" while failing to notice – or ignoring – the elephant already in the room: wrongful removal.

A panel 75 percent hand-picked by Kathleen Kearney produced a report that is almost 100 percent useless.

Wrongful removal drives everything else. Curbing it won't in and of itself solve the problems at DCF. But those problems cannot begin to be solved until DCF stops needlessly taking away so many children.

There is not one word about this in the panel's report. And that's why a panel 75 percent hand-picked by Kathleen Kearney produced a report that is almost 100 percent useless.

THE MEANING OF PREVENTION

Everyone says they're in favor of "prevention." The Blue Ribbon Panel squeezed in a paragraph about it in its report. Even Kearney says she is for it.

But "prevention" actually means many different things.

Some forms of "prevention" are, relatively speaking, politically popular because they don't threaten a child welfare establishment that is emotionally and financially invested in child removal. Other forms of "prevention" call for real change in the status quo.

Fixing child welfare in Florida will require both kinds of prevention.

Within the child welfare community, prevention programs generally fall into two categories, "family support" and "family preservation." These actually are different concepts. Both are vital if a child welfare system truly is to keep children safe and reduce the number of children who must be placed in foster care. But while "family support" is politically popular within the child welfare community and, at least to some extent, the public at large, "family preservation" is not.

Any new emphasis on "prevention" will fail if it embraces "family support" but ignores "family preservation."

Family support is "net-widening" prevention. In other words, it expands the scope and reach of child welfare agencies into family life, and does not threaten anything those agencies do already. That's part of why it's so popular in the child welfare establishment. A classic example of family support is the "Healthy Families Florida" program, in which home visitors help "at risk" new mothers with weekly visits, on a voluntary basis. Healthy Families Florida is an excellent program and it should be funded sufficiently to reach every new "at risk" mother who needs it and wants it.

Family preservation programs take hold when a family already is in crisis. Most of the programs we include in our 12-step program emphasize family preservation. For example, the term "family preservation" actually was invented to describe one specific type of program, called "Intensive Family Preservation Services."

IFPS is a "last ditch" attempt to provide intensive help to a family on the verge of having a child taken away. It is remarkably similar to home visiting, but much, much more intensive. But IFPS is "net-narrowing" prevention. It reduces the coercive role of child welfare agencies. That's why the same child welfare establishment

that loves family support often hates family preservation.

And prevention actually can be harmful if it is not geared to a family's real needs. That can happen when prevention programs are designed more to make the helpers feel good than to actually provide what a family needs to stay together safely.

Too often, states throw all or most of their prevention money at so-called "soft" services like "counseling" and "parent education" which at best may do little good in isolation and at worst actually add more burdens to parents whose real problem is getting enough to eat and a decent place to live.

For example, suppose a single mother is holding down two jobs to stay off welfare, is constantly worried about child care and health care, and is sleeping with the lights on so the rats don't come out and bite her children at night. She just might con-

clude after a while that the world isn't an altogether friendly place.

The typical response from agencies like DCF might be to label the mother as mentally ill. They might label her as suffering from "apathy-futility syndrome," – a real term in some child welfare circles,⁶⁰ and demand that she get counseling.

So now, on top of all her other burdens, she must find the time to make her way to some counselor's office once a week. This may well do a lot for the self-esteem of the counselor but it will only make things harder for the mother.

A decent, humane child welfare system includes soft services for the families that really need them. But such a system also would help this mother get one job with a living wage and help her find a decent apartment.

The 12-Step Program

As we noted at the outset, children are suffering in Florida because the Department of Children and Families is addicted to child removal as the primary answer for every child welfare problem.

This is NCCPR's 12-step program to help DCF recover:

Step 1: Kathleen Kearney must be replaced as Secretary of DCF.

With this step, we begin where we left off at the conclusion of our last report. Fifteen months ago, NCCPR concluded *The Lengthening Shadow* by becoming the first to suggest that the issue of Kearney's resignation needed to be seriously discussed.

We noted that Kearney strongly supported federal legislation requiring that agencies like DCF seek termination of parental rights whenever a parent hadn't turned around his or her entire life in just 12 months. We noted that, at that point,

Kearney had had more than twice as much time just to show progress at DCF, and concluded: "Maybe it's time to consider whether Kearney's right to run DCF should be terminated – because Florida's vulnerable children can't wait."

Though no one knew it at the time, when we issued that call to discuss what the *Orlando Sentinel* now aptly describes as "the Kearney problem,"⁶¹ Rilya Wilson already may have been missing for a month.

Kathleen Kearney is a profoundly tragic figure. We don't doubt for a moment her passionate concern for children and her

desire to improve their lives. We're sure that when she was asked to lead DCF she viewed it as the chance of a lifetime.

But Kearney is, to use that most popular phrase in child welfare agencies, "in denial." She is utterly blind to the consequences of the take-the-child-and-run mentality she has brought to DCF.

For the sake of the very children she wants so much to help, she must be replaced.

Step 2: An exhaustive, nationwide search must be conducted for Kearney's replacement.

Governor Bush should appoint a broad-based search committee to find the nation's most visionary, most effective child welfare administrator – and do whatever it takes to persuade her or him to take the toughest job in child welfare. (If that means, for example, substantially raising the salary, to a rate higher than the Governor's, then do it. It's a tougher job). In naming the committee the Governor should do the opposite of what he did with the Blue Ribbon Panel: He should name a large group with a generous representation of the agency's many critics.

Step 3: Restore the "good name" of what was once the Division of Family Safety and Preservation.

Symbols are important. When Kathleen Kearney took office she changed the name of DCF's Division of Family Safety and Preservation. She erased the last two words. The first act of the next DCF Secretary should be to put those words back.

Step 4: Take a "best practices" tour.

The new secretary, all of the regional directors and some frontline workers and supervisors should visit some of the few places around the country that have made huge strides in reforming child welfare. They should visit Alabama, where, as a re-

sult of a lawsuit settlement, counties rebuilding their child welfare systems to emphasize family preservation have slashed their foster care populations even as an independent court-appointed monitor has found that children are safer now than before the changes. The monitor has said that in the counties that have adopted the new approach caseworkers are "practicing as well as we could find in the United States."⁶² and the federal judge overseeing the settlement says "it's getting to be a pleasure" to hear quarterly reports on the child welfare agency's progress.⁶³

They should visit Pittsburgh and surrounding Allegheny County, Pa. where the foster care population has been cut by 29 percent since 1997. At the same time, reabuse of children left in their own homes has declined, and, in this county of 1.3 million people, there has been only one death of a child previously "known to the system" since January, 1997.⁶⁴

Step 5: The new DCF Secretary should ask the Annie E. Casey Foundation to appoint a panel of national experts to advise him or her.

