

## **CURBING THE CRUELTY**

Written Testimony of Richard Wexler, executive director,  
National Coalition for Child Protection Reform,  
to the Massachusetts Mandated Reporter Commission,  
April 13, 2021

### **EXECUTIVE SUMMARY**

*Full testimony begins on Page 6.*

Mandatory reporting is a failure.

The system was put in place more than half a century ago with no evidence that it would work. In the decades since, one leading scholar after another who once supported mandatory reporting has turned against it.

The research shows that [mandatory reporting backfires](#). Studies show that it discourages families from reaching out for help before a crisis. Studies also show that it overloads the system with so many false reports and trivial cases that it leaves caseworkers less time to find the relatively few children in real danger.

Among those hurt most by mandatory reporting: battered women and their children. Studies show they are terrified to come forward and report their abuse, because anyone they might tell is a mandated reporter – required to call DCF which can, and often will, take their children.

Abusers know it. If a battered mother threatens to call the police, her abuser can say: Go ahead, call the cops! They'll call DCF and DCF will take the kids.

If you do not abolish or at least curb mandatory reporting instead of expanding it, then ultimately this commission will be a spouse abuser's best friend.

Mandated reporting makes all of the state's vulnerable children less safe.

That's why it is so disappointing that this commission's deliberations appear to have been limited to choosing between expanding mandatory reporting a little, or expanding it a lot. Even worse, even as other states are at last starting to come to grips with child welfare's ugly legacy of racial and class bias, this commission is seriously considering making it even easier to confuse poverty with neglect. All this in a state that, for decades, has torn apart families – especially families of color – at a rate far above the national average.

Mandatory reporting is a microcosm of the cycle of failure that has plagued Massachusetts child welfare for more than a century. I've observed this cycle since the time I spent as a reporter in Springfield 40 years ago. Here's how the cycle works:

A child dies. It turns out the casefile at DPW, later DSS, now DCF had more "red flags" than a Soviet May Day parade. Someone, an outside group, an inside group, or the obligatory Blue-Ribbon Commission issues a Scathingreport. It's always a Scathingreport so we might as well just combine it into a single word.

The issue isn't that the Scathingreport is scathing. That's almost always justified. The issue is that the Scathingreport misdiagnoses the problem and comes up with the wrong solutions. The solutions always – always – involve making the system more sweeping and more punitive. Broaden definitions of child abuse! Make it easier to take away children! Make it harder to send children home! And, of course, expand mandatory reporting!

Then, a few years later, there's another horrifying case and the whole cycle starts all over again. And all you get is the same lousy system only bigger.

A lot of this happens in many places across the country – but Massachusetts is worse than most. When you compare the number of children torn from their homes each year to the number of impoverished children in each state, the rate of child removal in Massachusetts is more than [60 percent above](#) the national average. And Massachusetts has been an outlier since at least 1999, which is as far back as the current national data system goes.

Compounding the problem: Massachusetts uses the least harmful form of foster care – kinship foster care – at a rate below the national average. It uses the worst form of care, group homes and institutions, at a rate [above the national average](#).

DCF cuts a swath of destruction through the state's poor communities, especially poor communities of color. As [Prof. Dorothy Roberts](#) explains in her landmark book *Shattered Bonds: The Color of Child Welfare*, this not only does enormous harm to individual families, it damages entire communities in the same way mass incarceration damages those communities.

And when it comes to racial bias, once again, Massachusetts goes above and beyond. Nationwide, the percentage of Black children in foster care is [about 50 percent above](#) their percentage of the general population. In Massachusetts, the percentage of Black children in foster care [is nearly double](#) their percentage of the state child population.

Nationwide, on average, Hispanic children are not overrepresented. But in Massachusetts, the percentage of Hispanic children in foster care is more than 50 percent above their percentage of the state child population.

And while I would like to think we are beyond the usual excuses and the denial that bias has anything to do with this, [here's a summary](#) of the overwhelming body of research showing that it does.

### **It's a police force**

The self-image of key players in the system is built on the notion that they're just kindly helpers who should have vast powers to intervene in families because, after all, they're not here to punish, they're here to help.

But that's not how DCF or its predecessors, all the way back to the Massachusetts Society for Prevention of Cruelty to Children, ever have been seen in poor communities of color. Indeed, when the MSPCC played the role now played by DCF, it was widely known in those communities simply as "The Cruelty."

