

State of DENIAL

Why Rhode Island's child welfare system is so dismal – and how to make it better.

EXECUTIVE SUMMARY, KEY FINDINGS AND RECOMMENDATIONS

Every week, a bizarre sort of auction plays out at the Intake Center of the Rhode Island Training School, where young people who have gotten in trouble with the law are parked while the adults who control their lives decide what to do with them.

The buyer is the State of Rhode Island. The sellers are the purveyors of “residential treatment” and other forms of institutionalization for young people, programs for which there is overwhelming evidence of failure. Purveyors of these programs from all over America flock to Rhode Island, which warehouses proportionately more children in institutions than any other state.

The merchandise? Kids.

Some have committed serious crimes. Others may be there for what Rhode Island calls “waywardness” – offenses like truancy that are crimes only because the “offenders” are young people.

Many probably first came under the control of the state through its foster care system; taken from their parents, often needlessly, when they were much younger. Once they commit a crime, the people who work in the child welfare division at the state Department of Children, Youth and Families, can hand them over to the people who work in the juvenile corrections division of DCYF.

The marketing is fierce, and it's aimed directly at the young people.

According to an insightful story in *The Providence Journal*:

Michael Gingras, a clinical social worker at the intake center, said some providers spend a half-hour or more talking with the juveniles at the intake center and showing them brochures.

“It's not unusual for kids to get interviewed at lunchtime and say, ‘I want to go there!’ Gingras said. “Then they get interviewed [by someone again] at dinner time and say, ‘I want to go here!’”¹

Rhode Island's kid auctions are emblematic of almost everything wrong with its dreadful child welfare system. Rhode Island relies more than any other state on what is both the worst and the most expensive option for the overwhelming majority of children, institutionalization – and it ships a shockingly high number of those children out-of-state.

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At least two Rhode Island young people are institutionalized nearly a thousand miles from home, not even seen by their legal “parent,” DCYF, except once every six months. One expert called that “officially-sanctioned neglect.”

It all raises questions about how much key decision-makers in Rhode Island actually know about best practices – and worst practices – in child welfare.

The man who was, until last month, the state's chief Family Court Judge, Jeremiah S. Jeremiah, Jr., was such a fan of institutionalizing children that he actually bragged that the staff of one big Rhode Island residential treatment center called him

their “director of admissions.”²

When Judge Jeremiah fell in love with an out-of-state institution, Glen Mills, in Pennsylvania, he urged the head of the state’s Court-Appointed Special Advocates program, Andrew Johnson, to get a personal grand tour of the place. He did, with Glen Mills paying Johnson’s airfare. (Johnson says there is no conflict of interest because CASAs play no role in the kinds of cases where children are sent to Glen Mills.³)

But Johnson lacked the expertise, or the time, to fully evaluate Glen Mills (see *The Glen Mills Judge Jeremiah doesn’t know*, main report, p. xx).

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Not only does all this do enormous harm to the young people, it drains scarce resources from far better options. Institutionalization consumes nearly 70 percent of the DCYF budget. It helps explain why DCYF has whined about not having enough money even as it spends on child welfare at the fifth highest rate in the nation, a rate more than two-and-a-half times the national average and a rate double to quadruple that of states widely-regarded as, relatively-speaking, models. (For the full comparison, methodology and sources, see NCCPR’s publication *A Rough Guide to Comparative Child Welfare Spending*).

But that is only part of the problem.

At the root of the problem is one simple fact: Rhode Island takes away huge

numbers of children who could have remained safely in their own homes, had DCYF offered families the right kinds of help.

Rhode Island tears apart families at a rate nearly 80 percent above the national average, and a rate more than double and triple the rate of states that are, again, relatively speaking, models for keeping children safe.

Not only does this do enormous harm to the children needlessly taken, it also overwhelms the child welfare system, leaving workers no time to find children in real danger – and that is almost always the real reason for the horror stories that make headlines.

Wrongful removal makes all children less safe. Wrongful removal drives everything else. It is the elephant in the room.