At the beginning of this report, we discussed how New York City's child welfare agency, once heading in exactly the same direction as Florida, was turned around. Crucial to that change was the work of a group called the Special Child Welfare Advisory Panel for New York City.

The Panel was created by the Casey Foundation under terms of a class-action lawsuit settlement. It had little real power beyond the power to persuade and many advocates, ourselves included, thought the settlement was too weak. We also felt the Panel's initial reports were too kind to the agency.

But the Panel actually was intervening in the agency the way a good child welfare agency should intervene in a family. It was focusing on what the agency was doing

right and encouraging it. As a result of this “strengths-based intervention,” the agency leaders became less defensive and more willing to listen to ideas they otherwise would have dismissed. So they really did change direction.

The process did have one unfortunate side effect: It tended to immunize the agency from legitimate criticism of its remaining failings, even when the Panel itself had not addressed those particular issues. As we noted at the outset, New York City still has a long way to go, and to the very end the head of the agency, Nicholas Scopetta, had significant blind spots.

But on balance, the New York City child welfare system is far better with the Panel than it would have been without it. A similar panel is now at work as a result of a lawsuit settlement in Tennessee.

A reform-minded DCF secretary with a competent leadership team has nothing to fear from this kind of panel. On the contrary, such a panel will buy the Secretary time to get the job done, even as it helps her or him figure out how to do it.

Step 6: Make sure that every contract and every subcontract with every “provider” of child welfare services contains financial incentives that encourage those agencies to find safe, permanent homes for children and discourage them from allowing children to languish in foster care.

The first six steps are presented in the order they need to be undertaken. Were they presented in order of importance, this would be number one.

Although people in Florida talk about “privatization” as though it is some radical new idea, in many parts of the country most child welfare has been contracted out to private agencies for decades.

And in almost every case, the government agencies doing the contracting have ignored the most fundamental rule of

any market: You get what you pay for.

So private agencies are told that their first job is to reunite children safely with their birth parents, or, if that is not possible, find them good adoptive homes. But these agencies are paid on a per diem basis – that is, they get paid for each day they keep each child in care. The longer they let foster care drag on, the more money they get.

So the governments that pay these agencies don’t get what they say they want. Instead, they get what they pay for.

At the beginning of this report, we noted that Illinois went through a foster care panic much like those in New York City and Florida.

Four years into the panic, Illinois officials figured out that you get what you pay for. As in New York, those officials had outside help: The American Civil Liberties Union of Illinois, which had a long-standing consent decree as a result of litigation against the Illinois child welfare agency, had to drag the agency into this realization.

Now, private agencies in Illinois are paid for permanence. They are rewarded for adoptions (many of which are in fact, conversions of kinship placements to “subsidized guardianships”) *and* for keeping children safely in their own homes. They are penalized financially for allowing children to languish in foster care.⁶⁵

Once this new system was put in place, amazing things began to happen. The “intractable” became tractable, the “dysfunctional” became functional and the state’s foster care population plummeted from 50,727⁶⁶ in 1997 to 24,558 as of April 30, 2002,⁶⁷ That’s probably at least 7,400 fewer foster children than in Florida. One large private agency in southern Illinois is even closing an office and laying off staff in its foster care program because there are so many fewer foster children,⁶⁸ a fact that

helps explain why private agencies generally resist so fiercely any effort to get rid of per diem reimbursement.

And there was no compromise of safety. Children allowed to remain in their own homes with services, following abuse reports, were less likely to be *reabused* than children were likely to be abused in foster care. And the overall rate of reabuse of children left in their own homes has declined along with the foster care population.⁶⁹

Agencies like DCF will not be able to do their jobs until CPS stands for child *poverty* services as well as child protective services.

So the most crucial issue for Florida as it embarks on privatization is not whether or not services will be privatized. As we noted in our previous reports, there is no evidence that privatization per se makes services better – or worse. The key issue is how the private agencies will be paid.

Giving “lead agencies” huge lump sum payments is not enough of a change. These agencies are themselves so large and powerful that, if they spend too much on foster care and run low on money, they’ll just go running to the legislature for more.

Rather, the lead agencies themselves must be required to incorporate financial incentives for permanence into all of *their* contracts.

These incentives must encourage both safety and permanency. A contract that simply encourages returning children home can indeed lead to returning children to unsafe homes – just as the contract with

the Task Force may have led to improper case closings.

But this isn’t that hard to avoid. Contracts need to include provisions monitoring how often children returned home have to come back into foster care. Agencies that have too many children coming back need to suffer financial penalties.

Step 7: Make provision of hard services to ameliorate the worst aspects of poverty a routine part of the work of DCF.

A crucial step toward keeping children safe and families together is ending the confusion of poverty with child “neglect.” Agencies like DCF will not be able to do their jobs until CPS stands for child *poverty* services as well as child protective services. This does not mean Florida has to end poverty as we know it – though the first state to do so will come closer than any other to eradicating child maltreatment.

It does mean that DCF must be ready to cushion poverty’s worst blows. It must have funds available to provide the first and last month’s rent and a security deposit when a family faces destruction because of lack of housing. It must be able to subsidize some of the rent in that new apartment, if that’s what it takes to keep the family together. It must be able to provide safe, subsidized day care to every parent who needs it to avoid a “lack of supervision” charge.

Frontline caseworkers need what, in Alabama, are called “flex funds,” a pool of money – perhaps \$1,000 per family -- to use on one-shot purchases for whatever that family may need.

Step 8: Establish a statewide Intensive Family Preservation Services Program that is available to every family that needs it and rigorously follows the model established by the first such program, Homebuilders, in Washington State. Privatization contracts with “lead agencies” should require them to provide

this service.

Programs that rigorously follow this model have been shown time and time again to keep families safely together – indeed, they do it with a far better track record for safety than foster care. A detailed discussion of these programs can be found in *Shadow on the Sunshine State*.

Florida claims to have such a program. It doesn't.

Under the Homebuilders program, the intervention lasts for no more than six weeks – after which the family is linked to less intensive help – but the intervention is extremely intense. The caseworker has no more than three families to deal with at a time – ideally no more than two. (Because intervention at this intensive level is brief, the program still costs less than foster care). With such a small caseload, the worker can help a family for several hours at a time. During that time, the worker combines traditional counseling and parent education with hard services such as those described in Step 7. The worker can see how problems develop, and the worker can see if it really is safe to leave the child in the home. That's one of the reasons these programs have a better track record for safety than foster care.

But the people responsible for Florida's attempt to imitate this model, Family Builders, made a crucial mistake: Someone apparently decided that if a caseload of three works well, a caseload of six will work almost as well. So in Family Builders, the workers stick around longer – for up to four months – but the worker's attention is divided among six different families.⁷⁰

This "dilution" of a good model program is a common problem in child welfare all over the country.⁷¹

In addition, in a true Intensive Family Preservation program, the worker is at the family's home within 24 hours of the

case being referred. That doesn't happen in Florida either.