Not only is DCF a policing agency, it is a policing agency with even more power than the police in blue uniforms. A police officer can stop a Black child on the street, throw him up against the wall and frisk him. DCF can march right into that child's home, stripsearch him, and walk out with him.

### **Why doesn't mandatory reporting work?**

Why has a system built on ever-expanding reporting and surveillance failed to stop the horror stories and failed even to curb the overall rate of child abuse?

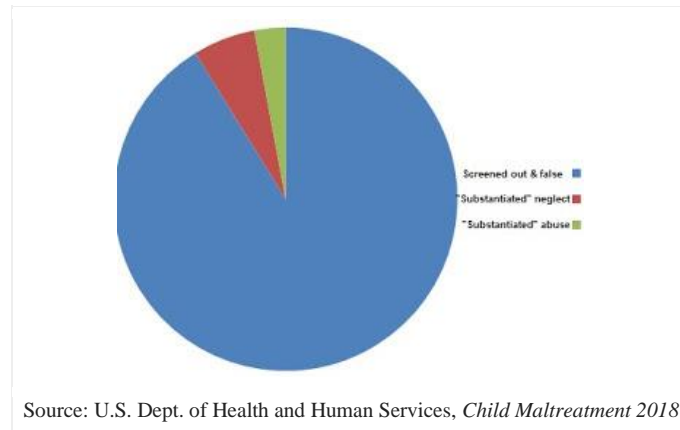
At the root of the problem is what's been called "[health terrorism](#)," an ends-justify-the-means approach to advocacy that says it's OK to distort the true nature of a problem in the name of "raising awareness." (The phrase "health terrorism" did not originate with us. It was used by a group that admits to having engaged in it.) For decades, we've read stories that begin with a gruesome case of murder or torture. Then the story jumps to a statistic about the total number of "reports" alleging "child abuse." So in our minds, every report is like the horror stories. In fact, almost none are.

As a result, we've created a child welfare surveillance state so omnipresent, particularly in poor communities, that one study estimates one-third of all children [and more than half of Black children](#) will be forced to endure the trauma of a child abuse investigation by the time they're 18.

But pore over the federal government's annual [Child Maltreatment report](#) and you find that nationwide, of every 100 calls to child abuse hotlines 91 are either so absurd they are screened out or they are found to be false after an investigation. Yes, defenders of the system sometimes say the reports weren't false, the workers just couldn't "prove" them. But no proof is required. In most states, including Massachusetts, all that is

required to “substantiate” an allegation is a caseworker’s guess that it is slightly more likely than not that abuse or neglect occurred.

The only study we know of to try to second-guess these decisions is quite old. But it found that workers were two to six times [more likely](#) to wrongly substantiate an allegation than to wrongly label one unfounded.



Another six calls involve “neglect.” On very rare occasions neglect can be horrific. But far more often it simply means a family is poor. If a child is hungry, that is not a reason to call DCF, it is a reason to call a foodbank. If a family’s housing is unsafe it’s cause to fix the house or move the family to better housing, not move the child out of the family.

All over the country, child welfare systems finally are coming to grips with this; in a few states, legislation is being considered to narrow definitions of neglect and make it harder to [confuse poverty with “neglect”](#). **It is obscene that this commission would even think of making it easier.**

That leaves three of every 100 calls with even the potential to be the kinds of horror stories we think of when we hear the words “child abuse.”

The horror story cases are the worst possible tragedy – and the only acceptable number for them is zero. But they also are needles in a haystack. And every time you miss one in Massachusetts, the child welfare establishment comes up with the same idea: Make the haystack bigger. But that just makes the needles harder to find.

That’s why mandatory reporting, and the empire of policing, surveillance and child removal it has spawned, does enormous harm to children, in every possible way.

- It hurts children by subjecting them to the enormous trauma of needless child abuse investigations.

- It hurts children by forcing them to endure the even greater trauma – and the high risk of abuse – that comes with placement in the Massachusetts foster care system.

- And it hurts children by so overloading the system with cases that don't belong there, that workers have less time to find those needles in the haystack. That's almost always the real reason for the cases that lead to all those Scathingreports.

### **Training won't fix it**

Imagine if a special commission were convened to study police brutality in Massachusetts. Imagine if they said that all the problems could be solved if we just gave the police more training. Imagine if they claimed the problem isn't, say, massive use of stop-and-frisk policing; we just need to give the police more training in whom to stop and how to frisk them.