But both DCYF and the group that now is suing DCYF over child welfare, are, to use that favorite child welfare caseworker’s phrase, “in denial” about the problem.

All over the country, the group that calls itself “Children’s Rights” (CR), has a long, sad history of pretending the elephant isn’t there – though in Rhode Island the elephant is so large even CR has given it a passing glance – acknowledging that DCYF “sets families up for failure...”⁴

The trial court dismissed the suit, but an appellate court reinstated it. That was the right decision on principle. But given CR’s track record, the lawsuit, as it stands now, is unlikely to make things better – and it might actually make the Rhode Island child welfare system even worse.

That doesn’t mean the suit should be dismissed – rather the lawsuit itself should be reformed.

The group that so arrogantly calls itself “Children’s Rights” knows very little about children or about rights. If they did, they would know that the “right” most children crave most is the right to live safely with the families they know and love, rather than being torn from them needlessly.

KEY FINDINGS

(Page numbers refer to where details can be found in the full report)

Rhode Island takes too many children

- **Rhode Island tears children from their families at a rate nearly 80 percent above the national average**, a rate vastly higher than other child welfare systems that are, relatively speaking, national models. Not only are entries into care – the number of children taken over the course of a year - way out of line, the number of children trapped in Rhode Island foster care on any given day also is, proportionately, far above the national average. (Page 9)
- **Rhode Island’s take-the-child-and-run mentality makes children less safe**, by subjecting them to the enormous emotional trauma of foster care, a trauma so great that two giant studies, involving more than 15,000 children, found that children left in their own homes generally fare better in later life even than comparably-maltreated children placed in foster care.
- **It makes children less safe by exposing children to the enormous risk of abuse in foster care.** Though CR’s lawsuit alleges that Rhode Island has the highest rate of abuse in foster care in the nation, the figures in the CR lawsuit actually are gross *underestimates* of the problem. Though most foster parents want to do the best they can for the children in their care, several studies have found abuse in one-quarter to one-third of foster homes – a figure vastly higher than official estimates, which involve agencies like DCYF investigating themselves. **The record of group homes and institutions is even worse.**
- **It makes children less safe by overloading the child welfare system.** The more time workers are forced to spend on false allegations, trivial cases, and needless removal of children, the less time they have to find children in real danger who really do need to be taken from their homes. So more such cases are missed. That almost always is the real reason for the horror stories that, rightly, make headlines. (Page 6)
- **Contrary to the common stereotype, most parents who lose their children to foster care are neither brutally abusive nor hopelessly addicted. Far more common are cases in which a family’s poverty has been confused with child “neglect.”** Several studies have found that 30 percent of America’s foster children could be home right now if their parents just had decent housing. And single parents, desperate to keep their low-wage jobs when the sitter doesn’t show, may have to choose between staying home and getting fired, or going to work and having their children taken on “lack of supervision” charges.

Other cases fall between the extremes, the parents neither all victim nor all villain. What these cases have in common is the fact that there are a wide variety of proven programs that can keep these children in their own homes, and do it with a far better track record for safety than foster care. (Page 10)

- **None of this means no child ever should be taken from her or his parents.** Rather it means that foster care is an extremely toxic intervention that should be used sparingly and in small doses. But Rhode Island has been prescribing mega-doses of foster care.

- **Money is not the problem.** At NCCPR we tend to be tax-and-spend liberals and proud of it. But Rhode Island already spends on child welfare at a rate two-and-a-half times the national average – a rate two to four times the rate in states that, again, are, relatively speaking, models. Rhode Island does not need to spend more. But Rhode Island desperately needs to spend smarter. (Page 4, Page 27)

- **The Rhode Island Legislature didn't help when it passed a bill to require DCYF to seek "accreditation" – if the state comes up with \$300,000 to pay for it.** "Accreditation" is a sham, a way for agencies to gain an unearned seal of approval and fend off real reform. Indeed, under some circumstances an entire agency can be accredited without the accreditors so much as laying eyes on one real, live foster child. (Page 46)