According to one of the 12 committees/commissions/panels that have studied DCF, the state's Family Safety Task Force, the Family Builders program is characterized by long delays and waiting lists, as well as diluted services.

Step 9: Bring the Family to Family program to Florida.

This Casey Foundation initiative probably is best known for "Team Decisionmaking" in which either in an attempt to avert a placement or in the hours immediately afterwards, everyone who knows a particular family and may be able to help – extended family, friends, neighbors, clergy, as well as child welfare agency staff -- meet together to develop a plan to help that family safely stay together.

But that is just one aspect of the program. Family to Family emphasizes bringing foster care to the same neighborhoods as most foster children, so when a child must be placed, he doesn't lose all his friends or have to change schools. Visits between birth parents and foster children are much easier, and foster parents are encouraged to work as mentors to birth parents instead of seeing themselves as adversaries. Child welfare agencies themselves move from centralized downtown units to neighborhood-based centers.

An independent evaluation found that, where Family to Family was implemented, fewer children were taken away, placements were shorter, and there was less bouncing of children from foster home to foster home.

Most important: Even though cases in which children ultimately *were* taken away and placed in foster care were more difficult, there was no increase in the recidivism rate, that is, the rate at which children returned home had to be placed in foster care again, and in some locations recidivism

decreased.⁷² That means all this positive change was done while making children safer.

Step 10: Take a national model program that already exists in a few Florida neighborhoods and expand it statewide.

Family to Family is one of two major national initiatives to rebuild child protective services. Jacksonville was one of the first four sites in the nation for the other: Community Partnerships for Child Protection.

Originally a project of the Edna McConnell Clark Foundation, the partnerships now are overseen by America's leading child welfare think tank, the Center for the Study of Social Policy.

At the heart of the partnership is mobilizing residents of some of the poorest communities in the United States to support each other, watch out for each other, and build trust among themselves and with child protective services.

In Jacksonville, the partnership brought residents together by first showing that it could help them. Residents got concrete help to ameliorate the worst problems of poverty; then they could help each other.

So when a mother left her young children home alone and was arrested for child neglect, there already were neighbors taking in the children by the time police arrived. Partnership staff knew the neighbors, and they knew the people at DCF, so they could persuade DCF the children would be safe this way – and the neighbors would keep an eye on the mother and help her to keep the family together when she got out of jail.

In another case, a family in a housing project was about to be evicted because they couldn't keep their house clean. Lack of housing often is a cause of child removal. Then a neighbor came forward.

“The two were not friends,” according to a report on the partnership, “but the neighbor said she hated to see a family thrown out on the street.” So she and her son offered to help the mother clean her apartment.

A committee of neighbors coordinates the Partnership's version of Team Decisionmaking, called “Individualized Courses of Action.”

And DCF isn't a remote bureaucracy. It's based, along with many other social services, at a nearby high school. “Two years ago I was leery of going into these places,” says one DCF worker. “Now there's a wave, a friendly face. I used to be treated like The Man, like the police, and I could not get any information. The attitude has really changed.”

Unfortunately, that worker seems to be an exception. Although the community has tried to reach out to DCF, many DCF workers have refused to meet the community halfway.⁷³

Barbara Alexander, Executive Director of the First Coast Family Center, which oversees the partnership in Jacksonville, praises regional administrators for supporting the program. But among many workers, she says, “There is still a 'detain, detain, detain' mentality, and once [the children are] detained, it's hell getting them home.”

She says the case of the 11 children taken because their home was dirty and overcrowded is a classic example. (See page 5.)⁷⁴

After the publication of *Shadow on the Sunshine State*, Kearney expanded the Community Partnership program – but only to 13 neighborhoods and only with federal funds.

But Alexander is concerned that privatization may undercut these efforts.

“I understand that three of the six [partnership] programs have now been merged with the community-based care ef-

forts, which means the funding may easily get co-mingled with foster care and protective services funding, and prevention will again lose out.

“If our program is merged with the new community-based care group who just started the take-over here in Duval County, I have great concern that the prevention potential of the program will simply disappear. If we want to stop the influx of children into foster care, we must focus on prevention.”

A new DCF Secretary should protect the partnerships from losing out as a result of privatization. And a new DCF Secretary should take the partnership program statewide.

Step 11: Florida must provide sufficient funding to make drug treatment geared to the needs of parents, usually mothers, available immediately to any parent who wants it. This must include inpatient programs where parents can live with their children.

There are many cases in which the key barrier to keeping a family together is a parent’s substance abuse. Some would argue that it is not worth even bothering with such parents. But the reason to provide treatment is not for the sake of the parents, but for their children. And, as we explained in *Shadow on the Sunshine State*, the evidence for that comes from Florida.

In a University of Florida study of “crack babies” one group was placed in foster care, another with birth mothers able to care for them. After six months, the babies were tested using all the usual measures of infant development: rolling over, sitting up, reaching out. Consistently, the children placed with their birth mothers did better. For the foster children, the separation from their mothers was more toxic than the cocaine. It is extremely difficult to take a swing at “bad mothers” without the blow landing on their children. Therefore, if we really believe all the rhetoric about the needs

of the children coming first, we must put those needs before anything – even our anger at their parents.⁷⁵

Step 12: Quality legal representation must be available to all children and all parents who must face DCF.

As things stand now, most children are utterly defenseless when facing DCF in court. And parents may fare little better.

“If our program is merged with the new community-based care group who just started the take-over here in Duval County, I have great concern that the prevention potential of the program will simply disappear.”

--Barbara Alexander, Executive Director,
First Coast Family Center, Jacksonville

In theory, every child taken into DCF custody is supposed to have a “guardian ad litem.” In Florida, the guardian is a citizen volunteer.⁷⁶ In fact, it’s been widely estimated that only about half of such children actually have such a volunteer assigned to their case. There have been proposals to increase funding sufficiently to provide such a guardian to every child – the latest from the Blue Ribbon Panel.

That would be a minimal first step in the right direction. But it is not nearly enough.

That’s because the role of the guardian is inherently problematic.

When the parties assemble in court, DCF has a lawyer fighting for whatever DCF wants. If the parents are lucky, they have the same. But the job of the guardian is to fight for what the *guardian* thinks is best for the child – even if the child dis-

agrees. The guardian may make the court aware of what the child wants but, if the guardian thinks that is bad for the child, the guardian fights against the child's wishes. That can mean that the only party without a strong advocate in his or her corner is the child.

Dare to be independent of DCF, and DCF will fight dirty.

It is not clear that the Blue Ribbon Panel understood this. Their report states that: "Without their guardians ad litem, many of Florida's at-risk children would have no one to represent them as individuals, as small people with big individual needs, thoughts, problems and aspirations."