People would immediately recognize it for what it was: a whitewash – in every sense of the term. Training is no substitute for due process.

### **Buzzwords are not enough**

Given that the commission does not seem even to have considered any proposal involving dialing back the power to intrude on families, I fear that the recommendations will indeed endorse further confusing poverty with neglect and expanding who has to report to DCF. The only difference will be the buzzwords. This time the report will be filled with terms like “equity” “diversity” “inclusion” and maybe even “racial justice.” Often these buzzwords will be preceded by “we recognize that...” and followed by something about, yes, training.

That would be worse than meaningless – it would only add insult to the injuries – physical and emotional – endured by children at the hands of the modern-day Cruelty, a system that so often destroys children in order to “save” them.

Instead, it's time to go back to the drawing board.

COVID-19 has forced us to rethink so much. And it turns out the impact of COVID on child abuse is the opposite of what an army of fearmongers predicted:

[A new study from New York City](#) finds that no, child abuse did not soar as the system had to pull back because of the pandemic. On the contrary, a combination of curbing the child welfare surveillance state, the cash assistance provided by the federal stimulus bills, and the emergence of community-based mutual aid organizations, where people could turn for help without fear of being turned in, made children safer. NCCPR discusses solutions in detail at [www.nccpr.org](http://www.nccpr.org)

Those are the lessons we need to be learning. That is the new course we need to chart. Mandated reporting belongs in the dustbin of child welfare history.

**FULL WRITTEN TESTIMONY BEGINS ON FOLLOWING PAGE**

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### **FULL WRITTEN TESTIMONY**

My name is Richard Wexler, I am executive director of the National Coalition for Child Protection Reform. NCCPR is a small, nonprofit child advocacy organization founded at a Harvard Law School conference in 1991. Full details about the organization and our stellar Board of Directors are on our website, [www.nccpr.org](http://www.nccpr.org) But I do want to note our Massachusetts roots.

Our co-founder was the late Betty Vorenberg, who during her distinguished career served as Deputy Director of what was then the Department of Public Welfare during the Dukakis Administration. She was Deputy Director of the Massachusetts Advocacy Center and a member of the National Board of the American Civil Liberties Union.

I have followed Massachusetts child welfare closely for more than 40 years, starting when I was a reporter for WGBY Public Television in Springfield from 1979 to 1981. It was there that my reporting first led me to question the dominant master narrative about child abuse, child welfare and foster care.

It saddens me to see that, more than 40 years later, this commission still seems trapped in that master narrative. The commission's deliberations appear to have been limited to choosing between expanding mandatory reporting a little, or expanding it a lot - and, the view seems to be, while we're at it, let's change the definition of neglect to make it even easier to confuse poverty with neglect.

In fact, the research is clear: *Mandatory* reporting should be abolished. It should be abolished not because it hurts parents, but because it hurts children. In fact, it makes all Massachusetts children less safe. It's no wonder one leading scholarly proponent of mandatory reporting after another has turned against it.

Mandatory reporting is a key factor in the cycle of despair that plagued Massachusetts child welfare when I was a reporter all those years ago, and continues to plague it today. It is a cycle built on oversurveillance, overpolicing, and consignment of children to the chaos of foster care. Here's how it happens:

A child dies. It turns out the casefile at DPW, later DSS, now DCF had more "red flags" than a Soviet May Day parade. Someone, an outside group, an inside group, or the obligatory Blue-Ribbon Commission issues a Scathingreport. It's always a Scathingreport so we might as well just combine it into a single word.

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DCF cuts a swath of destruction through the state's poor communities, especially poor communities of color. As [Prof. Dorothy Roberts](#) explains in her landmark book [Shattered Bonds: The Color of Child Welfare](#), this not only does enormous harm to individual families, it damages entire communities in the same way mass incarceration damages those communities.

And when it comes to racial bias, once again, Massachusetts goes above and beyond. Nationwide, the percentage of Black children in foster care is [about 50 percent above](#) their percentage of the general population. In Massachusetts, the percentage of Black children in foster care [is nearly double](#) their percentage of the state child population.

Nationwide, on average, Hispanic children are not overrepresented. But in Massachusetts, the percentage of Hispanic children in foster care is more than 50 percent above their percentage of the state child population.

