

# **Tapeworm in the System:**

**HOW MICHIGAN'S LATTER-DAY ORPHANAGES STARVE  
THE CHILD WELFARE SYSTEM - AND HURT THE CHILDREN**

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*By Richard Wexler, NCCPR Executive Director  
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### **ABOUT NCCPR**

The National Coalition for Child Protection Reform is a non-profit organization whose members have encountered the child protection system in their professional capacities and work to make it better serve America's most vulnerable children. **Board of Directors: President:** *Martin Guggenheim*, former Director of Clinical and Advocacy Programs, New York University School of Law. **Vice President:** *Carolyn Kubitschek*, attorney specializing in child welfare law, former Co-coordinator of Family Law, Legal Services for New York City. **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 Dean for Clinical Affairs, Washington University Law School, St. Louis, former Associate Dean for Clinical Programs, William S. Boyd School of Law, University of Nevada, Las Vegas; *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. Paul Chill*, former Associate Dean, University of Connecticut School of Law; *Prof. Dorothy Roberts*, Northwestern University School of Law, author *Shattered Bonds: The Color of Child Welfare* (Basic Civitas Books: 2002); *Witold "Vic" Walczak*, Legal Director, Greater Pittsburgh Chapter, American Civil Liberties Union Foundation of Pennsylvania; *Ruth White*, Executive director, National Center for Housing and Child Welfare, former Director of Housing and Homelessness, Child Welfare League of America. **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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## **Tapeworm in the System: HOW MICHIGAN'S LATTER-DAY ORPHANAGES STARVE THE CHILD WELFARE SYSTEM – AND HURT THE CHILDREN**

*Alex Chivescu is not a juvenile delinquent. He does not assault his peers. He has no apparent behavioral problems.*

*On the contrary. Alex has a 3.95 grade point average, he's been admitted to Harvard, Columbia and the honors program at the University of Michigan. He is beloved at his high school – and he is so brilliant that he combed databases to find potential foster parents in order to find himself a home.*

*Alex's story was told by the Detroit Free Press.<sup>1</sup> The stories chronicled how he did for himself what neither Michigan's Department of Human Services nor an assortment of private agencies, paid for every day they kept him in foster care, could or would do: find him a family with which to live, so he could stay in the school he loved.*

*Alex was living in the Children's Home of Detroit (now closed) which wasn't actually in Detroit but in Grosse Pointe Woods. He was taken from a mother who loved him dearly, but could not care for him after a head injury left her with bipolar disorder.*

*But the stories left one question unanswered: Why was a brilliant, likable teenager with no particular problems institutionalized? After all, we all know the party line from the people who run such places: They're for children with the most severe problems, the truly intractable cases, the children families simply won't take, or children who refuse to live in families.*

*Doesn't sound much like Alex, does it?*

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*At first, Johnnie (not his real name) sounds more like the kind of case that insti-*

*tutions would use to justify their existence.*

*Look only at the case file maintained by the institution and what would you find? A 13-year-old with behavioral problems so severe he attacked his own sister and had to be hospitalized. So of course, the institutions would claim, his mother simply couldn't handle him. Or, to use the charming phrase institutions use, a phrase that reveals much about how they really feel about the children, they'd probably say he "blows out" of homes and foster homes.*

*But look more closely. It turns out that Johnnie's mother was never supposed to be left on her own.*

*Rather, a court ordered that Johnnie and the family receive Wraparound services, intensive home-based services that have a far better track record for success than orphanages, "residential treatment centers" or any other form of "congregate care."*

*A dispute between a county and the state prevented the family from ever getting the Wraparound services. Counties and the state ration such help because funds to provide it are so scarce. And that's because, though Wraparound costs less than institutionalization, the institutions have scarfed up all the money, leaving little left for alternatives.*

*While the state, the county and the court stalled and bickered, Johnnie deteriorated – and wound up institutionalized again.<sup>2</sup>*

*The very institutions that piously insist there are many children for whom there is no "alternative" are the ones that have a stranglehold on funding that could be used to provide those alternatives.*

There are thousands of children

across Michigan like Johnnie and Alex. We know that because other states take away proportionately fewer children in the first place (as is documented in detail in our previous report on Michigan child welfare, *Cycle of Failure*,<sup>3</sup>) and because other states also place proportionately fewer children in institutions.

Data submitted by the Michigan Department of Human Services to the federal government show that Michigan institutionalizes 15.3 percent of its foster children.<sup>4</sup> The national average is 10.2 percent. And Illinois, considered a national model for keeping children safe, institutionalizes only 8.2 percent.<sup>5</sup> (For more on the numbers, see *Statistics abuse at DHS*, p. 6.)

A study of Michigan child welfare commissioned by the group that calls itself Children's Rights found that children in Michigan "too often linger in institutional settings because [better alternatives] are not available."<sup>6</sup>

The people who run Michigan's institutions – the orphanages, the first-stop parking place "shelters" and the residential treatment centers - are at the heart of what we have come to call the "foster care-industrial complex," the network of private "providers" and their allies paid for every day they hold a child in their institutions or even in family foster homes.

Many of them mean well. Rationalization is powerful, and they have convinced themselves that their institutions are doing good, when the objective evidence says they are not.

But often they are doing these children harm, even as they devour resources desperately needed to rebuild the Michigan child welfare system. Institutional care is the tapeworm in the child welfare system. Like a tapeworm, institutional care is a parasite, sucking the life and energy out of its "host," while giving back nothing in return.

And sometimes the tapeworm's hun-

ger seems insatiable.

A landmark study commissioned by DHS itself, the *Michigan Race Equity Review*, found that some private agencies, legally required by contract to provide services to impoverished parents in their own homes simply refuse to do so, because they can't be bothered venturing into inner-city neighborhoods.<sup>7</sup>

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And take a look at what a committee of the giant Michigan Child Welfare Improvement Task Force charged with studying residential treatment tried to foist on the full Task Force:

- Recommendations that amount to thinly disguised demands for higher rates.

- A recommendation to trap even more children in "shelters" despite the fact that, again, the evidence is overwhelming that such places do nothing their proponents claim.

- A recommendation to build a new network of group homes.

- Only one recommendation called for curbing institutionalization – and it was directed solely at reducing *out-of-state* placements.<sup>8</sup> Of course. After all, the foster care-industrial complex wouldn't want some out-of-state institution raking in *per diems* that could go to Michigan institutions instead.

Fortunately, the recommendation for

shelters was modified so now that idea is only implied<sup>9</sup> – but the providers are certain to use the recommendation to try to get more shelters built. It, and the other bad recommendations are confined to an appendix. And the main report is much better than it could have been – in part because of NCCPR’s hard-hitting advocacy, which turned up the heat under the Task Force.

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Over and over again the Task Force says what NCCPR said first: Michigan takes away too many children who could have safely remained in their own homes had the right kinds of help been made available. Repeatedly, the report calls for reducing foster care and increasing prevention and family preservation. And, as is discussed in detail at the end of this report, it’s clear that NCCPR significantly influenced the Task Force findings.

The Task Force report does not go nearly far enough, however. Really reforming Michigan child welfare requires changes that are more specific and more far-reaching – like the 37 recommendations discussed in detail in *Cycle of Failure*.

Among those recommendations: Michigan should cut the percentage of foster children who are institutionalized in half within five years – and ban the placement of young children entirely.

Unfortunately, even though the Task

Force report is not bad, DHS director Ismael Ahmed, has shown he’s not really interested in what his own Task Force recommends. He truly listens only to the foster care-industrial complex. Ahmed, too, probably means well, but he’s clueless – and has proven himself happy to give the institutional care providers what they want.

So Gov. Jennifer Granholm’s recent Executive Order slashing state spending cuts at least \$19.8 million from prevention programs and basic support for impoverished families. The figure might be as high as \$40 million or more. And then her proposed FY 2010 budget would cut at least \$38 million more. But that same budget gives “providers” who institutionalize children increases for administrative costs and in their *per diems* – the amount they get for every day they warehouse a child.<sup>10</sup>

The Ahmed-Granholm budget increases the incentives for institutionalization, and decreases help to keep children out of the system in the first place. (For details, see “Starving the poor, feeding the tapeworm,” p. 10).

### **A foundation of sand**

Imagine, for a moment, that we were building a child welfare system from scratch.

And suppose somebody said, “I’ve got a great idea! Let’s take young people we claim have the most difficult problems and the worst behavior, and throw them all together in one place – just at the time in their lives when they are most influenced by their peers.” If anyone suggested that, people might well wonder about *his* mental health.

Yet that is exactly what we do.

But, of course, the current system wasn’t planned. It’s a sad accident of history and failed assumptions. Often today’s “residential treatment centers” are simply yesterday’s orphanages with a fancy new name.

## Statistics abuse at DHS

Were there a hotline to which one could report statistics abuse, some people at the Michigan Department of Human Services would have their rights to their pocket calculators terminated.

In NCCPR's first report on Michigan child welfare, we provided data on the proportion of Michigan foster children trapped in institutions on any given day. We reported that while Illinois institutionalizes 8.2 percent of its foster children, and the national average is 10.2 percent, in Michigan, as of 2006, the most recent year for which reliable comparative data are available, it was 14.4 percent.

DHS rushed to claim that wasn't so, and offered a lower figure.

*But it turns out the real figure isn't lower – it's higher. Who says so? DHS.*

On the next page there is a chart prepared by DHS itself as part of its federally-required Child and Family Services Review. Take a look at section II. It reveals that the 2006 figure actually was 15.3 percent, and now it's 15.4 percent.

This document was completed on March 20, 2009. NCCPR's first report was, of course, issued earlier. We had gotten our previous figure from data Michigan submitted to the federal government that are compiled into a database by the Child Welfare League of America. In the following endnote, we've included instructions for recreating this same table.<sup>11</sup>

If, in fact, DHS also has other figures; in other words, if DHS is maintaining the equivalent of "two sets of books," then the question becomes which one to believe. The figures on the next page are from data DHS is required to send to the federal government. The data from the CWLA database also are from data DHS must send to the feds. If a state sends inaccurate data, it can, theoretically, lose federal aid, (though the feds have been known to look the other way at some flagrant bending of the rules, most notably by the state of Kansas.)<sup>12</sup>

In contrast, when DHS produces data for the legislature or the public, it can define things any way it wants. So when there is a conflict, it makes sense to use what Michigan sends to the feds.

In addition, any estimate based solely on a snapshot number – the number of children in foster care on any given day – understates the problem. It fails to account for all the children who may be churned through institutions before the snapshot is taken. So if a child is institutionalized in January and then sent to a foster home in August, when the "snapshot" is taken on September 30 (the end of the federal fiscal year) that child will be listed as in a family foster home – and there will be no indication from that figure that he ever was institutionalized.

It also is striking how quickly DHS claimed it was sure the percentage of children institutionalized really wasn't as high as what DHS itself reported to the federal government - since up to now they haven't been able to produce *anything* quickly. For example, on October 30, 2008, NCCPR asked DHS for county-by-county data on entries into care. This is the kind of basic information that several states and localities make available instantly online. Others have been able to produce these data within a couple of weeks.

But not Michigan. After months of repeated requests, we finally got data for calendar year 2008 in January 2009 – but the last two months were grossly incomplete.

In another request, we asked DHS if the agency could produce something as basic as the total amount of money the agency spends on all forms of substitute care. DHS claimed it could not.<sup>13</sup> In fact, NCCPR has found only one other state, Arizona, that performs as badly. But in light of how quickly DHS rushed to produce figures on institutionalization – figures that contradict what DHS reported to the federal government - we have to wonder if DHS can't provide this basic information, or simply won't.

In that regard, one of the experts hired by the group that calls itself "Children's Rights" for its lawsuit against DHS makes an interesting allegation. As noted in our previous report, according to the expert, John Goad, DHS data on abuse in foster care are misleading and so low as to be laughable. And Goad says DHS reports data to the federal government that it knows or should know are inaccurate.<sup>14</sup>

Does that apply to DHS statistics on institutionalization as well? Could the real figure actually be even higher than 15.3 percent?

# Michigan Child and Family Services Review Data Profile: March 20, 2009

POINT-IN-TIME PERMANENCY PROFILE		Federal FY 2006ab	Federal FY 2007ab	Federal FY 2008ab
	# of Children	% of Children	# of Children	% of Children
<b>I. Foster Care Population Flow</b>				
Children in foster care on first day of year <sup>1</sup>	20,426		20,406	20,910
Admissions during year	8,275		8,632	8,034
Discharges during year	8,477		8,306	9,129
Children discharging from FC in fewer than 8 days (These cases are excluded from length of stay calculations in the composite measures)	2	0.0% of the discharges	4	0.0% of the discharges
Children in care on last day of year	20,227		20,739	19,817
Net change during year	-201		331	-1,095
<b>II. Placement Types for Children in Care</b>				
Pre-Adoptive Homes	461	2.3	545	548
Foster Family Homes (Relative)	6,904	34.1	7,472	7,249
Foster Family Homes (Non-Relative)	7,394	36.6	6,907	6,521
<b>Group Homes</b>	40	0.2	40	19
Institutions	3,103	15.3	3,147	3,057
<b>Supervised Independent Living</b>	587	2.9	668	706
Runaway	292	1.4	333	302
Trial Home Visit	1,440	7.1	1,607	1,409
Missing Placement Information	0	0.0	0	0
Not Applicable (Placement in subsequent year)	0	0.0	20	6
<b>III. Permanency Goals for Children in Care</b>				
Reunification	10,611	52.5	10,973	10,203
Live with Other Relatives	987	4.9	982	878
Adoption	5,391	26.7	5,151	5,011
Long Term Foster Care	1,483	7.3	1,458	1,532
Emancipation	1,631	8.1	2,020	1,999
Guardianship	124	0.6	155	194
Case Plan Goal Not Established	0	0.0	0	0
Missing Goal Information	0	0.0	0	0

Often these are venerable institutions, with blue-chip boards of directors embedded in the business, political and religious life of their communities. Some institutions make sure there is a state legislator or two on the board. So nobody even questions whether these institutions are needed or if they work.

Those boards make for a powerful “institutions lobby” that can beat back any challenge to their existence and thwart better alternatives - either directly or simply by using up all the money that might be used to fund such alternatives.

And the whole enterprise is built on a set of false premises – a foundation of sand.

Unfortunately, the *Detroit Free Press* accepted all of these false premises at face value when it produced a worshipful special section devoted to Christ Child House, a residential treatment center in Detroit. The most pernicious of those false premises turns up right in the very first paragraph in the front-page introduction that set the scene for the entire project. It is a false premise that is beyond the pale in its sheer cruelty. The reporter writes of the children:

*They come to heal. They come with hope. They come to Christ Child House looking for the kind of love that should have come from their parents.*<sup>15</sup>

How dare anyone presume to declare that an entire category of parents, none of whom they apparently ever met, don't love their children?

Of course, in *some* cases, it's probably true. There are sadistic brutes out there who inflict unspeakable cruelties on children. But there are many other parents who lose their children for no greater reason than a DHS worker made a mistake, or they were poor. We cite case after case in *Cycle of Failure*, and there is abundant additional

evidence in the *Michigan Race Equity Review*.

Other parents fall between the extremes. They may be incapable of caring for their children, while nonetheless loving them every bit as much as we love our own.

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And NCCPR's *Michigan Rate of Removal Index* documents the extent to which the behavior of DHS and the courts is arbitrary, capricious and cruel, with the fate of children depending far less on actual failings of their parents than on where the families happen to live.<sup>16</sup>

So the first false premise is the claim that all institutionalized children need to be in substitute care at all, let alone in expensive, largely worthless institutions. But there are many more.

There is probably no group in child welfare more skilled at public relations than the foster care-industrial complex. They offer up lovely brochures, and offer tours of beautiful campuses, all the while uttering soothing platitudes about the “structure” and “stability” they supposedly provide to young people.

Oh, it's not that they're *against* families, they tell us. It's just that the children they take supposedly are only those who are so difficult and so disturbed that they can't handle a family setting.

There are just two problems with all

this: 1. The claims are not true. 2. Institutionalizing children doesn't work.

It takes five single-spaced pages just to summarize some of the research about the harm of institutionalization (see Appendix A). The North American Council on Adoptable Children (NACAC) has reviewed much of this scholarly literature concerning children raised in institutions.<sup>17</sup> The findings are grim:

- In one study, 25 percent of adult women institutionalized before age five exhibited a personality disorder, compared to none in a control group. The institutionalized women had a great deal of difficulty functioning as parents themselves.