Rhode Island institutionalizes too many children

- **Rhode Island is the child warehousing capital of America.** Rhode Island squanders its funds, and more important, does enormous harm to children, by warehousing huge numbers of them in the worst form of care: institutionalization. Rhode Island institutionalizes proportionately more foster children than any other state. (Page 11)

- **A century of research is nearly unanimous: Institutionalization, whether in "orphanages" "residential treatment centers" or any other form, is harmful to children.** Two comprehensive reviews of the scholarly literature show that residential treatment is a failure, and even the former head of one of their own trade associations concedes: "we find it hard to demonstrate success." (Page 16)

- **In addition to all the other harm of institutionalization, it vastly reduces the chances that children who really shouldn't return to their own homes will be adopted.** (Page 24).

- **The claims by the residential treatment industry, a kind of "foster care-industrial complex," that the children they institutionalize can't handle families are false.** Several RTCs have had "crises of conscience" and rebuilt their own programs to provide care in families for exactly the same children they used to institutionalize. (Page 17, and see also the *All-purpose DCYF/ foster care-industrial complex excuse checklist*)

- **Rhode Island consigns large numbers of children, including very young children, to a particularly barbaric form of institutionalization: first-stop, parking place "shelters."** As with RTCs, the shelters accomplish nothing their backers claim, and do children significant harm. (Page 32)

- **The problems of institutionalization are compounded when children are sent "out of state, out of mind" – far from friends, family and everyone else who cares about them.** But Rhode Island exports a shockingly high proportion of its foster care population. (Page 25)

- **DCYF doesn't seem to know, or doesn't seem to care where it is sending these children, or what happens to them.** Though DCYF confirmed receipt of NCCPR's request for a list of the out-of-state institutions to which DCYF exports children on June 7, more than a month later, as of July 11, DCYF either could not or would not provide it. But DCYF admitted that children are visited only once every three months when they're sent to "nearby" states, only once every six months when sent farther away. We know of no other states that visits children so rarely as a matter of policy. One expert calls it "officially-sanctioned neglect." (Page 25)

- **The overreliance on institutionalization explains why DCYF spends so much but the children get so little. DCYF squanders 70 percent of its budget on institutionalizing children. Everything else the agency does gets only 30 percent.** (Page 27)

- **The failure of Rhode Island's "Child Advocate" to recognize Rhode Island's enormously high rate of child removal, and how that drives all of the other problems, has made her largely ineffective.** (Page 34)

The current class action lawsuit against DCYF will fail in its current form

- **The group that so arrogantly calls itself "Children's Rights" suffers from the same fundamental failing as DCYF: A refusal to deal with the need to stop taking so many children in the first place.** (Page 35)

- **CR's settlements across the country have produced largely mediocre results** – except when other groups have stepped in to help them fashion settlements better than anything they accomplish on their own. (Page 36)

- **CR's Michigan settlement actually has done harm**, shifting resources from prevention and family preservation into a child abuse investigator/foster care caseworker hiring binge, and leading to the expulsion of hundreds of children from the homes of grandparents and other relatives. (Page 37, 38)

- **Over the past year, CR has shifted from ignoring wrongful removal to outright hostility to efforts to curb it;** this does not bode well for any settlement in Rhode Island. (Page 37)

- **CR appears to be seeking to divert scarce resources into a giant pay raise for foster parents, even though there is no evidence of a link between pay rates and any alleged "shortage" of foster parents.** CR's formula for a so-called "minimum" acceptable pay rate for foster parents assumes they should be reimbursed for every toy, game, book and teddy bear they buy for a foster child. Would you want a child placed with a foster parent who demanded that? (Page 42)

- **Not everything in CR's lawsuit "Complaint" is problematic.** While ignoring Rhode Island's obscene rate of child removal, the Complaint at least acknowledges DCYF's failure to do enough to reunify families. (Page 45)

- **None of this means the suit should be dismissed, rather it needs to be reformed.** See Recommendation 1 below.

RECOMMENDATIONS

RECOMMENDATION 1: The Child Advocate, whoever it turns out to be, should redirect the Rhode Island class-action lawsuit. She or he should demand a better settlement than CR ever would negotiate on its own, one built around reducing the rate at which children are torn needlessly from everyone they know and love.