But a child whose guardian disagrees with what the child wants still is largely out of luck in this regard, even if that child still is better off than she or he would be with no guardian at all.

At its worst, this can lead to a betrayal of a child's trust. In a 1998 Broward County case involving teenagers who ran away from a foster home in an effort to be with their parents, a case that appeared to revolve largely around the family's poverty, the guardian was so hostile to the children's wishes that she quit the case and then wrote a letter to the editor of the *Sun-Sentinel* attacking the children by name – while lavishing fulsome praise on the judge handling the case: Kathleen Kearney.⁷⁷

Of course most guardians would never behave in such a manner. Indeed, it was a law guardian program that helped blow the whistle on wrongful removal by polling its members and discovering they felt that 20 percent of the children DCF wanted to take away did not need to be

taken from their homes. (See *The Lengthening Shadow* for a detailed discussion of this survey).

This result is all the more remarkable considering that, since there are not enough guardians to go around, they generally are assigned to the most serious cases. In addition, contrary to the implication in the Blue Ribbon Panel report,⁷⁸ because they are volunteers who can devote many hours to the work, guardians are *not* likely to come from similar backgrounds to the parents they are evaluating. Says one guardian in Miami: "There are few males, fewer black males, and even fewer who speak Creole."⁷⁹

So for many reasons, guardians are prone to accept DCF's world view – and DCF's idea of how to resolve a case – too easily.

And when they don't, there can be hell to pay.

When the head of the law guardian program in Broward County, Jeannette Wagner, asked attorney Howard Talenfeld to represent a child she said was being denied desperately-needed services by DCF, she says Broward DCF regional director Jack Moss threatened the program's funding from Broward's Children's Services Council. Wagner says Moss told her: "I have friends at the courthouse, and will not give my support to the Children's Services Council for the guardians."

And Wagner alleges that Moss said something else. Referring to Talenfeld, who has in the past filed class action litigation against DCF, Moss allegedly asked Wagner: "Are you with 'the terrorists' or are you with us?"

Moss denies all of this.⁸⁰

But he doesn't deny filing a public records request for Wagner's personnel file, and then attacking the credibility of the widely-respected 14-year veteran guardian, not on the merits of any argument she has

put forward, but because she doesn't have a college degree.

The message is clear: Dare to be independent of DCF, and DCF will fight dirty.

Wagner resigned in late May. Child advocates from all over the county, including several known to have advanced degrees, are begging her to change her mind.⁸¹

No matter how good the guardian is, every child old enough to have a rational preference should have someone fighting for what that child wants. That's not because what the child wants is always what he or she should have. Sometimes what a child wants can be disastrous for that child. But determining which of many competing plans is best should be the judge's job.

Therefore, every Florida community should have an institutional provider of legal services for children – and every child involved in these proceedings should have a lawyer fighting for whatever that child wants.

The guardian program should continue to exist as well, with the guardians continuing to investigate cases and recommending to the court what they think is best for the children. There are communities across the country where children are given lawyers as well as having a volunteer guardian assigned to the case.

While children have no representation, parents don't necessarily have representation that is meaningful. Although indigent parents are entitled to representation, that representation may come in the form of an attorney who lacks the time and resources to provide adequate counsel. Some overcome these obstacles and provide excellent representation anyway. Others don't.

Florida needs a statewide office to represent indigent accused parents in child welfare proceedings. That office needs to

have resources at least equal to what DCF spends to prosecute such cases.

The 12-Step Program concentrates on family preservation more than family support because these are the programs that are least popular politically – and least likely to be funded by legislators if they are more interested in making themselves look good than in actually helping children.

But other, more popular programs also are worthy, ranging from the large-scale statewide Healthy Families Florida program, to smaller efforts like the Hibiscus Children's Center's crisis nursery which allows parents to leave their children for brief periods without turning over custody and control to the state. The program also provides concrete help to families to help them keep their children. (The program is a perennial target for proposed state budget cuts).

OTHER NEEDED CHANGES

This 12-Step Program can set DCF well on the road to recovery. But there are other things that can be done as well:

- **A new DCF Secretary must end the culture of secrecy at the agency.**

Some of the secrecy is required by state laws which keep many records secret. In theory that's supposed to protect children from embarrassment. In fact, it allows DCF to cover its own incompetence and impede real reform.

Laws should be changed to provide a rebuttable presumption that almost all records in child protection cases are open. There would be limited exceptions for things like names of people reporting abuse and requesting anonymity.⁸²

Lawyers for children or parents should be able to go to court and request that some or all documents be kept secret. But a judge should agree to this only if those law-

yers can show by clear and convincing evidence that disclosure would do serious harm to a child or the child's siblings. And then the judge should be allowed to withhold only the minimum amount of information necessary to prevent that harm.

DCF should not even be allowed to *ask* for secrecy – since DCF has no interest in secrecy other than to hide its own failings.

Any move toward openness produces Chicken Little-style warnings about embarrassing children. But the same warnings were issued before Florida opened its child welfare court hearings to the press and public (except for termination of parental rights hearings which, for no good reason, remain closed) and the sky did not fall.

It is possible that a rebuttable presumption of open records might at some point embarrass a child. But given the dismal record of a Department of Children and Families that can so easily cover up its mistakes, an open, accountable system is one in which more children are likely to live long enough to blush.

And DCF's culture of secrecy goes beyond anything required by law.

--Whereas in Illinois, reliable up-to-date data on child abuse and foster care are just a few mouse clicks away on the state child welfare agency's website, Florida never offered comparable data, and the information that is available actually has been reduced recently.

--Whereas in Iowa, one can get data on child abuse fatalities right up to the previous month with a five-minute phone call, in Florida, fatality data typically are nearly a year old when they are released.

--DCF insisted that the judge overseeing the Rilya Wilson case had no authority to examine the department's decision to remove Rilya's sister from the home of Gerylyn Graham. DCF's lawyer wouldn't even tell the judge where Rilya was placed – until a higher court set DCF straight.

It is possible that a rebuttable presumption of open records might at some point embarrass a child. But given the dismal record of a Department of Children and Families that can so easily cover up its mistakes, an open, accountable system is one in which more children are likely to live long enough to blush.

--When DCF's nominally independent Inspector General tried to answer reporter's questions at a recent legislative hearing, a DCF public relations person repeatedly interrupted and answered on the inspector general's behalf.⁸³

--As noted earlier, Kearney even has withheld fatality data from the state committee legally charged with reviewing it for so long they've decided to subpoena it.