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**“Teens [in orphanages] described a powerful code of behavior dictated by an institutional peer-group subculture, encompassing drugs, sex, and intimidation.”**

*--North American Council  
on Adoptable Children*

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- According to NACAC's analysis, “Children denied the opportunity to form a consistent relationship with a caregiver in their early years, such as institutionalized children, are at serious risk for developmental problems and long-term personality disorders.

“Even good institutions fail to provide children with long-term, stable affectionate relationships that are critical to later social relations.”

- Though institutionalization is worst for younger children, even teenagers fare worse in institutions than in other settings. Institutionalized teens fared worse even than teens in foster homes according to one major study.<sup>18</sup> And a survey of teenagers with a

history of long term, out-of-home placement, published in a leading peer-reviewed scholarly journal, revealed that the teenagers found institutions to be a significantly worse option than their own families, care by relatives, adoption, or even foster care.<sup>19</sup>

The NACAC review aptly summed up the study findings: The teens felt “less loved, less looked after, less trusted, less wanted ...Teens described a powerful code of behavior dictated by an institutional peer-group subculture, encompassing drugs, sex, and intimidation.”

The research on the harm of institutionalization is so overwhelming that the federal government rates state child welfare systems in part on their ability to *reduce* the number of children under age 12 in institutions.<sup>20</sup>

Indeed, in New Jersey, a consent decree between that state and the group that calls itself Children's Rights bans the placement of young children in group homes or institutions – and the state has been remarkably successful. Today, of all foster children under age 10, only three percent are in any form of congregate care.<sup>21</sup> The same settlement bans parking any child under age 13 in a so-called “shelter” – and the state has been remarkably successful there as well.<sup>22</sup> Sadly, there is nothing similar in CR's consent decree in Michigan. On the contrary, the original “complaint” filed by the group reads more like a foster care-industrial complex wish list, and the final settlement does almost nothing to control the tapeworm's appetite.

Of course, few institutions call themselves orphanages nowadays. Taking a cue from the advertising industry, they've “re-branded” – now they're “residential treatment centers.” And, it is claimed, only by institutionalizing children in RTCs can these children get the help they need.

But “residential treatment” doesn't work either.

# Starving the poor, feeding the tapeworm: The Granholm-Ahmed Budget

All of the data below come from Michigan's Children, Budget Basics for Child Advocates, March 17, 2009, available online at

<http://www.michiganschildren.org/images/stories/BudgetBasics/2009/dhs%20senate%20summary.pdf> from Michigan's Children, Budget Basics For Child Advocates: House and Senate Appropriations Committees Adopt Governor's Executive Order With Deep Cuts in Services for Children and Families, May 5, 2009, available online at <http://www.michiganschildren.org/images/stories/BudgetBasics/2009/2009%20eo.pdf> and Office of the Governor, Executive Order No. 2009-22, available online at [http://www.michigan.gov/documents/gov/EO2009-22\\_277339\\_7.pdf](http://www.michigan.gov/documents/gov/EO2009-22_277339_7.pdf)

*The Executive Order has been approved by the relevant legislative committees and takes effect immediately. The proposed budget for FY 2010 may have been changed by the time this report is published. The estimates for the total amount of the budget cuts were calculated by NCCPR.*

Nothing illustrates the greed of Michigan's foster care-industrial complex, and the willingness of DHS Director Ismael Ahmed to do its bidding, better than the budget Gov. Granholm put before the Legislature for FY 2010 and the slash-and-burn budget cuts she issued by Executive Order for the current fiscal year. The proposed budget would feed Michigan's powerful private agencies that institutionalize children - the tapeworm in the child welfare system - at the expense of impoverished families, who are cut this year and then would be cut again.

The Executive Order cuts at least \$19.8 million from prevention, family preservation and concrete help to ameliorate the worst effects of poverty. Depending on what programs are counted, the figure could be as high as \$40 million or more. The proposed budget for FY 2010 cuts at least \$38 million more.

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Under this budget Michigan's poor people would be required to subsidize the caseworkers who investigate them when their poverty is confused with neglect and then take away their children.

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The budget and the Executive Order move in precisely the opposite direction from that recommended by Ahmed's own Child Welfare Improvement Task Force - which suggests the Task Force itself was a sham, created by Ahmed to divert attention from a pro-provider anti-prevention agenda. It is likely that the providers on the Task Force went along with the recommendations precisely because they know the Task Force report is meaningless - the only document that really counts is the budget.

And neither this year's nor next year's budget cuts are required by Michigan's economic crisis. On the contrary, while everyone else in children's services takes a hit, the Executive Order leaves Michigan's foster care-industrial complex unscathed. And the proposed budget *increases* funding for taking children from their parents and holding them in foster care even as it further cuts funds to avoid needless destruction of families.

The cuts in prevention could be reversed - and prevention funding increased - simply by changing priorities and curbing the misuse and overuse of what is both the worst form of care for children and the most expensive: Institutionalization.

Consider what the Executive Order and the proposed budget do to prevention and family preservation programs:

- Families First, Michigan's national model Intensive Family Preservation Services pro-

gram, which has been cut over and over, including the elimination of all state funding – replaced by TANF surplus funds: cut by another \$750,000 this year.

- Other family preservation and prevention services: cut \$1.1 million.
- The Strong Families Safe Children prevention program: cut \$2 million this year.
- The Community Protection and Permanency child abuse prevention program: cut \$4 million this year, proposed for reduction again in 2010.
- Family Group Decision-making, an approach similar to a key component of the Family to Family initiative, an initiative that is a prime target of the foster care-industrial complex: cut by one-third – proposed for reduction again in 2010. (Ahmed and Granholm couldn't even get the name right – the Executive Order calls it “Family group discussion making.”)
- Zero to three secondary prevention: Cut by \$1 million this year, proposed for elimination in 2010.
- Teen Parent Counseling: cut \$1.3 million, proposed for elimination in 2010.
- Marriage and fatherhood initiatives: cut by \$1.75 million, proposed for elimination in 2010.
- State funding for the subsidized guardianship program – which allows grandparents to offer grandchildren permanence while still getting the same financial help they would get as licensed foster parents - is nearly wiped out under the Executive Order.

In fact, the new hiring probably will do little or nothing to actually reduce caseloads – rather it is almost certain to further widen the net of coercive intervention into families, leaving Michigan with the same lousy system only bigger.

Adoption support services and help for young people “aging out” of the system because the state failed them for their entire childhoods also are cut back.

At least as important as many of these small, specific prevention programs is concrete help to ameliorate the worst effects of poverty which, in Michigan and elsewhere, so often is confused with neglect. Those programs also take a hit:

- Incentive payments for welfare recipients who fulfill all federal work requirements for three months: eliminated this year and proposed for elimination next year.
- Before and after school programs, so working families don't lose their children to lack-of-supervision charges – cut \$2.1 million this year.
- Overall cuts of \$10.5 million in day care. A long-planned rate increase for providers of day care to poor families is eliminated; instead rates are cut 1.25 percent this year (compare that to how the residential treatment providers are treated – see below) and places for 1,500 children would be eliminated next year.
- A long-planned meager increase of \$2 per person per month in Michigan's dismal cash assistance rates planned for 2010 would be eliminated. The Family Independence Program is cut by \$1.8 million.
- Funds to help with the basics of getting a job: transportation, car repair, appropriate clothing for work etc., cut \$10.4 million this year, also would be cut significantly in 2010.
- Emergency services for low income families and children: cut \$2.3 million this year.

And it looks like it's all going to feed the tapeworm.

Because while almost everything that would give children real security and permanence takes a hit, anything that feeds the tapeworm is spared. Indeed, in the proposed 2010 budget, the big private agencies that live off a steady supply of foster children rake in a total of more than \$22 million in additional funds in the form of a \$10 per day increase in “administrative” costs, plus a \$7 a day increase in their *per diems* – the amount they are paid for each day they hold a child in their institutions.

In addition, under this budget Michigan's poor people would be required to subsidize the

caseworkers who investigate them when their poverty is confused with neglect and then take away their children.

That's because, when just about everything else is being cut, the budget proposes to spend \$78.4 million to hire 850 additional child welfare staff, including 279 new child protective services workers, 216 child welfare supervisors, 87 foster care workers, 62 permanency planning workers 66 administrative support positions, 49 new administrative positions, 17 private child placing agency monitoring staff, 74 team decision-making facilitators, and a new data collection unit.<sup>23</sup>

A small portion of that hiring makes sense, and some of it is required by the settlement between DHS and CR – but not all of it. The settlement requires that caseloads for investigators and foster care workers be cut – but it does not specify that this has to be done by hiring more workers.

It could, in fact, be done by creating a rational mechanism for screening calls to Michigan's child abuse hotline. The need for such a mechanism was a key finding of the *Michigan Race Equity Review*.<sup>24</sup> That way, workers would spend less time investigating false allegations and trivial cases. And it could be done by increasing prevention and family preservation efforts so fewer children are taken away.

But that is beyond the vision and imagination of DHS and CR.

In fact, the new hiring probably will do little or nothing to actually reduce caseloads – rather it is almost certain to further widen the net of coercive intervention into families, leaving Michigan with the same lousy system only bigger.

And that will suit the foster care-industrial complex just fine.

Even where new hiring specifically is required by the consent decree there is no justification for taking the money for those hires out of poor people's pockets. And CR could have stopped it. They could have demanded that poor people be "held harmless" for meeting the costs of any settlement.

There was a time when CR might have done just that. But that was a long, long time ago. (See *The children wronged by "Children's Rights,"* p. 30.)

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Typically, when children at institutions get better it's not because of the institution – it's *in spite* of the institution.

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Not that they don't have success stories – of a kind. Almost every RTC can trot out one or two young people who did well.

In fact, when institutionalized children do well it is almost always a testament to their own extraordinary resilience. Yes, once in awhile they might find a good therapist or teacher at an institution. But the institution itself is not needed to give children good therapists and teachers.

Typically, when children at institu-

tions get better it's not because of the institution – it's *in spite* of the institution.

Alex Chivescu, whose case is discussed at the beginning of this report, is an example. No doubt, were it still open, the Detroit Children's Home would claim credit for all the things Alex accomplished on his own.

And it is interesting to see how often even young people cited as success stories by RTCs are back working at the RTC itself, unable to cope with any other setting.

When the flagship campus of KidsPeace, one of the nation's largest providers of what might best be called McTreatment, came under fire for using "restraints" 2,900 times in a year, and sending seven children to the hospital with broken bones<sup>25</sup> (the institution says it has now fixed the problems and the State of Pennsylvania has restored its full license) all the place could do to

show “success” was to trot out its own self-evaluations and refer a local reporter to a graduate who was managing to hold down a steady job and was in a “two-year relationship.”

What was her experience at the RTC like? Apparently not great for her self-esteem. According to a local newspaper story:

*In her more-than two years at Kids-Peace she was assaulted, or assaulted others, several times, and was restrained countless times, she said. "Deserved most of it," [she] recalled....*<sup>26</sup>

Similarly, Christ Child House claims as a success a boy who is adopted, but, by age 16 is in a juvenile jail.<sup>27</sup>

More important, none of the claims of the residential treatment industry holds up to objective scientific scrutiny.

- A review of the scholarly literature by the office of the U.S. Surgeon General found only "weak evidence" for the success of residential treatment.<sup>28</sup>

- A second review, by the University of North Carolina, found "when community-based services are available, they provide outcomes that are equivalent, at least [to residential treatment centers]."<sup>29</sup>

- Another study found that when children aged ten and older left residential care, for 59 percent of them their next stop was detention, a psychiatric hospital, another residential placement or an unknown destination - because they'd left residential care by running away from it.<sup>30</sup>

- A longitudinal study – looking at what happened to young people seven years after leaving residential treatment - found the results were even worse. Seventy-five percent of them were back in the only places they understood – institutions. They were in psychiatric centers, and jail.<sup>31</sup>

Even the former head of the giant national trade association for public and pri-

vate child welfare agencies, the Child Welfare League of America, acknowledged the lack of evidence that residential treatment works.

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**So the research proves it, leaders of institutions themselves say it, and even the former head of their trade association admits it: There is no evidence that residential treatment works.**

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In a speech to providers that may have been made public by mistake, former CWLA President Shay Bilchik admitted that they lack "good research" showing residential treatment's effectiveness and "we find it hard to demonstrate success."<sup>32</sup> (Of course, being the head of a trade association at the time, Bilchik's "solution" was to let RTCs take in children with less serious problems – so the RTCs could then “solve” them!)

### **Crises of conscience**

Perhaps most significant, every once in awhile the people running an RTC have a crisis of conscience. It's happened at least twice in the past decade.

Both times, they studied their own programs, - and found that they weren't working.

“The state would ask us at the end of each year what we did with their money," says Patrick Lawler, CEO of Youth Villages in Tennessee, "and we would tell them the truth. We spent it."<sup>33</sup>

EMQ Child and Family Services in Northern California had a similar crisis of conscience. Both institutions radically reformed; rebuilding their programs to empty

most of their residential beds – EMQ closed 87 percent of them -- and instead bring the help to the children, not in institutions, but either in their own homes or foster homes. As Lawler explained:

*In the 28 years I have been entrusted with caring for other people's children, some of whom come from dire circumstances, I have learned firsthand there is no substitute for a child's birth family. I used to think we could do a better job of raising these children. We know better now. The best way to help a child is to help his or her family. Extensive research bears this out.*

*We studied the research, redesigned our existing programs and developed new ones to ensure that the emphasis is on strengthening the child's family...There are sad circumstances when children cannot be placed with their birth parents or relatives. In these cases, foster and adoptive parents play vital roles in ensuring long-term success for these children.*<sup>34</sup>

EMQ and Youth Villages had more than a crisis of conscience in common: For both, the biggest obstacle to reform was not finding better ways to help the children. Rather, it was the foster care-industrial complex, or what EMQ itself calls “the group home industry” – which tried to stop the states from reimbursing these innovative alternatives.<sup>35</sup>

So the research proves it, leaders of institutions themselves say it, and even the former head of their trade association admits it: There is no evidence that residential treatment works.

But instead of facing up to the fallacy, the group home industry cites the very severity of the children’s problems as justification for the industry’s existence. They piously proclaim that they wish these children could be cared for by families – really they do – but, they say, it’s just impossible; the children’s problems are too severe. Af-

ter all, they say, many of the children already have been through multiple foster home placements and it didn’t work – or, again to use the charming phrase often heard by RTC operators, “these children blow out of foster care.”

Once again, there are two problems with this argument. First, the problems are not always so severe. Alex Chivescu, is a case in point. Here’s another one:

This is what a single mother in the Bronx named Rose Mary Grant had to do every week, just to get to the RTC that housed her 11-year-old son, Issa, as described in a keenly-observed story in the Westchester County, N.Y. *Journal-News*.

*“Starting from her brick apartment tower, Rose walks a block to Gun Hill Road, takes the 28 bus to the subway station, catches the 5 train to Harlem, makes her way down 125th Street, boards the Metro-North train to Dobbs Ferry, and rides a shuttle ... At each step, she places two metal crutches ahead of her and swings forward on two prosthetic legs.”*

But Issa was not paranoid, he was not schizophrenic, he was not delusional. And he did not “blow out” of anybody’s home. The only label pinned on him was Attention Deficit Hyperactivity Disorder. Sometimes, at home, he was seriously out-of-control. But his handicapped, impoverished single mother couldn’t do what middle-class and wealthy families do: find a good psychiatrist and hire home health aides.

And there was no mechanism in New York to pay for better alternatives. So instead, mother and child suffered for a year, while taxpayers shelled out at least \$86,000 to warehouse the boy in residential treatment.<sup>36</sup> (It’s less likely to happen today – this particular institution also has had a crisis of conscience and is working to reduce institutionalization.)

## **UPDATE: A cease-fire in the war against grandparents**

A major theme in our previous report on Michigan child welfare, *Cycle of Failure*, and all of our Michigan advocacy, was the harm of one dreadful provision of the consent decree between DHS and the group that so arrogantly calls itself “Children’s Rights.”

That provision required grandparents and other relatives providing kinship foster care to be formally licensed or obtain special waivers or variances. That means they would have had to comply with ten single-spaced pages of licensing requirements. Many of those requirements have little or nothing to do with health and safety and everything to do with middle-class creature comforts. And since many grandparents are poor – just like the parents from whom the children are taken – compliance sometimes would have been extremely difficult if not impossible.