When it comes to what the Rhode Island system ultimately should look like, the new Child Advocate, if there is one, should be among the first to follow Recommendation 2 below.

RECOMMENDATION 2: Visit Maine. Ten years ago Maine had a system almost as bad as Rhode Island's – in one respect, kinship care, Maine was even worse. Today, Maine has a child welfare system that is, relatively speaking, a national model. (Page 49)

There is nothing Maine did that can't be done in Rhode Island. The Child Advocate, leaders of DCYF, staff from the Governor's office – or, better yet, the Governor, and legislative leaders should go to Maine and learn how it's done.

RECOMMENDATION 3: Bring the children home. Over three years, bring all the children placed out-of-state back to Rhode Island.

RECOMMENDATION 4: Over five years, ban the placement of young children in institutions.

RECOMMENDATION 5: Cut overall institutionalization to no more than the national average within three years, then further reduce it to ten percent of all children in foster care within six years, by building a comprehensive infrastructure of Wraparound and other alternative services. Illinois already institutionalizes only about eight percent of its children, Maine institutionalizes only ten percent. Six years is plenty of time for Rhode Island to approach where Maine and Illinois are already.

RECOMMENDATION 6: Ban "creaming." In the very rare cases in which children must be placed in a group home or an institution, the state should create "no reject, no eject" contracts. In other words, the institutions don't get to "skim the cream" and choose children who don't have much in the way of problems to begin with and turn away the rest.

RECOMMENDATION 7: Change financial incentives. The biggest addiction problem in child welfare is not substance-abusing parents, though that problem is serious and real. The biggest addition problem in child welfare is big powerful, old-line, child welfare agencies, with their blue-chip boards of directors embedded in every community. These agencies are paid for every day they hold a child in their institutions or other substitute care they supervise. They are addicted to their per diem payments. And they are putting their addiction ahead of the children.

RECOMMENDATION 8: Get help from the same people who helped Maine. Maine brought in new, highly-skilled leadership to transform child welfare. But even those leaders needed help to move a system filled with deeply-entrenched special interests wedded to the

status quo. They got that help from what is now the Annie E. Casey Foundation's Child Welfare Strategy Group and the Child Welfare Policy and Practice Group, founded by Paul Vincent, a leader of the reforms that transformed Alabama.

RECOMMENDATION 9: If people involved in Rhode Island child welfare want to visit out-of-state institutions, they should be required to do it on their own dime – or with reimbursement from the state.

RECOMMENDATION 10: Stop the kid auctions. Young people should have a say in where they are placed. Indeed, Casey's consultants found that they are an outstanding source of good ideas, often naming relatives or close family friends nobody else knew about or thought about. They always should be consulted and listened to.

But that's very different from exposing them to slick sales pitches from residential treatment centers competing for the fat *per diems* the state will pay if the young people wind up placed with them. Rhode Island's kid auctions should end immediately.

OTHER RECOMMENDATIONS: NCCPR has a series of general recommendations for all state child welfare systems. They're in our *Due Process Agenda* and in our list of *Twelve Ways to do Child Welfare Right*, included as appendices A and B to this report.

Those recommendations include:

- Opening all court hearings and almost all documents in child welfare cases to the press and the public.
- Allowing agencies like DCYF to comment on specific cases (so at least if they're stonewalling they can't claim the law forces their silence).
- Providing high quality defense counsel to indigent parents.
- Raising the standard of proof in child welfare cases.
- Requiring all interviews in child abuse investigations to be, at a minimum, audiotaped.

There also are recommendations concerning best practices for the kinds of services that can reduce needless foster care.

¹ Lynn Arditi, "Offenders referred to Pa. school," *The Providence Journal*, March 21, 2010.

² *Ibid.*

³ Personal communication, Andrew J. Johnson, July 23, 2010.

⁴ Amended Complaint, *Sam and Tony M. et. al. v. Carcieri*, #1:07-cv-00241-L-LDA, United States District Court for the Eastern District of Rhode Island, Sept. 7, 2007.