And while I would like to think we are beyond the usual excuses and the denial that bias has anything to do with this, [here's a summary](#) of the overwhelming body of research showing that it does.

It would be hard to find a better illustration of the racism that infects child welfare than the hype and hysteria about [child abuse and COVID-19](#). The message boils down to this: Now that fewer mostly white middle-class professionals have their “eyes” constantly on overwhelmingly poor disproportionately nonwhite children, their parents supposedly will unleash upon their children a “pandemic of child abuse.”

Yes, the pandemic is putting more stress on everyone. But why do we rush to assume that for poor people in general and poor Black people in particular the only way they'll cope with it is to beat up their children? You can try to sugarcoat it all you want, but the message so many in the child welfare establishment really are sending is: Black and Hispanic parents are a greater danger to their children than a deadly disease – and only we white people can save them. The myth continues to spread, even after news organizations such as the [Associated Press](#), [The](#)



[Marshall Project](#) and [Bloomberg CityLab](#) and even that bastion of child welfare establishment, the Chapin Hall Center for Children, challenged it.

[And a new study from New York City](#) finds that no, child abuse did not soar as the system had to pull back because of the pandemic. On the contrary, a combination of curbing the child welfare surveillance state, the cash assistance provided by the federal stimulus bills, and the emergence of community-based mutual aid organizations, where people could turn for help without fear of being turned in, made children safer.

### **It's a police force**

The self-image of key players in the system is built on the notion that they're just kindly helpers who should have vast powers to intervene in families because, after all, they're not here to punish, they're here to help.

But that's not how DCF or its predecessors, all the way back to the Massachusetts Society for Prevention of Cruelty to Children, ever have been seen in poor communities of color. As Linda Gordon documents in her brilliant history, [Heroes of Their Own Lives](#), the primary purpose of the MSPCC from 1890 to 1960 was policing the immigrant poor, whom they hated and feared – and taking away their children. In those communities, the MSPCC quickly became known simply as “The Cruelty.” In poor communities today, DCF isn't a helping agency, DCF is “The Cruelty.”

Not only is DCF a policing agency, it is a policing agency with even more power than the police in blue uniforms. A police officer can stop a Black child on the street, throw him up against the wall and frisk him. The Cruelty – DCF – can march right into that child's home, stripsearch him, and walk out with him.

And once they've done that none of those due process protections that apply in criminal cases – proof beyond a reasonable doubt, public trials, etc. – applies. Of course not, because, after all, the Cruelty is only there to help.

And let's understand the full depths of the modern-day Cruelty's extremism:

- DCF is an agency that [just reached a settlement](#) with not one, but two federal agencies that were appalled at how DCF treats families where a parent is disabled. This is an agency so used to abusing its massive power that, in the case that [led to the federal complaint](#) a DCF worker

*“explained that his view of [the mother's] capacity to parent was based on his “intuition” and stating that “[w]hen you meet with someone, you get a vibe whether they are going to be able to do it or not.”*

- This is an agency [so obsessed with regulating poor people](#) that it actually opposed a provision in the law legalizing recreational marijuana use in Massachusetts that simply requires DCF to have actual evidence that marijuana use by parents places their children at risk before putting the family under supervision, taking those children away, or otherwise interfering with their lives. (No DCF didn't say it was upset because they couldn't regulate poor people, but



have you ever seen DCF take children from a wealthy mom after she bragged about pot smoking in a Facebook group?)

### **The issue is not intentions – it's results**

Most of the people who work at DCF, in the courts and for the assortment of other agencies that make up what should properly be called the family policing system, went into this work for the right reasons. They genuinely want to help children. So do the members of this commission. But the issue isn't intentions. The issue is results. Malcolm X credited the system that forced him and his siblings into foster care as "kindly intentioned." But it was still, in his words, "legal, modern slavery."

So consider the results:

Perhaps this unending cycle of tragedy-Scathingreport-make-the-system-more-oppressive-repeat still could be justified if it actually did what politicians always promise: Make children safer. But if that were true, we wouldn't have to go through this same charade over and over and over. If that were true, people from around the nation would be flocking to Massachusetts to see how the nation's foremost child welfare system had eliminated horror stories and made children safe by tearing apart vastly more families than the national average.

But of course, that hasn't happened. On the contrary, the very existence of this commission is further evidence that the take-the-child-and-run approach that has dominated Massachusetts not only for the past 40 years but since the creation of the MSPCC has failed.