As we pointed out in our previous report, the home where President Obama was raised by his grandmother probably could not have been licensed as a foster home under these regulations. And the policy was so strict that a DHS memo explaining it to frontline workers did not even mention the possibility of waivers.

The requirements were retroactive – meaning there was a very real possibility that thousands of children could have been kicked out of the homes of loving grandparents and other relatives and forced to live with strangers.

But now there is some good news: NCCPR has learned that DHS and CR have changed their position. DHS will continue to strongly encourage grandparents and other relatives to become licensed, but it no longer will be mandatory.<sup>37</sup>

We are pleased that NCCPR’s blunt-spoken advocacy has contributed to winning a cease-fire in the state’s war against grandparents.

The claim about taking in only children with the most serious problems rings hollow for another reason: Often, when children really do have serious problems, the institutions will do everything they can to avoid taking the child in – or they’ll throw the child out.

There’s even a term for it in the industry – “creaming,” as in skimming the cream. One of the ways it’s done is described in one of the most damning reports ever written about the Michigan child welfare system – no, not the one NCCPR released in February, but the one commissioned by the Michigan Supreme Court as part of its “Court Improvement Project.”

According to that report:

*A jurist in Wayne County referred to the humiliating system of bidding for children. She said that when a child needs a placement, foster care providers are supposed to meet to reveal how many beds they have available, but if providers foresee that there will be a “problem child” to be placed, they simply skip the meeting.<sup>38</sup>*

But if a child with real problems somehow gets in anyway, that doesn’t mean the institution has to keep him. If you simply decide that the children who really are difficult can’t “benefit” from what the institution has to offer and turn them away, you can make the institution look more successful – while leaving the children who need the most help to fend for themselves.

So a photo caption in the *Free Press* special section about Christ Child House says that the child in the picture had been sent somewhere else because he had needs “beyond what Christ Child could serve.” (The reporter wasn’t quoting anyone. She’d actually adopted the “institution-speak” as her own.)<sup>39</sup>

Of course, as this suggests, some children in institutions do have serious problems. But for these children as well, there are far better alternatives. Yes, sometimes such children fail in families. But that is almost always for the same reason it happened to Johnnie, because those families, be they birth families or foster families, didn’t

## Yes, Michigan, there *is* a foster care-industrial complex

Throughout this report and NCCPR's previous report on Michigan child welfare, *Cycle of Failure*, we have characterized the big, powerful private agencies that dominate child welfare in the state as the "foster care-industrial complex." (We've also used "institutions lobby" and "group home industry" – a term we actually learned from a reform-minded residential treatment center which had to fight that industry.)<sup>40</sup>

One need only look at the section of our first report on how a trade association for private agencies marched up to Lansing to oppose the Family to Family program and support sending foster children far from their own families - quite possibly in violation of federal law - to see why the terms are so appropriate.

Or one could read the *Michigan Race Equity Review* – a document commissioned by DHS itself - which revealed a power and an arrogance in some of these agencies that runs so deep that they simply refuse to provide services to families in their own neighborhoods – even though they are required to provide that help by contract.<sup>41</sup>

But defenders of the foster care-industrial complex have sought to caricature this argument – falsely suggesting that our claim that these agencies are powerful and pursue their own interests is some kind of conspiracy theory.

If only that were true. If it were a conscious conspiracy it would be far easier to stop.

No, private agency chieftains do not gather round a conference table and, like Montgomery Burns on *The Simpsons*, rub their hands with glee at the arrival of a new batch of children.

It's more subtle than that – and more insidious.

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For trade associations of private child welfare agencies to convince themselves that their own interests just happen always to be in the best interests of children and then to act accordingly – at those children's expense – is no more a conspiracy than inhaling and exhaling is a conspiracy to breathe.

It just comes naturally.

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Most of the time, the people running orphanages, residential treatment centers, and parking place shelters have firmly convinced themselves that their institutions are really needed, there is no alternative, etc. As is discussed elsewhere in this report, it's a perfect example of substituting for truth what comedian Stephen Colbert calls "truthiness."

For trade associations of private child welfare agencies to convince themselves that their own interests just happen always to be in the best interests of children and then to act accordingly – at those children's expense – is no more a conspiracy than inhaling and exhaling is a conspiracy to breathe.

It just comes naturally.

Similarly, in an op ed column full of factual errors (See *Lighting a fire under the system*, p. 29), two judges falsely claim that NCCPR accused the courts of being "at worst, coconspirators in a plot to keep children away from parents to ensure funding mechanisms for the state..."

We said nothing of the kind.

What we did say was that when surveyed anonymously, 40 percent of judges admitted to sometimes lying when they certified that they believed "reasonable efforts" had been made to keep families together. And half of those who admitted lying said they did this because such certification is necessary for Michigan to receive federal foster care funds for the case. (And in Mich-

igan, when the state can't get federal aid for a case, the county where the case originated has to pick up part of the tab.)

But we didn't think this up ourselves. The findings are in a survey of judges conducted for a report called the *Michigan Court Improvement Project Reassessment*. It was done in 2005 by two thoroughly "establishment" outfits, the Muskie School of Public Service, Cutler Institute For Child And Family Policy at the University of Southern Maine and the American Bar Association, Center On Children And The Law.

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And it was commissioned by the Michigan Supreme Court, State Courts Administrative Office.<sup>42</sup>

So if the judges have a problem with the findings, they should take it up with their own Supreme Court.

There is another term we used in our previous report to describe the power of the private agencies that dominate the system: The permanent government. That term first was coined by a legendary newspaper columnist, the late Jack Newfield.

The permanent government is unelected and largely unseen – the power brokers and vested interests who wield enormous influence at every stage of the process.

Governors, DHS directors and legislators come and go; but the foster care-industrial complex – the permanent government of child welfare - is always there. And until its power is curbed, nothing in Michigan child welfare will really change.

get the help they needed. And that's because the money that could buy that help is being thrown away on institutionalizing children.

The reasoning of the foster care-industrial complex is circular, and it is cruel: Deny families the support they need to make a placement work, then justify your institution's enormously-expensive existence on grounds that the children couldn't stay in families.

EMQ broke this vicious circle. So did Youth Villages. And so does Milwaukee County, Wisconsin's pioneering Wraparound Milwaukee. As the *Journal-News* reported:

*[Wraparound] cut the number of Milwaukee children in RTCs by 90 percent, dramatically shortened their stays, reunited*

*hundreds of families, reduced the incidence of crime and saved millions of dollars in treatment costs. It became a national model for treating emotionally disturbed children, offering a more effective and economical means of helping youngsters without the traditional reliance on costly and controversial institutions.*

*"Wraparound Milwaukee demonstrates that the seemingly impossible can be made possible: Children's care can be seamlessly integrated. The services given to children not only work, in terms of better clinical results, reduced delinquency, and fewer hospitalizations, but the services are also cost-effective," the President's New Freedom Commission on Mental Health said in October. ...*

*Institutions have long argued that*

*their role is crucial because most of the children have no stable homes. But Wraparound advocates say institutions have been too quick to write off families; Wraparound seeks out families and finds ways to make them work.*<sup>43</sup>

Children in Wraparound programs don't "blow out of foster care" – they may never even need to be *in* foster care, because all the help the birth family or the foster family needs, at the intensity the family needs, is brought into the home. Wraparound moves the system, instead of moving the child.

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Still more evidence of the extent of needless institutionalization, and needless substitute care, can be seen in what happened when, as noted in our previous report, Illinois changed the financial incentives.

In 1997, a child was more likely to be trapped in foster care in Illinois than in any other state – there were more than 50,000 children in foster homes, group homes and institutions at any one time.<sup>44</sup>

Then the state changed the incentives for private agencies holding children in substitute care. Instead of rewarding the agencies for each day they kept the child in

care, they started rewarding the agencies for providing safe, permanent homes for children.

Lo and behold: Remember all those children institutionalized supposedly as an absolute last resort, because there simply were no alternatives? Turns out there were alternatives. Suddenly the "dysfunctional" became functional and the "intractable" became tractable. Today, fewer than 16,000 children are in Illinois substitute care on any given day, and Illinois takes away children at one of the lowest rates in the nation.<sup>45</sup>

And it's all been done while improving child safety. We know that because Illinois operates under a class-action lawsuit settlement. The system is watched by independent, court-appointed monitors. And *they* say that as foster care has plummeted, child safety has improved.<sup>46</sup>

**Don't say no, just "yes, but..." it do death**

So how does an industry with a largely worthless product fight reform? As we noted in our previous report, the group home industry will never say no to reform. Rather, they try to "Yes, but..." it to death.

First, they pretend they're not institutions at all. How can you call us an institution? They say. Look how beautiful the grounds are. The children live in pretty cottages. They have "house parents." It's so "home-like."

But children are not fooled by pretty buildings. Children know the difference between "home-like" and home. They know the difference between a Potemkin Village family and a real family.

No matter what it may look like, a building that houses large numbers of children, most of them strangers to each other, to be cared for by paid staff hired to dispense indiscriminate pseudo-love to whoever walks in the door - staff likely to change every year or two or, in some cases, with

every shift - is not a home. It's a dormitory. And a collection of dormitories is an institution.

Then, they'll claim that the institution provides "structure" and "stability." Stash the children in our institution, they say, and they won't bounce from foster home to foster home.

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**So how does an industry with a largely worthless product fight reform? The group home industry will never say no to reform. Rather, they try to "Yes, but..." it to death.**

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But stability means that the *human beings* in a child's life remain constant. Between the shift changes and the staff turnover, a child in an institution may have to cope with ten different caregivers – none of whom loves him – in a single day.<sup>47</sup>

Even in institutions using "house parents," those house parents typically quit every year or two, making an institution every bit as unstable as multiple foster home placements.<sup>48</sup>

This instability is aptly illustrated, albeit by accident, in the *Free Press* stories about Christ Child House. According to a photo caption, one child, new to CCH, kept asking everyone "are you comin' tomorrow?"

Children who live with their parents – birth or adoptive - usually don't have to ask that question. When you are dependent on well-meaning volunteers and shift staff, you do – because the volunteer may or may not be "comin' tomorrow" and the shift worker might have a new schedule or might call in sick.

The way to prevent children from

bouncing from foster home to foster home is to take away fewer of them in the first place, and provide the necessary support for the rest – as EMQ, Youth Villages, and Wraparound Milwaukee all have proven.

As for "structure," that's a euphemism for the almost sadistic never-ending game of "May I?" that constitutes life in a group home or institution.

As one former group home resident has written: "You have to ask permission for everything: to get food from the fridge, cook, watch TV, use the phone, go in the backyard or take a shower."<sup>49</sup>

Listen to a family that became mentors to a resident of a group home and invited him to spend his weekends with them:

"His first visit we're all waiting for him to come down to breakfast. I go up, he'd been in the group home so long, he was making hospital corners on his bed. He thought he couldn't eat breakfast until the bed was perfect."<sup>50</sup>

Children don't need this kind of rigidity – but institutions do. They need it in order to keep large numbers of troubled children in line and prevent their institutions from descending into chaos. So they turn around and claim that, by amazing coincidence, all the things that ensure that their institutions run smoothly happen to be "therapeutic" for children.

The foster care-industrial complex will piously proclaim that they, too, favor alternatives. Really and truly. They tell us that they, too, love foster homes, and therapeutic foster homes – and they absolutely *adore* Wraparound – just as long as these siphon not a single child, or dollar, from their institutions. That is essential, they claim, because, after all, there always will be *some* children who need to be institutionalized, they'd hate to see a system that didn't have a full "continuum of care" and we must guard against anything that smacks of "one size fits all" etc. etc.

# All-purpose foster care-industrial complex excuse check-list

Not only have we released two comprehensive reports on Michigan child welfare, we're even prepared to provide the response from the foster care-industrial complex. While we can't reproduce the unctuous tone, we can guarantee the content of the excuses – because we've heard them all so many times before.

So we've supplied a handy checklist of excuses you will hear from the foster care-industrial complex – and why they don't wash.

\_\_\_ *Excuse #1: "We've already tried foster homes with these children. They blow out of foster homes."*

RESPONSE: Aside from how revealing the offensive language is in terms of how the foster care-industrial complex really views children, the reason children sometimes don't stay in family homes is that the homes themselves don't get the support they need. When children are served by Wraparound and similar programs they *don't* "blow out" of foster homes, or their own homes. But Wraparound programs rarely are available because the institutions are scarfing up all the money.

\_\_\_ *Excuse #2: "Of course we believe in prevention, and we'd much rather children stay in their own homes. But there always will be some children who need to be institutionalized. We just want to make sure there is a full continuum of care. The people who disagree with us believe in 'one size fits all.'"*

RESPONSE: Whatever number of foster children might need to be institutionalized, we know that the number is so tiny that the overwhelming majority of institutional beds can be closed – just the way Youth Villages, EMQ Child and Family Services and Wraparound Milwaukee did it. (See *Crises of Conscience*, page 13) It is, in fact, the foster care-industrial complex that believes in one size fits all – substitute care, instead of a variety of safe, proven alternatives. And the reason there is no "continuum of care" is that, again, the institutions are using up all the money.

\_\_\_ *Excuse #3: "We're not an institution. We've got house parents and cottages. We're home-like."*

RESPONSE: You know that stuff people sometimes put on bread to lose weight? Stuff called "buttery spread" or "buttery light" but it always tastes like liquid plastic? People know the difference between "buttery spread" and butter. And children know the difference between "home-like" and home. It's not the buildings in a child's life that provide love and stability, it's the people. House parents typically quit every year or so, making institutions just as "unstable" as a succession of foster homes.<sup>51</sup> And many institutions still rely on shift staff which is, of course, even worse. Children don't need Potemkin Village families, they need *real* families.

\_\_\_ *Excuse #4: "When DHS uses alternatives to institutions it's because DHS doesn't care about the kids. When they send children elsewhere, they're just doing it to save money."*

RESPONSE: This is the most offensive claim of all. For starters, DHS has had to be dragged kicking and screaming into alternatives – and the current director, Ismael Ahmed, is actually cutting prevention in favor of more substitute care and rate increases for people who run institutions.

Even worse is the hypocrisy in this argument. The people who say *others* care only about money stay alive by charging the state huge amounts on a *per diem* basis. So the longer they hold a child in their institutions the more money they make. Talk about glass houses ...

As is described in detail in our previous report, when Illinois changed these financial incentives, substitute care in all its forms plummeted – and independent court-appointed monitors found that child safety improved.

At NCCPR, we tend to be tax-and-spend liberals and proud of it. But it is obscene to criticize a program just because, in addition to helping children, it also happens to save money. In fact, when it comes to child welfare, in general, the better the option, the less it costs.

The argument goes beyond disingenuous all the way to Orwellian. One-size-fits-all is what Michigan has now, and the one size is institutionalization. As noted earlier, 15.3 percent of Michigan foster children are institutionalized, compared with 8.2 percent in Illinois.

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**“Structure” is a euphemism for the almost sadistic never-ending game of “May I?” that constitutes life in a group home or institution.**

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It is, of course, impossible to get away from one-size-fits-all when the group home industry is hogging all the money that could be used for alternatives.

### **If all else fails, they'll try fear**

If trying to “yes, but...” reform to death fails, the industry tries scare tactics. Here’s what the *Westchester Journal News* found in Milwaukee:

*"I remember meeting with groups of people and folks saying, 'Let's get some reports out that show they (Wraparound) are going to start hurting kids now,'" said Cathy Connolly, president of St. Charles Youth & Family Services, which operates Milwaukee's largest institution. "Well, nobody could ever bring the reports to the meetings, 'cause there were none that existed that said we were doing anything all that great. We didn't really have any solid anything that demonstrated we were able to fix kids."*

Connolly and her colleagues lobbied fiercely for the status quo. She was remarkably candid about the reason:

*“There were a couple big fears... The first was, 'How are we going to finan-*

*cially sustain ourselves?’”*

Eventually, however, Connolly's agency embraced the new approach. She told *The Journal News*:

*"I think, looking back on it now, what we're doing for kids today is far more helpful."<sup>52</sup>*

### **How institutions impede adoption**

It is no secret that NCCPR strongly supports doing far more to prevent children from ever being taken from their parents, and far more to reunify children after they are taken away. In our last report, we also criticized an “adoption at all costs” mentality in Michigan that led to creation of a generation of legal orphans, with no ties to their birth parents and little chance of adoption either.