Indeed, the culture of secrecy is so ingrained at DCF that someone answering the phone there recently said she was prohibited from giving out the direct office phone number for a public information officer.⁸⁴

• **All interviews conducted by DCF or law enforcement personnel in the course of child maltreatment investigations should be, at a minimum, audiotaped. For interviews conducted at DCF offices or similar settings, videotape is preferable. Information from any interview that is not taped should be inadmissible in all court proceedings.**

Over and over again, all over the country, one hears the same refrain from victimized families: The worker was selective. The worker wrote down only what supported her position and ignored the rest. As one victim in another state, later effectively proven innocent, told a reporter: “They lie, they lie, they awfully lie.”⁸⁵

If DCF thinks that’s unfair, then let the agency prove it. Tape all the interviews, and then the people of Florida will know. Indeed, DCF should welcome this requirement, since it isn’t just a way to protect the innocent – it’s a way to convict the guilty. A defense lawyer can’t successfully claim that a child was manipulated or a parent’s comments were distorted if there is a tape that proves otherwise.

And even when it is clear that workers are not lying – and in most cases, they probably do not misrepresent facts on purpose -- taping still is essential.

A basic tenet of communications theory is that people tend to hear what they want to hear or what they expect to hear. Everything we hear is filtered through our life experiences, our beliefs, and our prejudices.

There is no excuse *not* to require that every interview done by a DCF worker in the field be, at a minimum, audiotaped and every interview done at a DCF office or similar facility be videotaped.

As important as requiring taping is a requirement that interviews that are not taped be treated, in effect, as though they don’t exist.

In criminal cases, evidence obtained improperly cannot be admitted – no matter how compelling that evidence may be. That’s because such a requirement is the only way to be sure that police are scrupulous about the rights of citizens when they gather evidence.

If taping is “required,” but notes from interviews that were not taped still can

be used in court, it is an invitation for tape recorders to “jam,” workers to “forget” and batteries to “die” on a regular basis.

• **The standard of proof in all court proceedings should be raised from the current “preponderance of the evidence” standard to “clear and convincing”** The standard also should apply when a worker decides to “confirm” alleged maltreatment.

There are few punishments one can inflict on a *child* that are more severe than needlessly tearing away his family. And yet, when it’s time for courts to decide to place a child in foster care, they do not apply the standard used to convict someone accused of murdering a child – “beyond a reasonable doubt,” or even the middle standard, “clear and convincing” evidence. Instead, courts in Florida and most other states apply the lowest standard of proof, “preponderance of the evidence,” the same standard used to decide which insurance company pays for a fender-bender.

Only at the very end, when the issue is termination of parental rights, does the standard rise to “clear and convincing” – and it took a U.S Supreme Court case to make that the law of the land in all 50 states.⁸⁶

The “clear and convincing” standard should be the standard for every decision, from substantiating a case, through initial removal, through continuing foster care.

Opponents say, in effect, that if DCF workers ever actually had to provide real evidence that a parent did something wrong before they took away the children, then children might be left in unsafe homes.

But if the standard is not raised, many more children will be subject to the unconscionable trauma of needless foster care – and some of them will be abused in foster care itself. Furthermore, the system will continue to be overwhelmed and that

will lead to more children in real danger being missed.

- **Raise pay for caseworkers and supervisors.** Most frontline workers for DCF are not jack-booted thugs who relish tearing children from their parents. Most of the time, they are underprepared, under-trained and inexperienced. They're given overwhelming caseloads and sent out to make life and death decisions.

All over the country, when child welfare agencies come under fire, they put forward the sham of "accreditation" as a solution.

Reducing those caseloads is crucial if DCF is ever to be able to find outstanding candidates for the job – and keep them on the job – and again, that requires taking away fewer children. But it's also important to pay frontline caseworkers commensurate with the importance and difficulty of their jobs. In Florida – and most other states as well – that will require big pay increases – bigger than those contemplated by the Blue Ribbon Panel.

WHAT NOT TO DO

The steps above are some of the ways to turn DCF around and get it moving forward again. But no matter how bad things are, one should never assume they can't get worse. And there also are ideas floating around that actually would make the Florida child welfare system worse. So along with the "dos" here are some "don'ts:"

- **Don't institutionalize more children.** It almost always happens when the

failings of foster care are exposed: Someone says that orphanages can't be worse.

In fact, whether they are called "group homes" or "congregate care facilities" or any number of other euphemisms, orphanages *are* worse.

There is an overwhelming consensus in the scholarly literature that even the so-called "good" institutions do serious emotional harm to children.⁸⁷ And, as the case of SOS Children's Village makes painfully clear, even the model facilities often don't stay models for long.

Nor is it true that group homes will provide "stability" for children. Research backs up what the experience of SOS Children's Village teaches: Orphanage "house parents" tend to quit every year or two, making placement in an institution no more "stable" than a succession of foster homes.⁸⁸ And orphanages cost a fortune – at least \$36,500 per year per child.⁸⁹

The assumption that the only alternative to foster care is the orphanage is the result of nearly a decade of smearing the best alternative for most children most of the time: Providing the services needed so they don't have to be taken away from their parents in the first place.

Get the children who don't need to be in foster care back home and there will be plenty of room in good, safe foster homes for children in real danger. And no one will even *think* of bringing back orphanages.

- **Don't fall for "accreditation."** It was disturbing, but not surprising, to see that the Blue Ribbon Panel recommended that DCF pursue "accreditation." All over the country, when child welfare agencies come under fire, they put forward the sham of "accreditation" as a solution.

It's being pushed in Washington State, another severely troubled system. There, an editorial writer bought the sales pitch, calling accreditation "the gold standard" for child welfare agencies.⁹⁰ A few

months later, exactly the same phrase turns up in the Blue Ribbon Panel report. Perhaps they read the same press release. They certainly fell for the same hype.

Gold standard? It's not even tin.

And for reasons discussed below, it is a particularly unsuitable solution for DCF.

Accreditation is a way for agencies to get an unearned seal of approval by keeping their paperwork in order - and then throw it in the face of critics, in order to prevent real change. That's why child welfare agencies rush to embrace the idea whenever the alternative is real reform.

Indeed, it is quite possible, depending on the circumstances, for an agency to become fully "accredited" without the "accreditors" so much as laying eyes on one real live foster child.

To understand the limits of accreditation, it's important to understand the group that is pushing it. The "Council on Accreditation" is a creation of the agencies themselves and their trade association, the Child Welfare League of America.

The name notwithstanding, CWLA is not a child advocacy organization - it is an *agency* advocacy organization. It is funded by the dues of its member agencies and exists to support them. It is to children as a hypothetical National Nursing Home Association is to the elderly.

Of course there are some very good people at CWLA and sometimes the interests of the agencies and the children coincide. But when they don't, CWLA puts the interests of its members first - just as any trade association does.

This became starkly apparent in 1999 when the *Dayton Daily News* exposed hideous conditions at an Ohio-based private agency.