Sooner or later one might think, someone in power would say: The definition of insanity is doing the same thing over and over and expecting a different result. But for some reason no one in power in Massachusetts ever does.

In contrast, there are people on the frontlines for DCF and its predecessors who have known it all along: In 1989, while writing a book on the child welfare system, I interviewed several leaders of the union representing child welfare caseworkers in Massachusetts.

"I work out of a very affluent area," said one worker. "We screen in [for investigation] ... things that Boston would be laughing at the person phoning in the report."

"Don't get investigated in Weymouth," said another. "They're famous for substantiating everything and naming everybody."

Said a veteran supervisor in Northampton: "If the level of intrusiveness perpetrated allegedly to protect children were attempted in any other field, we would be in court ... we would be in jail, we would have the Supreme Court coming down with innumerable decisions against us."

Even back in 1989, DSS was planning to intervene in more families with less evidence. That prompted a prescient warning from one of the workers. He said it "could significantly increase the risk to children in families where there is clear evidence of abuse and neglect by reducing resources and by reducing the time available to social workers to visit and to help these families."

One of the union leaders summed it all up this way: “Maybe we’re just too damn intrusive.”

Today, DCF is as intrusive if not more intrusive than it was then.

### **How mandatory reporting fits in**

Mandatory reporting was aptly described by the late Prof. Gary Melton as “a system without reason.” Mandatory reporting laws were not the result of careful thought, planning, and scientific testing to see what effects they might have. They were a knee-jerk response to Dr. C. Henry Kempe’s 1962 article “The Battered Child Syndrome.” Within a year the federal government had proposed a model law for the states. By 1965, [47 states had adopted such laws](#).

Originally the laws were relatively narrow in terms of both what should be reported – serious physical abuse – and who should be required to report it – mostly doctors. But, again, even with no evidence that the laws worked, both mandates were expanded. One profession after another was added. Now, in 18 states, *everyone* is a mandated reporter. What must be reported also expanded to include anything in a state’s definition of child abuse or neglect. Since neglect laws make it easy to [confuse poverty with neglect](#), poor families inevitably became the primary target.

All of this was egged on by that [repository for so many bad ideas](#) in child welfare, the federal Child Abuse Prevention and Treatment Act. CAPTA requires states to have mandatory reporting laws, and specifically requires that they include “neglect.”

But it wasn’t long before a lot of proponents of mandatory reporting had second thoughts.

- As far back as 1983, one of the biggest names in Massachusetts child welfare, Dr. Eli Newberger of Children’s Hospital in Boston [wrote that](#) “had professionals, like me, known then what we know now, we would never have urged on Congress, federal and state officials broadened concepts of child abuse as the basis for reporting legislation.”

- In 1998, the National Research Council [concluded](#) that “Mandatory reporting requirements were adopted without evidence of their effectiveness; no reliable study has yet demonstrated their positive or negative effects on the health and well-being of children at risk of maltreatment, their parents and caregivers and service providers.”

- In 2011, in the wake of the scandal involving former Penn State football coach (and [former foster parent](#) and group home operator) Jerry Sandusky, there were calls to vastly expand mandated reporting even further. But another leading proponent of these laws, [Prof. David Finkelhor said](#): “Maybe it’s better that people use discretion ... If everybody obeyed the letter of the law and reported a suspicion of abuse, the agencies would be completely overwhelmed with reports.”

- Even the late Richard Gelles, among [the most fervent](#) proponents of what amounts to a “take the child and run” approach to child welfare, someone who advocated for orphanages and bragged about helping to write the so-called Adoption and Safe Families Act, [opposed such](#)

[expansion](#), writing: “Forty years after the first federal mandatory reporting law was enacted, there isn’t a single study showing that investigations alone increase the safety of children.”

### **The new research**

Now it’s more than 50 years. And now, at last, these laws are being studied. The results are ugly.

For starters, mandatory reporting doesn’t make children safer. While it is impossible to compare states with mandatory reporting to states without – because every state has it – one can compare states in which some people are mandatory reporters to states in which everyone is a mandatory reporter.