But we also said this:

*Some children truly can't return to their parents. For many of these children, adoption is, sometimes literally, a lifesaver. It is a vitally-important part of any child welfare system, and a crucial means of achieving permanence for children.*

And the adoption experts will tell you: One of the biggest barriers to adoption is institutionalization.

The North American Council on Adoptable Children is the nation’s leading authority on adoption of foster children; they also are experts on the harm of orphanages. Here’s what NACAC’s executive director wrote in an op ed column for the *Free Press*:

*Institutions ... deny children their best chance for a family. Nationally, most children are adopted by foster parents or relatives. In Michigan, 93 percent of children are adopted by these caregivers who have gotten to know and love them. Because they are not placed with foster parents or kin, institutionalized children lose their best hope for adoption.<sup>53</sup>*

And, once again, the evidence for this

can be seen at Christ Child House – an institution which justifies its existence in part on the claim that it has to “fix” children before they can be adopted.

In fact, CCH’s adoption record is dismal.

There are 31 children at CCH on any given day. The *Free Press* stories don’t say how many children live there at some point during a given year, but obviously that figure is even higher. But according to the *Free Press*’ own reporting, only 12 children have been adopted from CCH in five years. Not 12 children a year, 12 children in *five* years – an average of between two and three per year.<sup>54</sup>

Even that figure may be misleading. A photo caption refers to one child who “just experienced another failed adoption.” And a follow-up story talked about a child who had experienced at least two failed adoptions.<sup>55</sup> (See *Impeding adoption: A case in point*, p.24). So it seems that CCH has a better record of setting children up for crushing loss than it does for actually getting them adopted.

Indeed, even the two adoptions per year estimate may be high.

Here is what the most recent state inspection report on CCH’s adoption program says:

*No. of persons evaluated to adopt a child in the last year: 0*

*No. of adoption placements in the last year: 0*

*No. of adoptions finalized in the last year: 0*<sup>56</sup>

And that dismal record has persisted for many years. According to the inspection report:

*There have not been any Adoption Evaluations or Adoption Placements since the Renewal Evaluation conducted in February 2004. The Agency has participated in Adoption recruitment activities and Adoption preparation planning. The Agency anticipates that they may be completing Adoption Evaluations and Adoption Placements during the next report period.*<sup>57</sup>

In other words, in those rare instances in which a child is adopted from Christ Child House it happened because someone outside CCH made it happen.

### **The other kind of “cost”**

The primary reason to oppose institutionalizing children is the cost to those children’s psyches and their futures. But there is also a high cost to taxpayers. Because, as we noted in our previous report, the cost of warehousing children in institutions is staggering.

Michigan pays residential treatment centers anywhere from \$139 to \$175 or more per day per child.<sup>58</sup>

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**Only 12 children have been adopted from Christ Child House in five years. Not 12 children a year, 12 children in *five* years – an average of between two and three per year.**

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As we noted in our previous report, nationwide, although about 17 percent of children are in congregate care (institutions plus group homes), paying for that care eats up 45 percent of all foster care spending.<sup>59</sup> In FY 2008, Michigan spent more than \$223.3 million on “foster care payments.”<sup>60</sup> This does not include the cost of the state’s foster care bureaucracy, a figure DHS claimed to be unable to provide. The state also was unable to break down how much went to stashing children in “congregate care.”

But if Michigan is like the nation as a whole, odds are more than \$100 million, perhaps more than \$200 million per year, was spent on institutionalization – almost all of it wasted.<sup>61</sup> As we said in *Cycle of Failure*, for all the good it does for children, Michigan might as well take that \$100 million – or possibly much more - it spends on

congregate care and burn it on steps of the State Capitol on a cold winter's day. At least then, some passers-by in Lansing could keep warm.

As Joe Kroll of the North American Council on Adoptable Children has written:

*If only a portion of the money needed to maintain an orphanage was invested in supporting birth families, finding relatives, and foster and adoptive family recruitment, training, and support, children would not need to move from place to place. Wrap-around services, treatment or multidimensional foster care, and intensive post-adoption services have all proven to keep older children with serious special needs in safe, loving families.<sup>62</sup>*

Yet Gov. Granholm and Ismael Ahmed propose to make the disparity between spending on prevention and institutionalization even worse. (See *Starving the poor, feeding the tapeworm*, p. 10).

### **The special Hell of parking place shelters**

They are among the most sacred cows in all of child welfare, and no wonder. Donors love them. They can get a plaque on the wall for giving money or furniture or, if they're really rich, donating a whole building. The volunteers love them. They can turn real flesh-and-blood human beings into human teddy bears who exist for the volunteers' gratification and convenience, even as they convince themselves they're helping children. When they get bored with their human teddy bears, they simply hand them back to the shift staff.

In short, they're good for everyone but the children.

They are "shelters" - those first-stop parking place institutions in many communities where children are deposited for a few days or a week or a month or, often, longer, to be examined and "assessed" by "trained staff" in order to prepare them for exactly what they would have gotten without the shelters - usually a succession of foster homes.

And since they are enormously appealing to anyone who doesn't actually know much about child welfare, it's no surprise that Ismael Ahmed wants to build more of them.

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## **Shelters are exercises in adult self-indulgence and adult self-delusion.**

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Shelters are exercises in adult self-indulgence and adult self-delusion. As with any form of orphanage, and that's really what shelters are, a whole rationalization industry has grown up around them. As with the residential treatment centers, the people who run the shelters point to how pretty they are and say they're "home like" - as if children are fooled by pretty paint and cute pictures on the walls.

They offer the same rationalizations about "stability" - even though they are typically staffed in shifts, making it an incredibly unstable experience for the child.

The parking place industry claims shelters can "assess" children and "stabilize" them, so that they can find the right foster home for the child when he or she leaves.

That was the theory in Connecticut, when the child welfare agency there set up a network of such shelters in 1995, in the wake of a foster-care panic that led to a huge increase in the number of children taken from their parents.

But a comprehensive study of the shelters by Yale University and the Connecticut child welfare agency itself found that wasn't true either.

On the contrary, the children who went through the shelters tended to have worse outcomes than those who didn't. The only thing the shelters were good at was wasting huge sums of money.<sup>63</sup> And that's true despite the fact that the Connecticut foster care system is just as bad as Michigan's.

# Impeding adoption: A case in point

*On Christmas Day, 2008, the Free Press published a follow-up story about Christ Child House, the institution it had extolled in a special section the month before.<sup>64</sup>*

*The story focused on one boy, Arius Hogans, who finally may have found a home. But the story is unintentionally revealing – the perfect illustration of why institutionalization is so inherently destructive. It is a portrait of the institution as the tapeworm in the system, and how its insatiable appetite for scarce funds may well have delayed Arius' adoption for months, if not years.*

*Read the story closely and it becomes clear that, had the institution not gotten in the way, Arius might well have been adopted much sooner. What one finds, over and over again, are missed opportunities – simple, obvious alternatives that could have gotten Arius Hogans adopted. In each case, the resources weren't there – because they'd gone to feed the tapeworm instead.*

*Below is the complete text of the story, with comments interspersed in italics.*

The best Christmas presents don't come wrapped in silvery paper and bows. In the case of Arius Hogans, his was cobbled together by circumstance and tenacity, then packaged in a two-story home in Harper Woods. It's just what he wished for -- well, except for the snow shoveling or his recent compromise with his new dad over his birthday tattoo.

"Yeah, I like it here," the 16-year-old said, the family poodle Dymond popping into his face and pulling at his clothes. "It's good to have a younger brother, too."

This will be his first Christmas as a permanent member of his adoptive family.

Permanence. It's what Arius craved during his eight years in Michigan's foster care system, time mostly spent as one of Michigan's approximate 6,000 legal orphans.

*But, while one certainly can hope he has achieved it now, there is no guarantee, as the story itself reveals, unintentionally, below. It is misleading to assume this home will be permanent, no matter how much both Arius and his adoptive parents may want it to be. And that, as will be seen below, is because of the tapeworm.*

They're kids who have been legally severed from their parents by the courts -- their moms and dads deemed abusive, neglectful or unfit to care for them.

Arius's mother, a state ward herself, was just 16 when she started having babies. By 1999, the state decided she could no longer care for them.

So the boy was raised by the system, growing up at Christ Child, a sort of modern-day orphanage on Detroit's west side the Free Press spent almost three years chronicling. There, 31 boys -- many of them emotionally impaired -- live together as they wait to be reunified with their families or adopted by others. Even in a place when the staff is quick to offer hugs and high-fives, it's a tough place to call home.

*Or maybe it's just a tough place. According to the trade journal Youth Today, the director of CCH admits there have been instances of use of excessive force by the staff.<sup>65</sup> In fact, when you take children who may be extremely troubled, sometimes because of abuse by their parents, sometimes because of what the system itself did to them, and sometimes both, and throw them all together at the very age when they are most likely to be influenced by peers, problems are inevitable, and the staff may not always handle them well.*

That's especially true during the holidays, when ubiquitous images of family underscore for the boys the loss of their own. "It's the most critical period in the year and the most emotional," said Christ Child's executive director John Yablonky. "Our kids have a difficult time."

*But in many cases, the children are there because CCH and other institutions have drained away all the resources that could have been used for better alternatives.*

In 2007, after at least a couple of failed adoptions,

*What? Failed adoptions? Then how do we know that this latest adoption will succeed? Also, how many is "at least"? Don't the records even tell us that much? And, most important, what does it say about CCH's ability, or willingness, to support its children after they're adopted? Where are the post-adoption services that the families are going to need?*

Arius was the resident who had spent the most time at Christ Child -- seven years.

**Wait a minute. He entered foster care in 1999, at age 8. He must have been at CCH by 2000. But in Youth Today, CCH's director offers the standard party line from the foster care-industrial complex: "There are some people in our field who don't believe in institutions. But the [Free Press] article was clear the boys had been in 15 and 20 foster care placements. ... We were the last resort."**

**Sadly, it is not impossible for an eight-year-old to go through 15 to 20 placements in a year, but it's not likely. It sounds like CCH was more of a first resort than a last resort. And even if he had been through all those placements, that suggests only that the Michigan foster care system was incompetent and failed to support the foster homes -- something that, again, can be attributed to the tapeworm.**

**As for that "last resort" line, we must assume that CCH's director is simply ignorant of all the other options for preventing multiple placement.**

It appeared he would join the approximately 500 legal orphans who age out of Michigan's foster care system each year without parents. They have no one to turn to with questions that range from basic to life-changing and they face daunting odds of being homeless, addicted, or imprisoned. Enter Jessie-Mae Secord. A caseworker for Wendy's Wonderful Kids,

**What? She doesn't work for CCH? If CCH believes so strongly in getting these kids adopted, why isn't CCH trying to find them homes? Or are they simply not very good at it. A report on CCH's adoption program dated February 8, 2008,<sup>66</sup> includes the following data:**

<b>No. of persons evaluated to adopt a child in the last year:</b>	<b>0</b>
<b>No. of adoption placements in the last year:</b>	<b>0</b>
<b>No. of adoptions finalized in the last year:</b>	<b>0</b>

**And that dismal record has persisted for several years.**

her job was to sift through Arius' 4-inch thick state file, trying to glean from its court filings and scribbled notes a permanent relationship for a kid who would one day would be on his own. It didn't take long before her eyes fell on the name of Camyra Hogans, and a notation that this older sister of Arius had gone to live with her father, Toriano Spencer.

**But why did it take so many years before anyone looked? Other states have embraced "family finding," using modern technology to find extended family members in hours, sometimes minutes. And it doesn't cost much. But it does require some initial investment -- and that's hard to do when the life is being sucked out of your child welfare system by a tapeworm.**

Secord's next step was neither high-tech nor miraculous. She simply opened the phone book.

**Couldn't anyone at CCH have done that in eight years?**

Catrina Tooks, Spencer's wife, answered the phone at the couple's Harper Woods home. Stunned by Secord's call, she nonetheless had news of her own: The couple -- already with five biological and adopted children -- had found Arius on a state-wide adoption site and had been considering contacting him. A few days later -- Camyra's 17th birthday, in fact -- the two siblings met for the first time. What they talked about, neither can recall. "I think we were both nervous," Camyra, now 18, laughed. Within weeks, Arius was staying with the family for weekends -- and then weeks at a time. The adoption ceremony, short and informal, occurred in May. And the Tooks-Spencer clan swelled again. In addition to Camyra and Arius, there's also Toriano Spencer Jr., 17, a child by his father's previous relationship; Toriano (Torrey) II, 8, a boy born to Spencer and Tooks, and Anthony Tooks, 14, another child they adopted. The couple also are now caring for a 9-year-old foster child who may one day return to her birth mother. It's a house that can be filled with chaos and noise -- cell phones ringing and teens bickering -- and love all at the same time.

"I remember being at my grandmother's house growing up with all my cousins and aunts and uncles and everyone, and she was cooking and everyone was talking," Spencer said. "I can't imagine how anyone can go without that."

And Arius: He sums it up simply with a grin: "Oh, I'm staying."

**Let's hope so.**

Good child welfare systems don't take so many children in the first place, so they have plenty of room in good foster homes for any child who really needs it – enough room to make the best possible match for any child at any hour of the day or night.

But as the Connecticut study proved, shelters are not even an improvement over *typical* foster care systems like the one in Michigan.

But just as in Michigan, in Connecticut, research is no match for political clout and adult self-indulgence. Take away our human teddy bears? Never! As the *Hartford Courant* put it:

*Three years after a study that showed short-term group homes for first-time foster children are a costly failure, the state Department of Children and Families is still funneling hundreds of children through the facilities each year.*<sup>67</sup>

But that doesn't mean DCF didn't take action. The agency used to have the study up on its own website. But after the *Courant* story came out, DCF removed the link.

But a few better child welfare systems have broken the mold.

One of them is a place that, at first, seems unlikely. But thanks to a pioneering class-action lawsuit brought by the Bazelon Center for Mental Health Law, Alabama is now recognized nationwide as, relatively speaking, a leader in child welfare. That's why the reforms were showcased on the front page of *The New York Times*.<sup>68</sup> (Co-counsel for plaintiffs in that suit is a member of the NCCPR Board of Directors.)

Alabama's consent decree required rebuilding the system to emphasize keeping children out of foster care in the first place. That meant putting strict limits on shelters. The following is from *Making Child Welfare Work*, The Bazelon Center's book about the

consent decree:

*Because it is so traumatic to uproot a child, an important goal of [the Consent Decree] is to have the child's first placement be the only placement ... To minimize moves, the decree outlaws the use of shelter care except under unusual circumstances. Workers are not permitted to park a child in a shelter while they look for a more permanent placement, unless the child can receive the full range of necessary services while in the shelter and "it is likely that the [child's] stay in foster care will not extend beyond his/her stay in the shelter." What this meant was that counties had to develop a sufficiently large and flexible array of [placements] so they could place children directly...to the setting determined as most appropriate for meeting the child's needs.*<sup>69</sup> [Emphasis in original].

The settlement between the New Jersey child welfare agency and the group that calls itself "Children's Rights" is, in some ways, even more far-reaching; it bans placement of children under age 13 in shelters, period. And it's succeeding. During the entire second half of 2008 only five children under age 13 – not five percent, five *children* – were placed in a shelter.<sup>70</sup>

Unfortunately, CR did not win similar protections for the children of Michigan – on the contrary, as is discussed later in this report, the Michigan settlement includes a loophole for shelters.

The final rationalization is the one in which the shelter operators admit shelters are a lousy option but, they claim, there simply is no alternative. There just aren't enough foster homes, they say.

There are two key indicators that the "no alternative" argument is just one more rationalization.

The first is who the shelters take in and who they leave out.

Everyone in child welfare knows the

group for whom it is hardest to find a foster home: Teenagers, especially teenagers with behavior problems. To the extent that there is ever a “need” for a shelter or some other form of “congregate care” it would be for teens. Younger children are easy to place and babies easiest of all.

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**The argument over Angel House, with Prof. Groza relying on actual research and Paparella relying on what he *wished* were true, is a perfect example of the clash between truth and what comedian Stephen Colbert calls “truthiness” ...**

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Yet most of these shelters are only for children age 12 and younger. There is no better indication that shelters really exist to serve the adults who work and volunteer there. After all, a teenager who’s been through removal from his or her home is as likely to spit in your face as to throw his arms around you. They don’t make good human teddy bears.

So the shelters usually stick to children 12 and younger.