Among the findings:

- Foster homes that were wretched
- Group homes that were worse

--The head of the agency had a conviction for contributing to the delinquency of a minor - a foster child who had been in his care.⁹¹

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When the *Dayton Daily News* e-mailed its findings to CWLA's acting director, (who is not the current director) she *should* have said that such conditions would not be tolerated in a CWLA member agency. But she didn't. The *Daily News* describes what happened instead:

"After reading the series, Shirley Marcus Allen, the league's director, sent an e-mail to Joyce Johnson, the group's director of public relations, saying 'These are all horrible stories. I have no desire to talk to the reporters on this if I don't have to. Find something more positive for me to report on.' Although intended as an internal document, Allen sent the e-mail to the newspaper by mistake."⁹²

Yet the Blue Ribbon Panel referred to the current CWLA director as a "major witness" and declared itself "heartened" to hear him say: "I am encouraged by the breadth of presentations that you have called in."

One more thing worth knowing about the agency that was the subject of the *Dayton Daily News* series: It was "accredited."⁹³

The Council on Accreditation is self-policing and the self-policeman is almost always the laziest cop on the beat.

The "Council on Accreditation" doesn't really accredit agencies at all. It accredits file cabinets.

As noted above, it is possible for an agency to be fully accredited without the accreditors actually even seeing a foster child.

That's because:

-- The accreditors don't inspect foster homes.

-- The accreditors don't do surprise inspections of anything. Group homes and institutions get "no more than" a month's advance notice. (There were no inspections at all until the *Dayton Daily News* exposed that fact).

-- They inspect group homes only if the agency seeking accreditation is running them directly. Since DCF doesn't run its own group homes, and Florida is trying to privatize everything, DCF itself could be accredited without the accreditors looking at even one foster home or group home.

-- The accreditation process does nothing to examine whether a decision to remove a child in the first place is appropriate.

-- And, of course, the accreditation process is dependent on information in case files being honest.⁹⁴

In short, the "Council on Accreditation" doesn't really accredit agencies at all. It accredits file cabinets.

• **Don't reorganize DCF.** Child welfare systems across the country have just

about every organizational structure imaginable. There are agencies just for child welfare and agencies that include other functions as well. There are state-run systems and county-run systems. There are places where services are provided almost entirely by public agencies and places where almost all services are provided by private agencies.

And we are aware of no evidence that any of it makes any difference.

One Florida legislator has said the solution to the current problems in Florida is to "let the counties run it and give them the money."⁹⁵

Eleven states have such systems, in which counties provide the services and the state provides only limited oversight.

But when the *Denver Post* exposed hideous conditions in foster care in one of those states, Colorado, critics said county control was exactly the problem, calling it "a system that, critics say, diffuses authority and accountability."⁹⁶

(This is not a recommendation to stop privatization, which already is in progress – nor is it a recommendation to continue it, since privatization per se is irrelevant. Rather the point here is that no one should be fooled into thinking that one more rearranging of the DCF deck chairs will prevent Florida's version of the *Titanic* from sinking).

Reorganization is what you do when you don't have any *real* ideas.

THE COST

In addition to the cost to a child's soul, tearing children from their parents takes a great deal out of the taxpayer's wallet. Foster care is expensive. Group homes are more expensive. Orphanages and other institutions are almost unbelievably expensive.

Programs that keep families together cost a lot less. So in the long run, many of

the recommendations in our 12-Step Program will save money. But in the short run, there will be additional costs. And some of the recommendations, such as expanding drug treatment and raising worker pay, have steep price tags.

But so do jails, mental institutions, and all the other places we build when we fail our children.

Child welfare has traditionally been underfunded in Florida, and many other states as well.

Now, the bill is due.

NOTES:

- ¹ The Annie E. Casey Foundation also helps to fund NCCPR.
- ² Nina Bernstein, "City Will Close Office Running Foster Program," *The New York Times*, August 21, 2001.
- ³ Memorandum and Order of Judge Jack B. Weinstein, In re Sharwline Nicholson #00-CV-2229, U.S. District Court for the Eastern District of New York. A member of the NCCPR Board of Directors was co-counsel for the plaintiffs in this case.
- ⁴ The comment was made by Juvenile Judge Julianne Piggotte of Daytona Beach. Bob Mahlborg, "Criticism of child-protection chief intensifies," *Orlando Sentinel*, May 21, 2002.
- ⁵ Clay Lambert, "DCF struggles to regain lost credibility," *The Palm Beach Post*, May 10, 2002.
- ⁶ Joseph H. Brown, "Remember who first lost Rilya," *Tampa Tribune*, May 26, 2002.
- ⁷ The state-by-state data were faxed to NCCPR by the Children's Bureau, U.S. Department of Health and Human Services.
- ⁸ Steve Otto, "Desperate to Save the Children," *Tampa Tribune*, Dec. 8, 1999 Metro, p. 1.
- ⁹ Karin Meadows, "Cries for help are going unheard," *Orlando Sentinel* (Lake County Edition) Dec. 14, 1999, p. 1; Rich McKay, "DCF in grip of 'foster-care panic'" *Orlando Sentinel*, (Lake County Edition) Jan. 30, 2000.
- ¹⁰ Carol Marbin Miller and Peter Wallsten, "More money hasn't solved DCF's woes," *Miami Herald*, May 25, 2002.
- ¹¹ E.g., Ken Thomas, "Case of missing girl the latest setback for state agency," Associated Press, May 3, 2002. Other news accounts give a higher figure – about 44,000. In all likelihood, however, this figure includes both children in foster care and children who have been allowed to stay in their own homes under court supervision. Again, though, DCF is so unreliable about numbers that this is, frankly, only an educated guess.
- ¹² Rene Stutzman, "DCF lacks beds as kids stream in," *Orlando Sentinel*, June 7, 2002.
- ¹³ Carol Marbin Miller, "Child abuse by state alleged at town hall meeting," *Miami Herald*, February 16, 2002.
- ¹⁴ Robin Williams Adams, "Family bogged down with new expenses," *The (Lakeland) Ledger*, November 22, 2001, p.A1; Jeff Kunerth, "Kind hearts, money may save home for Orlando couple, 6 grandkids," *Orlando Sentinel*, April 4, 2002, p.A1.
- ¹⁵ Michael Fechter, "Helping Till It Hurts?" *Tampa Tribune*, May 29, 2002, p.1
- ¹⁶ Carol Marbin Miller, "Child abuse backlog soared," *Miami Herald*, March 26, 2002.
- ¹⁷ Governor Bush is seen making this comment during a news story about the Rilya Wilson case broadcast on *Weekend Today*, May 4, 2002.
- ¹⁸ Information concerning the Young family comes from the following stories in the *Florida Times Union*: Steve Patterson, "Troubled family is split as neighbors ask why," April 11, 2002, p.A1, Steve Patterson, "Dad of 11 surrenders to face neglect charges," May 4, 2002, p.B3, Tonyaa Weathersbee, "Reform must take place if child system is to improve," May 13, 2002, p.B3.
- ¹⁹ Personal communication, Barbara Anderson, Executive Director, First Coast Family Center, which runs the Partnership program in Jacksonville. Also: Steve Patterson, "Judge won't return 11 kids to parents," *Florida Times Union*, May 29, 2002.
- ²⁰ Paul Pinkham and Veronica Chapin, "Foster care lapses appall child advocates," *Florida Times Union*, September 8, 2001.
- ²¹ "Little Girl Lost; The Mysterious Disappearance of Kayla McKean," *Dateline NBC*, Transcript, October 4, 1999.
- ²² Carol Marbin Miller, "DCF, oversight groups at odds," *Miami Herald*, May 8, 2002.
- ²³ Carol Marbin Miller and Charles Rabin, "Child-welfare system's critics testify in force," *Miami Herald*, May 16, 2002.
- ²⁴ Office of Program Policy Analysis and Government Accountability, *Justification Review, Child Protection Program, Florida Department of Children and Families*, Report No. 01-14, March, 2001.
- ²⁵ Office of Program Policy Analysis and Government Accountability, *Progress Report of Justification Review, Child Protection Program, Florida Department of Children and Families*, Report No. 02-16, March, 2002.
- ²⁶ Carol Marbin Miller, "Agency accused of faking statistics," *Miami Herald*, March 26, 2001.
- ²⁷ Carol Marbin Miller, "Quotas alleged for child abuse caseworkers," *Miami Herald*, March 6, 2002.
- ²⁸ Carol Marbin Miller, "Firm ignored abuse cases, state audit shows," *Miami Herald*, March 2, 2002.
- ²⁹ *Ibid.*
- ³⁰ Carol Marbin Miller, "DCF informed about fired firm," *Miami Herald*, April 30, 2002.
- ³¹ Karla Jackson, "DCF takes more heat during House hearing," *Tampa Tribune*, June 5, 2002.
- ³² Carol Marbin Miller, "DCF got early alert of problem," *Miami Herald*, March 13, 2002.
- ³³ Jackson, Note 31, *Supra*.
- ³⁴ Jim Ash, "DCF can't say why abuse cases backlogged," *The Palm Beach Post*, May 10, 2002.
- ³⁵ Peter Franceschina and Sally Kestin, "Lawyer: Deceit rampant in DCF," *South Florida Sun-Sentinel*, May 15, 2002.
- ³⁶ According to the second OPPAGA report, DCF management recalculated the data by rereading all case files where it already had been called to their attention that abuse was alleged in the foster home. But this is not the same thing as conducting an audit of a random sample of files to see if there also were cases in which alleged abuse had never been brought to their attention before.
- ³⁷ Margaret Taylor, Financial Administrator for DCF was in charge of the audits. In an interview before publication of *The Lengthening Shadow*, she vouched for the adequacy of the sample size and said she believed the audits painted an accurate picture of conditions in each district.
- ³⁸ Several such studies are described, with full author citations, in NCCPR Issue Paper #1, *Foster Care Vs. Family Preservation: The Track Record on Safety*, available at www.nccpr.org
- ³⁹ Progress report, Note 25 *Supra*, p.15.
- ⁴⁰ Anthony Colarossi, "Boys Ranch escapes trial," *Orlando Sentinel* (Lake County edition) January 3, 2001, p.1., Anthony Colarossi, "Rise and fall of the Boys Ranch" *Orlando Sentinel* (Lake County Edition) February 4, 2001, p.1.
- ⁴¹ *The Herald* reports that the drugs are prescribed for 5,115 out of 14,730 foster children "studied by the Department of Children and Families last year." (Carol Marbin Miller, "Mood drugs numb kids' minds, lives," *Miami Herald*, March 19, 2002). It is not known if the same proportion of all foster children is drugged.
- ⁴² Carol Marbin Miller, "Plan curbs mood drugs for kids," *Miami Herald*, March 18, 2002.
- ⁴³ Sandra Mathers, "State locks foster kids in mental ward," *Orlando Sentinel*, April 2, 2002, p.A1.
- ⁴⁴ Robert R. Morin, Jr., "DCF responds to article about foster children," *Orlando Sentinel*, April 6, 2002, p.A17.

⁴⁵ Orphanages never use that term anymore. There's a grand collection of euphemisms, conjured up in the hope that people won't think of them as the institutions that they are. But the only real difference between SOS and the orphanages of yesteryear is that most of the children in such places now have living parents.

⁴⁶ Megan O'Matz, "Model children's home falls short of expectations," *South Florida Sun-Sentinel*, April 21, 2002.

⁴⁷ David Damron, "At-risk kids may vie for same aid," *Orlando Sentinel*, June 1, 2002.

⁴⁸ For a detailed discussion of the law and its consequences, see *Shadow on the Sunshine State* and *The Lengthening Shadow*, both available at www.nccpr.org

⁴⁹ Carol Marbin Miller, "Child abuse backlog soared," *Miami Herald*, March 26, 2002.

⁵⁰ Card is quoted in a press release put out by DCF in response to NCCPR's first Florida report.

⁵¹ Median Family Income: Sarasota: \$37,660, Florida: \$32,877, percentage of population under 18: Sarasota: 16.2%, Florida: 22.8%; children living in poverty: Sarasota: 15.3%, Florida 21.8% Source: <http://quickfacts.census.gov/qfd/states/12/12115.html>

⁵² Karla Jackson, "Change Arrives for Foster Care," *Tampa Tribune*, March 25, 2002

⁵³ Fechter, note 15. *Supra*.

⁵⁴ Walter R. McDonald & Associates, *National Study of Child Protective Service Systems and Reform Efforts: Literature Review* (Washington, DC: U.S. Dept. of Health and Human Services, Administration for Children and Families, March, 2001) pp. 7,8.

⁵⁵ Howard M. Unger, "Many missed signs of boy's abuse," *Sarasota Herald-Tribune*, July 10, 2001, p.A1, and Timothy O'Hara,

"Teacher accused of abuse gets jail," *Sarasota Herald-Tribune*, May 14, 2002, p.BM1.

⁵⁶ *Ibid*.

⁵⁷ Carl Mario Nudi, "Lifalink, YMCA sever foster care partnership," *The Bradenton Herald*, February 5, 2002, p.1C.

⁵⁸ Editorial, "Panel protected Jeb, not Florida's children," *The Palm Beach Post*, May 29, 2002.

⁵⁹ Mark Hollis, "DCF chief had big influence on role of investigative panel," *South Florida Sun-Sentinel*, May 18, 2002; Anita Kumar and Curtis Krueger, "Input on DCF panel gets scrutiny," *St. Petersburg Times*, May 18, 2002.