The second indicator is what happened when the former director of DHS, Marianne Udow, called the shelter operators’ bluff.

After a decade of careening full-speed backwards, Udow began moving DHS toward curbing needless removal of children – and the shelter operators and other institutional providers weren’t happy about it.

By 2006, the innovations were beginning to pay off. As a result, even in the Lansing area, where children are taken away

at one of the highest rates in Michigan,<sup>71</sup> DHS had become so good at finding homes for children, that a brand new shelter, Angel House, stood almost empty.

If the people running the shelter really cared about the children, they would have celebrated this development and used their space for something genuinely useful, such as a drug treatment program where parents could live with their children.

But that’s not how Michigan’s foster care-industrial complex operates. Instead, they attacked the alternatives and the people behind them.

The *Lansing State Journal* treated the triumph of empty beds as a tragedy.<sup>72</sup> So did local politicians. And the local judge stepped forward and promised to overrule DHS and start filling the shelter with babies, even when DHS had homes available – even though, under state law, the county would then have to pay the full \$170-per-day cost of the placement instead of, at most, only half. Said the judge: “I guarantee you that place will be full.”<sup>73</sup>

So much for the “we have to have shelters because there’s no other alternative” argument.

Prof. Victor Groza of Case Western Reserve University, which happens to be in Ohio, wrote an op ed column for the *State Journal* carefully explaining all the research on the harm of shelters. He noted that “for more than 60 years, studies have shown the damage of institutional care” and he explained why shelters harm the emotional development of children.<sup>74</sup>

Jim Paparella, the head of the agency that runs Angel House, Child and Family Services, Capital Area, wrote a response that boiled down to: Prof. Groza’s not from here so he can’t know anything; nyah, nyah, nyah.<sup>75</sup>

Indeed, the argument over Angel House, with prof. Groza relying on actual research and Paparella relying on what he

wished were true, is a perfect example of the clash between truth and what comedian Stephen Colbert calls “truthiness,” which Colbert defines as believing something is true because you *want* it to be true. As Colbert puts it: “You don’t look up truthiness in a book, you look it up in your gut. ... I don’t trust books. They’re all fact and no heart.”

So, writing about the infants placed at the shelter in its earliest days, Paparella claimed that “Children have entered [Angel House] traumatized and exhausted. They have left with a sense of stability, direction, normalcy, and love.” But how does he know this? Infants are too young for exit interviews. The shelter was brand new when he made those claims and in the op ed column he doesn’t even claim to have actually followed the children, much less compared them to those not placed in shelters. No, it’s true because they *want* it to be true. They looked it up in their guts. Or, as Paparella put it: “Our early experiences at Angel House have *confirmed what we expected*” [emphasis added].

As for all that research, well, Paparella, the local “child advocate,” has no more use for it and what he called “out of state academicians” than Colbert has for books, declaring: “We believe the people of mid-Michigan have more faith in the wisdom of local child advocates than the distorted views from academia...”<sup>76</sup>

Or, as Colbert would say: “The world of illusion is wonderful. Join me in it.”

When children’s lives are at stake, we can’t afford to live in a word of illusion. And we can’t afford to make our decisions based on truthiness.

Indeed, back in 2006, when Judge Richard Garcia placed an infant – the age where shelters harm children the most – in Angel House even when other options were available, he had the best of intentions – but he committed an act of emotional child

abuse.

But Marianne Udow, who understood that, is out. And her successor, Ahmed, seems only too happy to join Garcia and Paparella in the world of illusion.

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In 2006, when Judge Richard Garcia placed an infant – the age where shelters harm children the most – in Angel House even when other options were available, he had the best of intentions – but he committed an act of emotional child abuse.

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So when Ahmed found that some teenagers in Wayne County were sleeping in offices, his immediate response was not to ask if all those children needed to be taken from their parents in the first place or to ask if his agency was doing enough to find relatives to take in the children. No, he went with his gut and called for building a new shelter.<sup>77</sup>

And with Ahmed in charge, Angel House is getting more referrals (though according to the *State Journal* it’s also resorting to the highly questionable practice of taking in young people charged with delinquency and mixing them with those allegedly victimized by abuse in order to keep its beds full. And some of those children are trapped in Angel House for months.)<sup>78</sup>

So it’s no wonder that, when Paparella wrote about Ahmed in another *State Journal* op ed column, he sounded like a man in love:

## Lighting a fire under the system

In a response to NCCPR's previous report on Michigan child welfare, published in the *Detroit Free Press*<sup>79</sup> Judges James Alexander and Kenneth Tacoma failed to do some basic fact-checking. They may even have been more interested in taking offense at the report than actually reading all of it.

- The judges claim that NCCPR's report "would not even acknowledge" recent revisions to the state's draconian Binsfeld Laws. In fact, that acknowledgement begins on Page 57, column 2, last paragraph. But the judges are wrong in characterizing the changes as substantial. That's why NCCPR recommended more far-reaching reforms.

- The judges claim that most foster children are placed with relatives. Again, not true. While Michigan does better than many states, according to the Department of Human Services' own data, at least 62 percent of foster children are placed with strangers.<sup>80</sup>

More important, a major thrust of NCCPR's previous report was warning that the consent decree between DHS and the group that so arrogantly calls itself Children's Rights (CR) was putting this commendable record in jeopardy.

While the judges said nothing about this in their column, NCCPR spoke out against it – in the strongest possible terms – at a meeting of the Child Welfare Improvement Task Force, in our first report, on the *NCCPR Child Welfare Blog*, in an op ed column for *The Detroit News*, and over and over again to journalists and advocates across the state. Thanks in part to that unrelenting advocacy, as noted earlier in this report, DHS and CR now have relented. (See *Update: A cease-fire in the war against grandparents*, p. 15).

- The judges point out that many children suffer serious abuse in their own homes. Somehow they missed all the times NCCPR's report makes that identical point. But it is precisely because the system is so overloaded with false reports and trivial cases that workers don't have time to find children in real danger.

- As for what happens to foster children who run away, the judges gave us the Disney version, in which rights of children and families are carefully protected. They even claim that foster children who run away are not treated like delinquents. They need only read searing news accounts like those cited in our previous report to know the real story. Or they can read the landmark study commissioned by DHS itself, the *Michigan Race Equity Review*, which states that "Youth who 'run away' are treated criminally. When police apprehend these youth, the practice is to handcuff and transport them in the backseat of police cars."<sup>81</sup>

The judges also complained that the language in the report was inflammatory. No doubt they'd say the same about this one. Readers can make that determination for themselves.

But it's worth noting that it was precisely this kind of strongly-worded advocacy that helped pressure DHS and CR to declare a cease-fire in Michigan's war against grandparents. It also apparently helped persuade the Task Force to adopt many of NCCPR's ideas as its own.

Despite the good intentions of most of those in the system, for decades the Michigan Department of Human Services, and the state's courts, have been harming a lot of children they are supposed to help. Isn't it time to light a fire under them?

*Refreshing from the perspective of private nonprofit agencies in Michigan is the crystal clear vision, direction, and open-mindedness demonstrated by the new leadership. Over the past year, a strong sense of mutual respect and trust has been cultivated between the public and private services sectors, providing the sound foundation that will be needed to implement the major reforms called for in the settlement [with the*

*group that calls itself "Children's Rights." ]<sup>82</sup>*

What Paparella really is saying is: Marianne Udow wouldn't give us whatever we wanted – Ismael Ahmed will. And sure enough, even as prevention is cut, Ahmed comes through with more money for institutions – and more referrals to Angel House.

Unfortunately for Michigan's vulnerable children, in addition to Ahmed,

Michigan's foster care-industrial complex has another powerful ally.

**The children wronged  
by "Children's Rights."**

The finest work of journalism ever written about child welfare is *The Lost Children of Wilder: The Epic Struggle to Change Foster Care*, (Pantheon: 2001) by Nina Bernstein, who formerly covered these issues for *The New York Times*. A finalist for the National Book Award, *Lost Children* tells the story of American child welfare through one class-action lawsuit brought against New York City's foster care-industrial complex in the early 1970s, by a young lawyer for the New York Civil Liberties Union named Marcia Lowry.

In one of the book's most compelling passages, Bernstein describes what Lowry and her team of low-paid public interest lawyers faced when they met their opponents at "the august Wall Street firm that had taken the lead in the agencies' defense ...

*Their conference rooms had the ambience of a very exclusive men's club: cigars were smoked, and servants padded about discreetly replenishing drinks and replacing ashtrays. Occasionally, the pin-striped formality might be punctuated by a manly guffaw or the flash of cuff links as one attorney clapped another on the back over some shared joke. ...The ... gatherings were like convocations. Just walking into the room meant drawing the collective gaze of a dozen men who seemed to think you should be wearing an apron.*

*In the early days, being treated as an interloper there had been part of the thrill of the case for Lowry, a kind of confirmation that she was doing battle for the weak.<sup>83</sup>*

That was then.

Lowry long ago left the Civil Liberties Union, and concerns about civil liberties, behind. Now she runs her own multi-

million dollar operation, and hobnobs with celebrities at glitzy fundraisers. Corporate raider Carl Icahn once chaired her Board of Directors.<sup>84</sup>

As for big, powerful law firms, they're now Marcia Lowry's best friends, gladly donating their services. Her original local partner in Michigan was Dykema Gossett, PLLC,<sup>85</sup> one of the most formidable firms in the Midwest. The firm's recently-retired Director of Government Policy, Richard McLellan, was transition director for former Gov. John Engler when Engler took office. When Gov. Granholm's opponent in 2006, Dick DeVos, announced his choice for Lieutenant Governor, he made the announcement at Dykema's Lansing offices.<sup>86</sup>

By the time the case was settled, Dykema was no longer listed as a partner.<sup>87</sup> Instead, Lowry was partnering with the equally impressive Kienbaum, Opperwall, Hardy and Pelton, P.L.C. a firm which lists, among its specialties "union avoidance..."<sup>88</sup>

And the lawsuit itself looks an awful lot like the kind one would bring if one were doing battle for the strong.

The arrogance of the organization is summed up in its name. Formerly "Children's Rights, Inc.," it's now simply "Children's Rights" – as though the one thing children crave most is the "right" to be taken from everyone they know and love, as if an organization made up overwhelmingly of affluent adults understands the rights of overwhelmingly poor children.

As is discussed in a section of NCCPR's previous report concerning CR's war against Michigan's grandparents, an organization whose entire senior staff is white, tried to dictate that thousands of disproportionately minority Michigan children wouldn't be able to live with those grandparents unless they could manage to comply with pages of hypertechnical licensing requirements or obtain a waiver.

CR is the 800 pound gorilla of child

welfare litigation. And CR tends to treat child welfare agencies the way child welfare agencies tend to treat families: Like dirt.

The agency is presumed utterly incapable of walking and chewing gum at the same time, and early CR settlements, in particular, included the equivalent of detailed instructions on how to do both. The group's first settlement in Connecticut included 160 pages of minutiae including requirements for one training manual after another. One of those manuals allegedly included things like a requirement that the classrooms where training takes place contain waste baskets.<sup>89</sup> But agencies respond to such treatment no better than families.

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**In Michigan, for the first time, CR sued a state that was, at the time, beginning to improve on its own – the suit was filed just as Marianne Udow was starting to make headway.**

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So before the Bazelon Center for Mental Health Law sued Alabama, they studied CR's work, concluded it had produced "only modest success" and decided to take a far different approach.<sup>90</sup> And when the original settlement in Illinois wasn't getting results, plaintiffs there moved away from a CR-style approach and began adapting Alabama solutions.

As a result, Alabama and Illinois today are national leaders in child welfare reform, while most of the places Marcia Lowry has sued remain mired in mediocrity.

Worst of all, as Marcia Lowry became more and more comfortable with the rich and the powerful, she became less and

less interested in stopping children from being taken from their parents in the first place. The civil liberties lawyer who once brought a child to Congress to testify about being needlessly torn from his mother<sup>91</sup> has been replaced by the friend of the rich and powerful whose website has included the false claim that "only the most severe cases of abuse and neglect result in children being removed from their homes and placed in foster care."<sup>92</sup>

Nevertheless, until Michigan, we had never opposed CR bringing a lawsuit in a particular state.

We even defended CR against the two most common criticisms leveled against the group, that it is only in it for the legal fees and the money spent on litigation would be better spent on services.

In fact, Marcia Lowry could have made far more money in some firm like, say, Dykema Gossett. Like so many people who get child welfare wrong, she is well motivated. And CR's response on the cost of litigation is correct: Stop running lousy systems and you won't get sued.

Most important, until Michigan, CR always had sued agencies so dreadful and so uninterested in reforming on their own, that even a CR suit probably would bring about at least marginal improvement. And, until Michigan, while CR's proposed remedies could be astoundingly hypertechnical and tended to emphasize process over outcomes, CR rarely had sought remedies that actually would do harm.

Their skill in simply calling attention to problems could help a little, and some of the systems with which they settled improved around the edges.

And sometimes CR got lucky. Some other organization, like the Annie E. Casey Foundation, would step in and craft better solutions than CR itself would ever think of. (The Casey Foundation is a longtime funder of NCCPR.) That happened in New York

City and New Jersey. In other cases, the various monitors brought in to oversee settlements were exceptionally good. That happened in Tennessee. So there were significant improvements in those places.

And CR used to be strong on one issue: the enormous harm of congregate care. It was their original settlement that made it illegal to institutionalize young children in New Jersey, and, until the first director of their policy arm left the organization, they were issuing good reports on the harm of “shelters” like the one Jim Paparella runs, the problems with group homes in New York City, and the harm of the “back to the orphanage” movement.

But in Michigan, CR crossed two lines.

For the first time, it sued a state that was, at the time, beginning to improve on its own – the suit was filed just as Marianne Udow was starting to make headway.

As *Free Press* columnist Rochelle Riley wrote in 2006:

*The sad irony is the lawsuit comes amid some real progress at DHS. For instance, the state has decreased the number of times children are placed and re-placed in different foster homes. Five years ago, four of five children endured multiple placements. Last year, 40% were placed only once.*

*Udow also has shifted the department's focus from family destruction to family strengthening to keep kids out of foster care. Its Family to Family program, now in 38 counties, tries to defuse crises before children are moved. And Michigan is one of [the] states that, as part of a federal pilot program, can use its federal funds for prevention and early intervention efforts as well as foster care.<sup>93</sup>*

That last sentence is a reference to a pioneering waiver from federal funding restrictions that DHS initially accepted, only

to chicken out at the last minute. (The waiver, and Michigan’s failure of nerve, are discussed in detail in *Cycle of Failure*.) Apparently it was sometime after CR sued that the waiver died its mysterious death.

Second, in Michigan CR sought remedies that would have done harm, including the requirement, now rescinded to require that relatives providing “kinship care” be licensed.

"My question is why now, and why Michigan?" Udow told Riley.<sup>94</sup>

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**Whether intended or not, CR’s Michigan lawsuit read like a thinly-disguised attempt to transfer resources away from birth families and into the pockets of private agencies and middle-class strangers serving as foster families to poor people’s children.**

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And we still don’t know the answer. According to Riley, Lowry “said that her group was invited to investigate Michigan by local foster professionals and others sick of waiting for change.”

We wondered who those “local foster care professionals” are.

But CR won’t say. Much like a child welfare agency, CR is hiding behind “confidentiality.” In this case, CR argues that the information is “privileged under a legal doctrine called attorney work product.” But that privilege can be waived for any person or organization who asked CR to come to Michigan and agrees to waive it. But CR refuses to ask them to waive that privilege. Why? CR says that’s confidential, too.<sup>95</sup>

We do know that the “complaint”

filed by CR in Michigan contained nothing that would have curbed the misuse and overuse of group homes and institutions, nothing that would have curbed the power of private agencies running those group homes and institutions, and much that would have enhanced that power.

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**In 30 years of reading class-action lawsuit documents in child welfare, this was a first: We've never before seen a story of a "named plaintiff" that actually contradicted the claims in the suit itself.**

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Whether intended or not, CR's Michigan lawsuit read like a thinly-disguised attempt to transfer resources away from birth families and into the pockets of private agencies and middle-class strangers serving as foster families to poor people's children.

For starters, the complaint was the first shot in CR's war against Michigan grandparents. It was the complaint that first called for requiring all grandparents and other relatives to meet a plethora of onerous licensing requirements, many of them unrelated to health or safety.

In addition, the lawsuit tried to enforce a recent theme of CR's - all foster parents should get gigantic pay raises. They already get far more to care for a stranger's children than birth parents get to care for their own. But CR issued a report arguing that foster parents should be reimbursed not only for basic necessities but also for every dime spent on things like movie tickets,

amusement park rides, even toys.<sup>96</sup>

Not only is this a huge waste of scarce resources, it's an insult to thousands of good, caring foster parents who are not "in it for the money" and wouldn't think of demanding that the government reimburse them for buying their foster child a teddy bear.

Attention to foster parent pay also tends to focus on the "base rate" paid for the lowest "level of care." In some states higher levels of care can be quite lucrative. Indeed, that creates a serious danger of foster parents and, especially, group homes and institutions, deliberately overstating a child's problems, and pushing to overmedicate children, just to get them certified for a higher level of care. There's also a disincentive to admit that a child is getting better.

CR's own "case reading" for its Michigan suit found that increases in levels of care - and the payments that went with them - were approved at least 72.5 percent of the time.<sup>97</sup>

Yet over and over in the Michigan lawsuit, CR crusaded to pull out all the stops on certifying children for higher levels of care - which means, of course, higher *per diems* for agencies. There's not one word about ensuring that this is not misused.

Indeed, the harm of this drive to shovel children into higher levels of care actually is illustrated by one of the very cases cited in the Complaint itself.

In the case of a child CR calls Carmela, the lawsuit alleges she was doing well at a lower level of care, but her psyche was destroyed when she was moved, needlessly, to a *more* restrictive placement - the kind that increases the *per diem* rate for private agencies.

In 30 years of reading class-action lawsuit documents in child welfare, this was a first: We've never before seen a story of a "named plaintiff" that actually contradicted

## The limits of case records

In its stories about Christ Child House, reporters for the *Detroit Free Press* apparently relied on case records of the children institutionalized there to convince themselves that those children really had such severe problems that they could only be at CCH (unless of course, the problems were *too* severe, in which case CCH would kick a child out; see p. 15).

The *Free Press* was, in fact, scrupulous about respecting children's privacy, limiting the use of full names and pictures. But the journalists bought into the notion that the case records were objective accounts of what really happened. That is a huge mistake.

Case records don't *show*, case records *allege* - they are the equivalent of an indictment, a way for the system to justify its actions.

They may be true, they may be false, they may be some combination of the two. Often, they simply may lack context.

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A perfect example is the case of Johnnie, the child whose case is discussed at the beginning of this report. The institution's case record no doubt is full of documentation for how "difficult" the child is. But the record probably doesn't explain that this happened because DHS failed to provide the support that Johnnie's family needed - so his condition deteriorated.

And that's nothing unusual. More than two decades ago, Malcolm Bush, then director of Voices for Illinois Children, published a landmark study called "The Public and Private Purposes of Case Records."<sup>98</sup> Bush argues that

*case records that record the lives of children in child welfare systems are written, inter alia, to deny the failure of interventions, to justify the refusal to serve "bad clients," and to justify the decision to extend hegemony over "good" clients.*

He cited examples of how institutions manipulate records. In one case the record said this:

*This is a rather immature, impulse-ridden boy who does, however, respond to predictable external controls. The inability to control rather primitive aggressive impulses unless he were exposed to an understanding but firm and neutral environment does indicate the need for placement in a boarding school with reality-oriented rewards for acceptable functioning and immediate delivery of negative reinforcement for unacceptable aspects of his behavior.*

Bush then translates:

*The boy behaves badly, needs to be praised when he does well and punished when he misbehaves.*

Bush points out that

*The common language description of the problem, however, could put the solution in the hands of non-professionals ... [Using therapeutic jargon] reduces this possibility and steers the boy to the specialized services of the private agency.*

But there are plenty of faults with case records that are a lot less subtle. It was well-documented in one of the most telling sections of the *Michigan Race Equity Review*. The review found a fascinating, and disturbing, pattern concerning how Michigan caseworkers evaluate a parent's statements concerning drug abuse. In situations where the objective evidence is the same, if the parent is white, the case file is likely to say "no history of substance abuse." If the parent is Black, it is likely to say "*denies*" history of substance abuse."<sup>99</sup>

The *Michigan Race Equity Review* found a fascinating, and disturbing, pattern concerning how Michigan caseworkers evaluate a parent's statements concerning drug abuse. In situations where the objective evidence is the same, if the parent is white, the case file is likely to say "no history of substance abuse." If the parent is Black, it is likely to say "*denies*" history of substance abuse."

And there is more from around the country:

In December, 2008, KING-TV in Seattle reported on a child needlessly taken from grandparents. One part of the story dealt with things written about them in case records that either were distorted or simply were not true:

*A court-appointed advocate for the baby wrote the Stuths [the grandparents] were selfish, hyper-critical, and were derailing their daughter's parenting efforts. One example cited over and over in legal papers: They gave the child a pacifier, or binky, which was against the young mom's wishes.*

*"You would not believe how many times that darn binky was brought up in court and in paperwork over the stupid binky!" AnneMarie Stuth said.*

*A social worker also wrote the grandparents refused to financially support their daughter. But we have copies of dozens of cancelled checks which show the Stuths were giving their daughter money.*

*They were also accused of being unwilling to drive the child for visits with the mom. But mileage reimbursement records show the state was paying the grandparents for driving hundreds of miles a month so the child could see her mother.<sup>100</sup>*

In Connecticut, a juvenile court judge blasted that state's child welfare agency for "an appalling combination of arrogance and ineptitude." She ruled that child protective services deliberately left out exculpatory information in order to obtain emergency removal of a child. The judge wrote:

*There is no other purpose for this affidavit other than to mislead the court into believing that [the child] was in immediate physical danger from her surroundings and only her immediate physical removal ... would ensure her safety. The court finds that [the Connecticut child welfare agency] intended to manipulate the facts to obtain an order that it knew the facts could not justify.*

The judge felt compelled to encourage Connecticut's child welfare agency to remind its workers of the punishment for perjury.<sup>101</sup>

And a former family court judge on Staten Island, New York wrote this:

*While I found the majority of child care agencies to be caring and trustworthy, there were enough instances of deceptive agency reports that I decided to order independent investigations of every agency adoption case that came before me. It's a course of action that remains prudent today.<sup>102</sup>*

And then there is Kansas, where Ismael Ahmed's counterpart, Don Jordan, actually admitted that caseworkers in metropolitan Wichita routinely distort their sworn affidavits, hyping allegations under pressure from the local district attorney's office. Details are in NCCPR's Kansas report available here: <http://www.nccpr.org/reports/kansas.pdf> (When Ahmed's counterpart found out his remarks had been taped, he said he didn't really mean it; he'd just been "pandering" to the group he was talking to. But that doesn't exactly provide reassurance concerning the veracity of anything coming out of a child welfare agency.)

According to the *Michigan Race Equity Review*, some evaluators are simply cutting and pasting boilerplate assessments from one person's psychiatric evaluation into another's.

**But that kind of thing could never happen in Michigan, could it?**

**Consider what the *Michigan Race Equity Review* found concerning the all important psychological evaluations. These "psych evals" carry enormous weight with juvenile courts. Yet, as we noted in our previous report, according to the *Michigan Race Equity Review*, some evaluators are simply cutting and pasting boilerplate assessments from one person's psychiatric evaluation into another's. In other words, it appears that a "psych eval" that was supposedly done on Ms. Smith winds up with a paragraph that might say something like "It is clear that Ms. Jones suffers from..."<sup>103</sup>**

**(For a detailed analysis of "psych evals" the extent to which they are permeated with bias, and why judges, and journalists, need to view them with extreme caution, see Kendra Hurley, "Deciding if a Mother Is Fit: Mental health evaluations are far from scientific," *Child Welfare Watch*, Winter, 2009, available online at**

**[http://www.nycfuture.org/content/articles/article\\_view.cfm?article\\_id=1236&article\\_type=0](http://www.nycfuture.org/content/articles/article_view.cfm?article_id=1236&article_type=0))**

**NCCPR repeatedly has called for making almost all records in child welfare cases open to press and public. We stand by our recommendation for a "rebuttable presumption" of openness – for the same reason we believe that indictments should be public in criminal cases. But at the same time, like an indictment, a child welfare case record never should be treated as Holy Writ.**

the claims in the suit itself.

Similarly, the stories of the named plaintiffs are filled with tales of abuse by stranger-care parents and other children in stranger-care homes. Yet the foster parents targeted for restriction were relatives.<sup>104</sup>

Fortunately, the actual settlement is better. It has some potentially good provisions, including small increases in funding for alternatives to substitute care (though this money does not make up for what is being cut this year and next – and it may simply be swiped from other prevention and family preservation programs.

It also has language specifically calling for neighborhood-based placements – something some private agencies have been trying to undermine, and other provisions which may force DHS to continue to support the Casey Foundation's Family to Family program, which so many of the private agencies hate – and which Ismael Ahmed has de-emphasized.

And it calls for Michigan finally to move toward "performance-based contracting" – in which agencies are rewarded if they actually produce good outcomes for children, instead of simply sitting back and collecting *per diem* payments for holding children in foster care. Performance-based contracting was crucial to transforming child welfare in Illinois.

And almost all of the ideas that would have increased the power of private agencies are gone.<sup>105</sup>

But there is one sad exception. The settlement calls for curbing multiple placement of children – but in calculating how many placements a child has endured, DHS is allowed to exclude any placement of eight days or less. That means children can be parked in a shelter for that long without the placement "counting" as far as CR and DHS are concerned. You may be sure it "counts" to the child.

In addition, the settlement does al-

most nothing to curb the power of the foster care-industrial complex.

Instead of strict limits on institutionalizing children, especially young children, there is only a requirement for one additional signature from a DHS bureaucrat. Instead of the limits on shelters imposed by the visionary consent decree in Alabama, and CR's own settlement in New Jersey, the Michigan settlement says only that a child shouldn't be parked in a shelter more than one time in a year – and that one time can last up to 30 days.

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---

But CR also got another one of those lucky breaks. The choice of court monitor is excellent. Kevin Ryan did an outstanding job of beginning a transformation of child welfare in New Jersey,<sup>106</sup> and he has a keen understanding of what's really wrong with child welfare and how to fix it. He is likely to make the most of what is good in the settlement and try to ameliorate the damage of its remaining harmful provisions.

But that won't be easy.

Though there has been a cease-fire in the war against grandparents, the settlement still includes the special provision benefiting parking place shelters, and the entire settlement may be financed on the backs of poor people. In addition, another provision enshrines a pernicious attempt to repeal the

laws of human nature known as “concurrent planning.”

Under concurrent planning, the state seeks out people desperate to adopt and tells them they have to be foster parents first. Then it tells these same potential adoptive parents that their first job is to try to help the birth parents reunite with their child but if, by some chance, they fail at that, then they get what they really want: someone else's child for their very own. One such parent in another state at least was honest about it, telling a reporter: “I'm on a plane to South America if they think they're getting this baby back.” The story described such sentiments as the “mantra” of parents in the program.<sup>107</sup>

The caseworker is likely to be equally unenthused about reunification. As Tom Morton, former Executive Director of the Child Welfare Institute has written:

*Expectancy theory suggests that low expectations generate low results. Indeed this has been shown to be true in education. If a poor prognosis leads to lower effort on the part of the casework system to achieve reunification, then the [birth parent's] poor outcomes are as much a function of the system as the condition.*<sup>108</sup>

As is documented in detail in our first report, reunification has always been the broccoli on the child welfare menu, adoption the dessert. We need incentives to encourage people in the system to eat their broccoli before they get their dessert. Concurrent planning rolls up the dessert tray.

If anything, concurrent planning is even more dangerous in Michigan, where the adoption-at-all costs legacy of former Lt. Gov. Connie Binsfeld and her disciples permeates the child welfare system.

The fact that CR's lawsuit pushes concurrent planning, whose victims are the weak (children needlessly taken from their parents) while giving a free ride to the

strong (powerful “providers” of institutional “care”) is one more indication of how much has changed since that young civil liberties lawyer took on a foster care-industrial complex.

### **Recommendations**

NCCPR’s previous report, *Cycle of Failure*, offered 37 specific recommendations for reforming Michigan child welfare. Those recommendations are available online at

<http://www.nccpr.org/reports/michiganinfo1976.html> These are the recommendations specific to curbing institutionalization:

**Ban the placement of young children in institutions.** Institutionalization is, by far, the worst form of “care” – it corrodes the psyches of children and typically leaves them prepared for nothing in later life except more institutionalization.

The younger the child, the greater the harm. That’s why, as noted earlier, New Jersey’s consent decree bans the placement of young children in institutions – and that state has been 97 percent successful in preventing such children from being institutionalized.

**Cut overall institutionalization at least in half within five years, by building a comprehensive infrastructure of Wraparound and other alternative services.** Illinois already institutionalizes only about eight percent of its children, in Michigan it’s 15 percent. Five years is plenty of time to equal, and slightly surpass, where Illinois is already.

### **Conclusion**

One month ago, the giant “Task Force” created by Ismael Ahmed supposedly to study child welfare and recommend improvements issued its final report.

The Task Force has turned out to be the perfect metaphor for Michigan child welfare. It was huge, it was cumbersome, it

was bureaucratic (complete with “logic models,” a committee to “synthesize” the work of the other committees and enough use of Power Point to ensure that Microsoft survives the recession) – and it marginalized birth parents at every turn.

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**Over and over again the Task Force says what NCCPR said first: Michigan takes away too many children who could have safely remained in their own homes had the right kinds of help been made available.**

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It wasn’t hard to see this coming. After following child welfare for more than 30 years, we’ve seen countless committees, panels and task forces. We’ve even come up with an acronym for them – OBRC’s – Obligatory Blue Ribbon Commissions.

Part of our mission in coming to Michigan was to turn up the heat on this particular OBRC – to raise hell about the failures of the Michigan system and its repeated retreats from reform in the hope of pressuring this OBRC into more family-friendly recommendations. (See *Lighting a fire under the system*, p. 29).

The good news: Our hard-hitting, blunt spoken advocacy met with some success. The bad news: Ismael Ahmed has proven he isn’t really interested in what his own Task Force says.

As we noted at the start of this report, over and over again the Task Force says what NCCPR said first: Michigan takes away too many children who could have safely remained in their own homes had the

## Where are the counties?

In most states, state governments run the child welfare agency. In some states each county runs its own child welfare system with some degree of state oversight.

But in one respect, Michigan may be nearly unique. Though counties have no say in how child welfare is run, they have to pick up a portion of the cost of foster care.

When a foster care case is eligible for federal aid, the federal government and the state split the costs. But when the feds won't pay, the cost is split between the state and the counties. Yet the counties play no role in deciding whether the removal was necessary or where the child will go.

So if DHS wants to use the most expensive form of "care" – institutionalization - and the case is ineligible for federal reimbursement, the county's only role is to help pick up the very large tab.

**Why do they put up with this?**

In some cases, apparently, because they've been suckered by the institutions in their midst. In Ingham County, where children are removed at one of the highest rates in the state, the county government actually chipped in extra money to support one of the worst forms of "care" the local "parking place" shelter.<sup>109</sup>

County taxpayers should start asking their county governments why they're wasting all that money – and, more important, wasting children's lives. And county governments should be demanding that DHS curb the needless institutionalization that counties are forced to help pay for.

right kinds of help been made available. The report repeatedly calls for reducing foster care and increasing prevention and family preservation. And it's clear that NCCPR significantly influenced the findings.

Indeed, the report accepts NCCPR's framework, and then zeros in on some of the very concerns first raised by NCCPR.

In *Cycle of Failure*, we wrote:

*It may be hard to believe now, but there was a time, in the first half of the 1990s, when you could ask almost any child welfare leader which states were on the cutting edge of doing right by vulnerable children, which states were closest to getting child welfare right, and, over and over, you'd get the same answer: Alabama – and Michigan. Today, Alabama really is a national leader. Nobody looks to Michigan anymore.*

Two months and nine days later, in introducing its top priority for change, the Task Force framed the issue the same way:

*Nearly twenty years ago, Michigan was recognized as a leader nationally in the devel-*

*opment of alternative services to out-of-home care. This is no longer the case.*

At the November, 2008 Task Force meeting, NCCPR spoke out forcefully against the requirement in the settlement between DHS and CR to license all kinship foster parents. NCCPR's concerns about this provision also are a key theme in *Cycle of Failure*.