⁶⁰ The alleged syndrome is described in Norman Polansky, et. al, *Damaged Parents: An Anatomy of Child Neglect* (Chicago: University of Chicago Press, 1981).

⁶¹ Editorial, "No surprises," *Orlando Sentinel*, May 30, 2002, p.A12.

⁶² Bill Poovey, "Court monitor commends Alabama child welfare officials," Associated Press, July 12, 2001.

⁶³ Phillip Rawls, "Judge compliments state on foster care progress," Associated Press, November 6, 2001.

⁶⁴ Data on the current foster care population in Allegheny County are from the county Department of Human Services *2001 Annual Report*. Other data are from personal communication with the public information office at the Allegheny County Department of Human Services and from Allegheny County Department of Human Services, Office of Children, Youth and Families, *Ensuring Permanency in Allegheny County*. A more detailed discussion of how Allegheny County turned its child welfare system around can be found in *The Lengthening Shadow*.

⁶⁵ Author's interview with Benjamin S. Wolf, Director and Counsel, Institutionalized Persons Project, The Roger Baldwin Foundation of ACLU, Inc.

⁶⁶ Illinois Department of Children and Family Services, *Signs of Progress in Child Welfare Reform*, available online at <http://www.state.il.us/dcf/signscase.shtml>

⁶⁷ Illinois Department of Children and Family Services, *Executive Statistical Summary*, April 2002, available online at http://www.state.il.us/dcf/com_communications_execstats.shtml

⁶⁸ Terry Hillig, "Catholic Charities cuts back on foster care; need is less," *St. Louis Post-Dispatch*, May 23, 2002. (St. Clair-Monroe section) p.3.

⁶⁹ Testimony of Jess McDonald, Director, Illinois Department of Children and Families before the Subcommittee on Human Resources, Ways and Means Committee, U.S. House of Representatives, April 22, 1999; see also Illinois Department of Children and Family Services, *Signs of Progress in Child Welfare Reform*, www.state.il.us/dcf/signs.cerap.shtml which documents that reabuse of children left in their own homes has declined as the number of children in foster care has fallen.

⁷⁰ Florida Statutes, Title V, Chapter 39, Section 39.315.

⁷¹ See generally, Lizbeth Schorr, *Common Purpose: Strengthening Families and Neighborhoods to Rebuild America* (New York: Doubleday, 1998).

⁷² C. Usher, D. Gibbs, and J. Wildfire, *Evaluation of Family To Family*, (Research Triangle Park, NC: Research Triangle Institute / Chapel Hill, NC: Jordan Institute For Families, School Of Social Work, University Of North Carolina, December, 1998) available online at <http://www.unc.edu/~lynnu/f2feval.htm>

⁷³ Andrew White, *Citizen Power for Stronger Families: Community Partnerships for Protecting Children, Jacksonville Florida* (New York: Edna McConnell Clark Foundation, undated). Available online at http://www.emcf.org/programs/children/children_pub.htm

⁷⁴ Personal Communication.

⁷⁵ Kathleen Wobie, Marylou Behnke et. al., *To Have and To Hold: A Descriptive Study of Custody Status Following Prenatal Exposure to Cocaine*, paper presented at joint annual meeting of the American Pediatric Society and the Society for Pediatric Research, May 3, 1998.

⁷⁶ In most states the term "guardian ad litem" means a lawyer, and citizen volunteers are generally called Court Appointed Special Advocates.

⁷⁷ Jean Mignolet, "Magala family still ignoring children's needs," *South Florida Sun-Sentinel*, July 15, 1998.

⁷⁸ The panel report states that "Like the children whose interests they represent, guardians ad litem also span the full spectrum of Florida's racial, ethnic, age, income and cultural milieus" but it offers no data. It would take only one guardian from every non-white non-middle class "milieu" to make this statement literally true, while still saying nothing about their proportion in the guardian program.

⁷⁹ Ana Veciana-Suarez, "Voices for the voiceless: Guardians ad litem speak for the children," *Miami Herald*, May 30, 2002. As noted in the text, this headline is inaccurate. The guardians speak for what they think is best, which is not the same as speaking for the children.

⁸⁰ Carol Marbin Miller, "Top DCF official, guardian leader battled," *Miami Herald*, May 31, 2002.

⁸¹ Rafael A. Olmeda, "Director's resignation draws outcry," *South Florida Sun-Sentinel*, May 31, 2002, p.1B.

⁸² Even that exception should not be absolute. If someone accused of child abuse believes he knows the source, has been accused repeatedly and believes it is harassment, the accused should be able to ask a judge to review the record. If the judge agrees the accused is being harassed, the name should be released to the accused, who should be able to sue the accuser.

⁸³ Vickie Chachere, "DCF accused of hiding child abuse files," Associated Press, June 5, 2002.

⁸⁴ John Wark, "For A Public Agency, DCF Likes Its Privacy," *Tampa Tribune*, May 11, 2002.

⁸⁵ M.P. McQueen: "Cradle to Grave: City yanks 4 children after tragedy," *New York Newsday*, March 9, 1992.

⁸⁶ *Santosky v. Kramer*, 455 U.S. 745 (1982). The lawyer who won this case now serves as President of NCCPR.

⁸⁷ Richard A. Wayman, J.D., *Clinical Studies, Survey Review, and Pediatric Research on Risks and Harm to Children and Youth Subjected to Large Residential Institutions, 2001*. (This brief publication is available from NCCPR). See also, *Children's Rights Inc., Current Policy Debate: Myths About Orphanages*, available online at http://www.childrensrights.org/orphanage/orphanage_info.htm

⁸⁸ Children's Rights, Inc., Note 87, *Supra*.

⁸⁹ *Ibid*.

⁹⁰ Editorial, "Fast ruling should return attention to the children," *Seattle Post-Intelligencer*, December 17, 2001.

⁹¹ See Debra Jasper and Elliot Jaspin, "Children often the last to benefit," *Dayton Daily News*, September 26, 1999 and a series of stories on the following four days.

⁹² Elliot Jaspin, "Agency may get renewed scrutiny," *Dayton Daily News*, Sept. 30, 1999.

⁹³ Elliot Jaspin and Mike Wagner, "Inspection of foster homes lax," *Dayton Daily News*, October 5, 1999.

⁹⁴ *Ibid*, and personal communications from Richard Klarberg, President and Chief Executive Officer Council on Accreditation for Children and Family Services, October 4, 2001 and Nicole Hazard, Director of Standards and Evaluation, COA, October 16, 2001.

⁹⁵ Bob Mahlborg, "Some see dissection of DCF as an option," *Orlando Sentinel*, May 25, 2002.

⁹⁶ Patricia Callahan, "Owens plans no change in system," *Denver Post*, May 22, 2000.