It's clear the Task Force took the message to heart. According to a draft of the final report (and they really did put it all in one paragraph):

*the settlement requirement that all children in foster care be placed in licensed settings may very well result in the disruption of safe, stable, and nurturing placements of many children and youth currently in state-supported and funded relative provided unlicensed foster care. As noted in the Task Force's recommended change priorities, it is essential that the Department of Human Services and private agencies proactively reach out to current unlicensed family providers and equally proactively apply federally sanctioned waivers of non-*

*safety-related licensing requirements whenever appropriate and in the best interests of affected children. Further, when DHS has determined that family members, who have declined licensure, are providing safe and nurturing foster care for their minor relatives, the children in care should have equal access to services and financial resources needed to stabilize their placements and foster their development, as do children in licensed foster care placements.*

While they didn't go as far as NCCPR in proposing solutions, they adopted NCCPR's concern about the problem as their own.

And now DHS and CR have eliminated the licensing requirement for grandparents and other relatives.

- Similarly, in our first report we warned about the settlement leading to more out-of-home care. While the Task Force lavished unwarranted praise on the settlement in general, and included the usual obligatory flattery of Ahmed, it went on to say:

*the task force cautions that without increased attention to evidence-based prevention and family-preservation services, an unintended consequence of the settlement could be the investment of funds in more expensive services rather than more cost-effective ways to safely serve families and children in community settings.*

- The theme of *Cycle of Failure* was that Michigan repeatedly embraces reform, only to then give up and back away from it. Our report cited Michigan's pioneering Intensive Family Preservation Services Program, how it became a national model, only to be cut back repeatedly.

Here's what the Task Force report has to say:

*Some recommendations build upon and call for reinvestment in evidence-supported family preservation programs that Michigan has pioneered, but which have not been fully imple-*

*mented due to declining state fiscal capacity.*

Also, a list of "foundations for progress" includes:

*Engaging families and communities through Michigan's Family to Family initiative.*

As is noted earlier in this report and discussed in detail in *Cycle of Failure*, this is the very initiative Ahmed is backing away from.

- Another theme of NCCPR's first report was the fact that Michigan's draconian so-called Binsfeld Laws are a disaster. They promoted Michigan's adoption-at-all-costs mentality and helped create a generation of legal orphans with no ties to their own parents and little chance of adoption either – especially when they wind up institutionalized. Now, though the language is duller and more bureaucratic, the Task Force says much the same thing:

*A reform strategy that does not address all [issues] will not be successful and indeed may lead to serious unanticipated new problems. Such was the case with the mid-1990s reforms that solely focused on standards for the termination of parental rights; the reforms resulted by some accounts in the state's failure to meet federal standards concerning permanency for state wards and contributed to subsequent litigation.*

- In *Cycle of Failure* we also criticized DHS for chickening out at the last minute after obtaining a waiver from federal funding rules that allowed foster care money to be used for better alternatives. We recommended that Michigan beg the Obama Administration for another chance. Here's what the Task Force has to say:

*DHS should work with the Congressional Delegation to seek federal approval to utilize medical assistance and Title IV-E funds more flexibly to pilot alternative methods for delivering services to children and families.*<sup>110</sup>

Translation: Beg the Obama Administration for another chance.

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Ismael Ahmed's actions belie the [Task Force] report's words. His proposed DHS budget moves in precisely the opposite direction. It slashes prevention and gives rate increases to agencies for institutionalizing children.

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All through the process, the foster care-industrial complex tried to water down the report. For instance, the report calls for cutting the number of children trapped in Michigan foster care on any given day in half by 2020. Minutes of Task Force meetings show attempts to get rid of that. Providers even tried to get rid of a principle that has been a bedrock of human services for decades – placing children in the least restrictive alternative.<sup>111</sup> Who would be against that? People who rake in *per diems* for holding children in *more* restrictive alternatives, of course.

And, as is noted earlier in this report, the foster care-industrial complex has been able to worm some damaging recommendations into the fine print.

The report has other shortcomings.

- Its solutions are focused entirely on more services; there is not a word about bolstering due process protections for families, which may be even more important. (See the Due Process recommendations in *Cycle of Failure* for solutions the Task Force omitted.)

- The funding recommendations are largely pie-in-the-sky. There's a proposal for a beer tax which, fortunately, includes a provision recommending that DHS not be allowed to use this money to substitute for existing prevention and family preservation funds. But the rest is mostly the Oliver Twist approach: Go to the state legislature and the federal government and say, "Please,

sir, I want more."

That's because, with so many providers on the Task Force, it couldn't recommend the one way to implement real change without new spending – curb the widespread, needless institutionalization of children.

- Most important, although he co-chairs the Task Force, Ismael Ahmed's actions belie the report's words. The recent Executive Order slashing prevention and family preservation funding, and Ahmed's proposed budget for FY 2010 move in precisely the opposite direction from the recommendations in the Task Force report; they slash prevention and the proposed budget gives rate increases to agencies for institutionalizing children.

That suggests either that the whole Task Force process was a sham, created by Ahmed to divert attention from his real agenda which seems to be, give the foster care-industrial complex whatever it wants.

The providers on the Task Force probably signed onto the final report precisely because they know it is meaningless. They know the only document that really counts is the budget.

*Cycle of Failure* began by describing how the state's children have been betrayed by DHS and the foster care-industrial complex. Given what appears to be Ahmed's real agenda, the Task Force process is likely to be one more betrayal of children, particularly the young people who served on the Task Force itself.

Nevertheless, on balance, NCCPR is gratified that the Task Force took so much of our advice.

Were Ismael Ahmed actually to implement the recommendations in his own Task Force report as it stands now, it would do a lot more good than harm. Too bad his actions suggest that he doesn't believe a word of it.

If the people of Michigan really want things to get better for vulnerable children, they'll just have to pressure him, and his boss, the Governor, to do it anyway. ■



## Appendix A

### CLINICAL STUDIES, SURVEY REVIEW, AND PEDIATRIC RESEARCH ON RISKS AND HARM TO CHILDREN AND YOUTH SUBJECTED TO LARGE RESIDENTIAL INSTITUTIONS

*This literature review was prepared by Richard A. Wayman, J.D., director of the Street-Works Collaborative, an agency helping homeless youth in Minnesota, based on research by Mary Ford of the North American Council on Adoptable Children. Used with permission.*

Survey of Scholarship concludes that institutions produce harm and poor outcomes for youth and children.

**An article written in 1996 surveyed 100 years of research and medical knowledge to inform the public policy debate as to whether orphanages or large residential institutions should replace existing policies which place a priority on keeping children in family-based settings. The article's abstract concludes,**

**"This special article explores a century of pediatric and child psychiatry research covering five areas of potential biologic and social risk to infants and young children in orphanage care: (1) infectious morbidity, (2) nutrition and growth, (3) cognitive development, (4) socioaffective development, and (5) physical and sexual abuse. These data demonstrate the infants and young children are uniquely vulnerable to the medical and psychosocial hazards of institutional care, negative effects that cannot be reduced to a tolerable level even with massive expenditure. Scientific experience consistently shows that, in the short term, orphanage placements puts young children at increased risk of serious infectious illness and delayed language development. In the long term, institutionalization in early childhood increases the likelihood that impoverished children will grow into psychiatrically impaired and economically unproductive adults." (Frank, Klass, Earls, & Eisenberg, 1996)**

#### **Institutionalization has long-term, psychosocial effects on children into adulthood**

81 adult women who were institutionalized before age five was compared in research with 41 women never admitted into residential care. The study revealed that institutionally-reared women showed higher rate of poor psychosocial function and severe parenting difficulties in adult life. A quarter of the institutional children grew up to be women with personality disorders, while none of the women never institutionalized exhibited personality disorders. Finally, the women who were institutionalized as children were predisposed to lives of poverty more than the women who were never institutionalized. (Quinton, Rutter, & Liddle, 1984)

A majority of the research on long-term childhood institutionalization involving multiple caretakers reveal that such care leads to problems with interpersonal relationships for

adult survivors. (Wolkind, 1974; Berry, 1975; Rutter, 1981; Quinton, Rutter, & Liddle, 1984; Zoccolillo et al., 1992)

### **Children institutionalized exhibit lower cognitive and educational advancement**

Several studies have documented that children reared in institutions, when compared with children raised in a family-setting, have lower IQ scores and retarded language development. (Goldfarb, 1945; Bowlby, 1951; Provenca & Lipton, 1962; Spitz, 1965; Langmeier & Matajcek, 1975)

### **Children institutionalized exhibit social impairment with healthy relationships**

Several studies have documented that children reared in poor quality institutions (large facility and small number of staff) have increased prevalence of childhood anti-social behavior and unable to form supportive relationships with others. (Goldfarb, 1945; Bowlby, 1951; Provenca & Lipton, 1962; Spitz, 1965; Langmeier & Matajcek, 1975).

Even higher quality institutions (smaller facilities with large numbers of staff) fail to provide children with long-term, stable, affectionate relationships that are critical to later social relationships (Tizard & Rees, 1975). Also, insecurely attached children, such as those who have spent their early years in an institution, may lack empathy, seek behavior in negative ways, exhibit poor self-confidence, show indiscriminate affection toward adults, are prone to noncompliance, and are more aggressive. (Reinhard, 1985; Gomez et al., 1991).

### Many youth institutionalized at an early age grow up with social and emotional problems.

Teenagers who were placed in orphanages at early ages, showed more social and emotional problems including higher rates of referral to psychiatric care, and a greater likelihood of disruption in their lives than a comparison group. (Berry, 1975).

A 1983 study compared adopted and foster children to children reared in institutions and found that children reared in institutions are more likely to be inattentive, unproductive, and undependable academically and socially. (Roy, 1983). Another 1975 study that institutionally reared children, in comparison to foster or adopted children, had higher levels of psychiatric referral and problems in personal and social adjustment. (Berry, 1975)

The recent study in 1990 compared 124 adults reared in adoption, foster, and residential care. The study concluded, "those who were adopted and, to a somewhat lesser extent, those formerly fostered experienced more intimate, consistent, caring, and closer attachments to their caregivers compared with those who grew up in residential establishments." (Triseliotis and Hill, 1990, p. 111)

### Even teenagers placed in institutions as teenagers did worse than those receiving foster care.

A 1988 study compared teens in foster care to teens provided institutional or residential care. The institutionalized teens have impairments in familiarity and "give-and-take" relationships to a greater degree than teenagers in foster care. The institutionalized teens also

exhibited coercive interactions with their institutions' staff while foster teens had a higher proportion of socially acceptable interactions between the teens and their foster parents. (Colton, 1988).

In a survey of 370 teens with a history of long-term, out-of-home placement judged institutions as significantly less supportive than foster care. (Bush, 1980) Teens in institutions felt less loved, less looked after, less trusted, less wanted.

What youth and children need is an opportunity to form a consistent relationship with a caretaker in their early years.

Institutionalized children are at serious risk for developmental problems and long term personality disorders. (Sroufe, 1991)

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## ENDNOTES:

- <sup>1</sup> Jeff Seidel, "Fiercely determined teen refuses to let foster-care situation define him," *Detroit Free Press*, January 4, 2009 and "Harvard accepts teen who sought foster parents," *Detroit Free Press*, April 21, 2009.
- <sup>2</sup> Vivek Sankaran "A Long Overdue Wakeup Call," available online at <http://www.nccpr.org/reports/michiganinfo1976.html>
- <sup>3</sup> All of NCCPR's previous reports on Michigan are available online at <http://www.nccpr.org/reports/michiganinfo1976.html>
- <sup>4</sup> Michigan Department of Human Services, *Michigan Child and Family Services Review Data Profile*, March 20, 2009, p.8.
- <sup>5</sup> Child Welfare League of America, National Data Analysis System. Go to [http://ndas.cwla.org/data\\_stats/access/predefined/Report.asp?ReportID=384](http://ndas.cwla.org/data_stats/access/predefined/Report.asp?ReportID=384) then follow instructions for creating table.
- <sup>6</sup> Cathy R. Crabtree, "Formula for Disaster," *A Management Review of the Michigan Department of Human Services*, 2008, available online at [http://www.childrensrights.org/wp-content/uploads/2008/05/2008-02-08\\_mi\\_management\\_review.pdf](http://www.childrensrights.org/wp-content/uploads/2008/05/2008-02-08_mi_management_review.pdf)
- <sup>7</sup> Center for the Study of Social Policy (CSSP), *Race Equity Review: Findings from a Qualitative Analysis of Racial Disproportionality and Disparity for African American Children and Families in Michigan's Child Welfare System* (Washington: January 19, 2009). Available online at <http://www.cssp.org/uploadFiles/michigan%20report%201%2014%2009%20FINAL.pdf>
- <sup>8</sup> Child Welfare Improvement Task Force, *Detention, Residential Care and Treatment Logic Model*, available online at [http://www.michigan.gov/documents/cwif/012609DetentionResidentialCareTreatmentReport\\_265214\\_7.pdf](http://www.michigan.gov/documents/cwif/012609DetentionResidentialCareTreatmentReport_265214_7.pdf). In its most recent form, a recommendation to build so-called assessment centers (parking place shelters) has become a recommendation for "comprehensive assessment" – the centers are implied but no longer stated explicitly. See Michigan Child Welfare Improvement Task Force, *Change Priority #1*, available online at [http://www.michigan.gov/documents/cwif/ChangePriority1ServiceArray\\_March\\_17\\_271681\\_7.pdf](http://www.michigan.gov/documents/cwif/ChangePriority1ServiceArray_March_17_271681_7.pdf)
- <sup>9</sup> Ibid.
- <sup>10</sup> Michigan's Children, *Budget Basics for Child and Family Advocates*, March 17, 2009, available online at <http://www.michiganschildren.org/images/stories/BudgetBasics/2009/dhs%20senate%20summary.pdf>, Michigan's Children, *Budget Basics For Child Advocates: House and Senate Appropriations Committees Adopt Governor's Executive Order With Deep Cuts in Services for Children and Families*, May 5, 2009, available online at <http://www.michiganschildren.org/images/stories/BudgetBasics/2009/2009%20eo.pdf> and Office of the Governor, Executive Order No. 2009-22, available online at [http://www.michigan.gov/documents/gov/EO2009-22\\_277339\\_7.pdf](http://www.michigan.gov/documents/gov/EO2009-22_277339_7.pdf) Estimates for the total amount of the budget cuts were calculated by NCCPR.
- <sup>11</sup> STEP 1: Follow this link to a database maintained by the Child Welfare League of America, using data every state reports to the federal government: [http://ndas.cwla.org/data\\_stats/access/predefined/Report.asp?ReportID=384](http://ndas.cwla.org/data_stats/access/predefined/Report.asp?ReportID=384) The link will take you to tools to create a table showing the number of children in foster care in every state by placement setting, as well as the national total, in 2006, the most recent year for which these data are available.
- STEP 2: Follow the instructions for creating the table.
- STEP 3: The table lists children in a variety of placement settings including one category specifically for institutions. Divide the Illinois figure in this category by the Illinois total and you get 8.2 percent. Do exactly the same thing for the national total and you get 10.2 percent. But do it for Michigan you'll get 14.4 percent.
- <sup>12</sup> For details, see NCCPR's report on Kansas child welfare, available online at <http://www.nccpr.org/reports/kansas.pdf>
- <sup>13</sup> In an e-mail response in January, 2009, the person we were directed to contact at DHS said this information was "not readily available" to DHS and "I have requested that our Budget Office provide this information." We still haven't received it. The endnotes to our previous report describe the elaborate process NCCPR had to use to try to estimate this figure.
- We are not naming the people at DHS who failed to produce these basic data because we believe it's possible that they sincerely tried to provide the information and the agency was simply incapable of producing it.
- <sup>14</sup> John Goad, *Michigan Department of Human Services: An Evaluation of the Capacity to Assure the Safety of Foster Children*, February 11, 2008 available online at [http://www.childrensrights.org/wp-content/uploads/2008/05/2008-02-11\\_mi\\_abuse\\_and\\_fatality\\_report.pdf](http://www.childrensrights.org/wp-content/uploads/2008/05/2008-02-11_mi_abuse_and_fatality_report.pdf)
- <sup>15</sup> Robin Erb, "The Boys of Christ Child House," *Detroit Free Press*, November 30, 2009, available online at <http://www.freep.com/christchild>
- <sup>16</sup> The Rate-of-Removal Index is available online at <http://www.nccpr.org/reports/michiganinfo1976.html>
- <sup>17</sup> North American Council on Adoptable Children (NACAC), *There is a Better Way: Family-Based Alternatives to Institutional Care* (St. Paul, Minn: 1995) pp. 5-9.
- <sup>18</sup> M. Colton, "Foster and Residential Care Practices Compared" *British Journal of Social Work*, 18(1), 25-42, 1988.
- <sup>19</sup> M. Bush, "Institutions for Dependent and Neglected Children: Therapeutic option of choice or last resort?" *American Journal of Orthopsychiatry* 50(2), 239-255.
- <sup>20</sup> U.S. Department of Health and Human Services, *Child Welfare Outcomes 1998: Annual Report*. (Washington DC: 2000).
- <sup>21</sup> Judith Meltzer, *Progress of the New Jersey Department of Children and Families, Monitoring Report for Charlie and Nadine H. v. Corzine*, (Washington, D.C.: Center for the Study of Social Policy, October 30, 2008), chart, p.18.
- <sup>22</sup> Judith Meltzer, *Progress of the New Jersey Department of Children and Families, Period V Monitoring Report for Charlie and Nadine H. v. Corzine*, July 1, 2008 through December 31, 2008, (Washington, D.C.: Center for the Study of Social Policy, April 27, 2009), chart, p.14. Available online at <http://www.cssp.org/uploadFiles/NJ%20Period%20V%20Monitoring%20Rpt%20Fnl%20022709rev.pdf>
- <sup>24</sup> Michigan *Race Equity Review*, note 7, supra.
- <sup>25</sup> John Kelly, "A Giant Borrows its Way to Growth, and Risk," *Youth Today*, February 2008.
- <sup>26</sup> Matt Assad, "Crisis brings KidsPeace to a crossroads," *The Morning Call*, Allentown, Pa., December 16, 2007.
- <sup>27</sup> Erb, note 11, supra.
- <sup>28</sup> Mental Health: A Report of the Surgeon General, available online at: <http://www.surgeongeneral.gov/library/mentalhealth/chapter3/sec7.html#tr>
- <sup>29</sup> Richard Barth, *Institutions vs. Foster Care: The Empirical Base for a Century of Action*, University of North Carolina, Jordan Institute for Families, available online at <http://ssw.unc.edu/jif/events/Groupcare.pdf>

- <sup>30</sup> Casey Strategic Consulting Group, *Virginia Children's Services Reform Overview*, Power Point presentation to the Joint Subcommittee on Comprehensive Services for At-Risk Youth and Families, December 5, 2007.
- <sup>31</sup> Shawn Cohen, Leah Rae, "Desperate children, haphazard care, Lack of standards, oversight hinder residential treatment," *The Journal News*, Westchester County, NY October 28, 2002.
- <sup>32</sup> Shay Bilchik, "Residential Treatment: Finding the Appropriate Level of Care," *CWLA Residential Group Care Quarterly* Summer, 2005. When the author of this report first confronted Bilchik about his remarks he was not aware of the fact that they had been published.
- <sup>33</sup> Jamie Satterfield, "Youth Villages lauded as one of nation's best in curbing youth crime," *Knoxville News-Sentinel*, June 6, 2001. See also Bill Alexander, "Radical Idea Serves Youth, Saves Money," *Youth Today* June, 2001.
- <sup>34</sup> Patrick Lawler, "Birth family is best for children," *Memphis Commercial Appeal*, March 20, 2001.
- <sup>35</sup> Martha Shirk, The Gift of Wrapping, *Youth Today*, June 2003, available online at <http://www.youthtoday.org/youthtoday/a%20june2003/story2.html>
- <sup>36</sup> Leah Rae and Shawn Cohen, "Issa's story," *The Journal News*, October 28, 2002.
- <sup>37</sup> The change can be seen by comparing the old policy, issued in an October 8, 2008 Memorandum available online at [http://www.michigan.gov/documents/dhs/DHS-Legislative-Sec532-3-PA131-2007-Relative-FC-Stds\\_271851\\_7.pdf](http://www.michigan.gov/documents/dhs/DHS-Legislative-Sec532-3-PA131-2007-Relative-FC-Stds_271851_7.pdf), see especially pages 16 to 23, to the new DHS policy memo L-09-026-CW, which does not appear to be available online but which was obtained by NCCPR and is available from us on request.
- <sup>38</sup> Rae and Cohen, note 36, supra.
- <sup>39</sup> Erb, note 11, supra.
- <sup>40</sup> Shirk, note 35, supra.
- <sup>41</sup> Michigan *Race Equity Review*, note 7, supra.
- <sup>42</sup> Muskie School Of Public Service Cutler Institute For Child And Family Policy, University of Maine, and American Bar Association Center for Children and the Law, *Michigan Court Improvement Program Reassessment*, August, 2005, available online at [http://muskie.usm.maine.edu/Publications/cf/MI\\_CourtImprovementProgramReassessment.pdf](http://muskie.usm.maine.edu/Publications/cf/MI_CourtImprovementProgramReassessment.pdf)
- <sup>43</sup> Shawn Cohen and Leah Rae, "Wraparound plan delivers success at less cost," *The Journal News*, December 15, 2002.
- <sup>44</sup> Illinois Department of Children and Family Services, *Signs of Progress in Child Welfare Reform*, April, 2003, available online at <http://www.state.il.us/dhfs/docs/SignsProg.pdf>.
- <sup>45</sup> Illinois Department of Children and Family Services, *Executive Statistical Summary*, December, 2008, available online at <http://www.state.il.us/DCFS/docs/execstat.pdf>
- <sup>46</sup> Personal communication, Ben Wolf, Illinois Branch, American Civil Liberties Union. Mr. Wolf is the attorney who brought the suit that produced the reforms. See also, Matthew Franck, "The Pendulum," *St. Louis Post Dispatch*, February 2, 2003.
- <sup>47</sup> Casey Strategic Consulting Group, note 30, supra.
- <sup>48</sup> North American Council on Adoptable Children, note 17, supra.
- <sup>49</sup> Brandy Hernandez, "No Respect in the Group Home," *LA Youth*, reprinted in *Youth Today*, February, 2008.
- <sup>50</sup> Michael Winerip, "Last Stop Before Adulthood," *The New York Times*, January 6, 2008.
- <sup>51</sup> North American Council on Adoptable Children, note 17, supra.
- <sup>52</sup> Cohen and Rae, note 43, supra.
- <sup>53</sup> Joe Kroll, "Group care closes doors for children," *Detroit Free Press*, December 3, 2009.
- <sup>54</sup> Erb, note 11, supra.
- <sup>55</sup> Robin Erb, "Christmas now a wonderful time for former Christ Child boy," *Detroit Free Press*, December 26, 2008.
- <sup>56</sup> Michigan Department of Human Services, Bureau of Children and Adult Licensing, *Renewal Inspection Report Christ Child Society*, February 18, 2008, available online at [http://www.dleg.state.mi.us/fhs/brs/reports/CB820201064\\_RNWL.pdf](http://www.dleg.state.mi.us/fhs/brs/reports/CB820201064_RNWL.pdf)
- <sup>57</sup> Ibid.
- <sup>58</sup> Karen Bouffard, "Troubled children centers closing" *Detroit News*, December 27, 2008.
- <sup>59</sup> Cynthia Andrews Scarcella, et. al, *The Cost of Protecting Vulnerable Children IV*, (Washington: The Urban Institute, December 20, 2004. Available online at <http://www.urban.org/publications/411115.html>).
- <sup>60</sup> State of Michigan Department of Human Services, *Fiscal Year 2007-2008 Report on the Details of Allocations Within Program Budgeting Line-Items in 2007 Public Act 131*, March 26, 2008, available online at [http://michigan.gov/documents/dhs/DHS-Legislative-Sec514-PA131-2007-CPS\\_227770\\_7.pdf](http://michigan.gov/documents/dhs/DHS-Legislative-Sec514-PA131-2007-CPS_227770_7.pdf).
- <sup>61</sup> We estimate Michigan's total spending on substitute care at anywhere from \$300 million to \$471.6 million per year. See Note 35 in our first report, *Cycle of Failure*, for a detailed explanation of this estimate. If Michigan is like the nation as a whole, about 45 percent of foster care funds are spent on group homes and institutions.
- <sup>62</sup> Kroll, note 53, supra.
- <sup>63</sup> Allen D. DeSena et. al., "SAFE Homes: Is it worth the cost?" *Child Abuse and Neglect* 29 (2005) 627-643.
- <sup>64</sup> Erb, note 11, supra.
- <sup>65</sup> Jamaal Abdul-Alim, "Letting the media wolf in the door," *Youthtoday.org*, December 17, 2008.
- <sup>66</sup> Renewal Inspection Report, note 56, supra.
- <sup>67</sup> Colin Poitras, "Special Homes Trouble State," *Hartford Courant*, July 23, 2006.
- <sup>68</sup> Erik Eckholm, "Once Woeful, Alabama Is Model in Child Welfare," *The New York Times*, August 20, 2005.
- <sup>69</sup> Bazelon Center for Mental Health Law, *Making Child Welfare Work: How the R.C. Lawsuit Forged New Partnerships to Protect Children and Sustain Families*, (May, 1998) p.5.
- <sup>70</sup> Meltzer, note 22, supra.
- <sup>71</sup> NCCPR *Michigan Rate of Removal Index*, note 56, supra.
- <sup>72</sup> "Angel House: Keep local shelter working," *Lansing State Journal*, July 14, 2006
- <sup>73</sup> Jen Marckini, "Emergency shelter can't afford to stay open," *Lansing State Journal*, July 7, 2006, Tricia Bobeda, "Judge says he'll keep Angel House shelter full," *Lansing State Journal*, July 9, 2006.
- <sup>74</sup> Victor Groza: Find a new role for Angel House, *Lansing State Journal*, August 6, 2006.
- <sup>75</sup> Jim Paparella, "Angel House is more than a shelter," *Lansing State Journal*, August 13, 2006.

- <sup>76</sup> Ibid.
- <sup>77</sup> Jack Kresnak, "Change in foster program coming" *Detroit Free Press*, December 1, 2007.
- <sup>78</sup> Kevin Grasha, "Shelter for kids struggles to get by," *Lansing State Journal*, January 19, 2009.
- <sup>79</sup> "Finding the right place to protect kids," *Detroit Free Press*, March 6.
- <sup>80</sup> CWLA, note 5, *supra*.
- <sup>81</sup> *Michigan Race Equity Review*, note 7, *supra*.
- <sup>82</sup> Jim Paparella, "Settlement spells hope for Michigan's kids in need," *Lansing State Journal*, October 16, 2008.
- <sup>83</sup> Nina Bernstein, *The Lost Children of Wilder: The Epic Struggle to Change Foster Care*, (Pantheon: 2001), pp. 145, 146.
- <sup>84</sup> The affiliation is mentioned in a 1999 press release from Princeton University, *Icahn Family Foundation Gives \$20 Million for New Genomics Laboratory*, available online at <http://www.princeton.edu/pr/news/99/q4/1021-icahn.htm>
- <sup>85</sup> Class Action Complaint, Dwayne B. v. Granholm, August 8, 2006, available online at [http://www.childrensrights.org/wp-content/uploads/2008/05/2006-08-08\\_michigan\\_complaint.pdf](http://www.childrensrights.org/wp-content/uploads/2008/05/2006-08-08_michigan_complaint.pdf).
- <sup>86</sup> Gongwer News Service, "DeVos picks Oakland clerk Johnson" August 14, 2006.
- <sup>87</sup> U.S. District Court for the Eastern District of Michigan, "Settlement Agreement," *Dwayne B. v. Granholm*, Case # 2:06-cv-13548, July 3, 2008, available online at [http://www.childrensrights.org/wp-content/uploads/2008/09/22008-07-03\\_mi\\_signed\\_settlement.pdf](http://www.childrensrights.org/wp-content/uploads/2008/09/22008-07-03_mi_signed_settlement.pdf)
- <sup>88</sup> Kienbaum Opperwall website, [http://www.kohp.com/practice\\_areas.html](http://www.kohp.com/practice_areas.html)
- <sup>89</sup> Tom Condon, "DCF Works to Shift Priorities," *Hartford Courant*, December 24, 2000.
- <sup>90</sup> *Making Child Welfare Work*, note 69, *supra*, p.5.
- <sup>91</sup> "Former Foster Child Tells Panel of Five Lost Years," *The New York Times*, April 17, 1988.
- <sup>92</sup> This page no longer is on the CR website, but it can be found via the Internet Archive (commonly known as the "Wayback Machine" here: [http://web.archive.org/web/20061009012233/www.childrensrights.org/site/PageServer?pagename=Issues\\_PreventingFCP](http://web.archive.org/web/20061009012233/www.childrensrights.org/site/PageServer?pagename=Issues_PreventingFCP)
- <sup>93</sup> Rochelle Riley, "Lawsuit complicates state's foster care improvements," *Detroit Free Press* August 11, 2006.
- <sup>94</sup> Ibid.
- <sup>95</sup> Personal communication, Susan Lambiase, Associate Director, Children's Rights.
- <sup>96</sup> Children's Rights, Inc., National Association of Foster Parents, University of Maryland School of Social Work, *Hitting the M.A.R.C.: Establishing Foster Care Minimum Adequate Rates for Children*, October, 2007. And see especially the "Technical Report" available online at <http://www.childrensrights.org/pdfs/MARC/MARCTechReport.pdf>
- <sup>97</sup> Children's Research Center, *Analysis of Case Practice and Compliance with Standards in Michigan Foster Care*, February 5, 2008. Available online at [http://www.childrensrights.org/wp-content/uploads/2008/05/2008-02-05\\_mi\\_case\\_record\\_review.pdf](http://www.childrensrights.org/wp-content/uploads/2008/05/2008-02-05_mi_case_record_review.pdf) p.38.
- <sup>98</sup> Children and Youth Services Review, Vol.6, Issue 1, 1984, Pages 1-18, available for purchase online at <http://www.sciencedirect.com/science/article/B6V98-466FK62-1D/2/7e8afd8fabb64bfb2347bc373e004050>
- <sup>99</sup> *Michigan Race Equity Review*, note 7, *supra*.
- <sup>100</sup> Susannah Frame, "Investigators: Grandparents passed over in favor of foster care," KING 5 News, Seattle, Wa., December 10, 2008.
- <sup>101</sup> Colin Poitras, "Social Worker Distorted Case; Judge: Child's Removal Was Unnecessary" *Hartford Courant*, August 5, 2004.
- <sup>102</sup> Daniel Leddy, "Advocates are at times overzealous, even dishonest, in their zeal" *Staten Island Advance*, December 2, 2004.
- <sup>103</sup> *Michigan Race Equity Review*, note 7, *supra*.
- <sup>104</sup> Complaint, note 85, *supra*.
- <sup>105</sup> "Settlement Agreement," Note 87, *supra*.
- <sup>106</sup> For a good sense of Ryan's legacy, see Susan Livio, "Reforming DYFS: A portrait of change," *The Star Ledger*, July 22, 2008, available online at [http://www.nj.com/news/index.ssf/2008/06/raising\\_four\\_boys\\_alone\\_on.html](http://www.nj.com/news/index.ssf/2008/06/raising_four_boys_alone_on.html)
- <sup>107</sup> Laura Mansnarus, "Take Good Care of My Baby; In Tipping the Balance Toward Adoption, Those Closest to Foster Care Are Pleased," *The New York Times*, April 4, 1999.
- <sup>108</sup> Tom Morton, "The Ethics of Concurrent Planning," *Ideas in Action*, Child Welfare Institute, June, 2002.
- <sup>109</sup> Marckini, et. al., note 73, *supra*.
- <sup>110</sup> All quotations are from, Michigan Child Welfare Improvement Task Force, *Improving Michigan's Child Welfare System: Our Children. Our Future. Our Responsibility*, April, 2009 draft, available online at [http://www.michigan.gov/documents/cwif/041509FinalReport\\_2\\_276308\\_7.pdf](http://www.michigan.gov/documents/cwif/041509FinalReport_2_276308_7.pdf)
- <sup>111</sup> Michigan Child Welfare Improvement Task Force, Minutes of Meeting of February 23, 2009, p.10, available online at [http://www.michigan.gov/documents/cwif/022309\\_Task\\_Force\\_Meeting\\_Minutes\\_edited\\_270378\\_7.pdf](http://www.michigan.gov/documents/cwif/022309_Task_Force_Meeting_Minutes_edited_270378_7.pdf)