An [international team of researchers](#) did just that. They studied reports of physical abuse. They found that the proportion of reports that were “substantiated” – which may mean only that a caseworker decides it’s slightly more likely than not that abuse occurred – plummeted in states with universal mandatory reporting (UMR). In other words, it dramatically increased the proportion of false reports. They write:

*...our results suggest that, at best, UMR does not appear to be achieving its intended goal of improving identification of children victimized by physical abuse. In fact, UMR can potentially lead to poorer outcomes. For example, more reports made but without sufficient evidence can divert valuable but limited resources from endangered children who are actually in need of protection.*

But that’s only the beginning.

Another study looked at the plight of a group most likely to be needlessly removed to foster care: children of mothers who are themselves victims of domestic violence.

Under so-called “failure to protect” laws and regulations, one can be labeled a bad mother – and children can be removed – if the mother “allowed” children to witness a husband or boyfriend attacking her.

Taking away a child under these circumstances actually [compounds the trauma](#) of removal for that child. That’s why, thanks to [a class-action lawsuit](#), the practice is illegal in New York. (NCCPR’s Vice President was co-counsel for plaintiffs in that lawsuit.)

Battered women know the danger their children face if they seek help. [Building on previous research](#), a [study published in December, 2019](#) found that mandatory reporting laws drove many women away from seeking help for fear that their children would be taken away. Worse, the fears were justified. According to the study:

*Most survivors described severe consequences of [Child Protective Services] involvement, primarily the removal of their children from their care and home. One survivor explained how “CPS was brought in, and my kids were taken away and that was almost life ending.” Another survivor illustrates the challenge of CPS involvement in cases of domestic violence, explaining that “[t]hey removed my children from my home and charged me with allowing domestic violence to happen to me.”*

Abusers know it. If a battered mother threatens to call the police, her abuser can say: Go ahead, call the cops! They'll call DCF and DCF will take the kids.

If you do not abolish or at least curb mandatory reporting instead of expanding it, then ultimately this commission will be a spouse abuser's best friend.

Year after year, decade after decade, we have traumatized millions of children with false allegations, needless investigations and stripsearches and worst of all, needless foster care – and done nothing to reduce child abuse – in fact, mandatory reporting and the rest of the policing system have probably undermined child safety.

### **Mandatory reporting undermines entire poor communities**

Perhaps most damning is [the scholarship of Prof. Kelley Fong](#), now at Georgia Tech, while she was a Ph.D. candidate in sociology and social policy at Harvard. [As first reported by Rise](#), Fong interviewed scores of impoverished mothers in Providence, R.I. They described how mandated reporters are “omnipresent,” and how that spreads fear throughout their neighborhoods - again, for good reason. Though the mothers had not been selected because of involvement with CPS, nearly two-thirds had been subjected to a child abuse investigation.

Here's one example from the study:

*Leslie, a Hispanic mother, asked hospital staff when her newborn twins would be discharged so she could arrange housing for them, sharing that she had been sleeping at her workplace and her mother's garage apartment. “I was trying to be honest just so I can prepare myself... [but] that backfired on me,” as the hospital notified CPS. “After that moment I learned how to play the game.”*

Playing the game means watching every word spoken in front of a mandated reporter – even if that means losing out on help. Another mother decided not to seek public assistance when she found out she'd have to reveal the fact that the family was living in their car.

Some mothers refused voluntary home visiting services for new mothers – an intervention which, when following the [Nurse-Family Partnership model](#), has a solid evidence base. But the visitors are mandated reporters and the mothers were too afraid the visits could lead to loss of the children.

And you don't dare reveal to a mandated reporter that you sometimes lose your temper or get depressed. As one mother explained:

*I feel like I can't tell anybody anything because oops, I might've said too much. I might have a knock on my door, and somebody might be here to take my kids. That's one of my biggest fears.*

In another study, Prof. Fong documented case after case of the harm [done by mandatory reporting in Connecticut](#). One case involved a mother she called Gaby. As you read what the system did to Gaby consider:

- This study was done when Connecticut was a rapidly improving system [with good leadership](#) – leadership far better than in Massachusetts. That is one reason why the rate-of-removal in Connecticut is significantly lower.

- The mandatory reporter who turned in Gaby meant well.

- The investigation was conducted by a caseworker who was experienced, smart and empathetic – something to keep in mind when people try to claim that “training” will fix everything.

- The amount of intrusion into the family was the bare minimum possible when agencies such as Connecticut DCF intervene.

And yet, the family *still* was left worse off.

Or consider this example, from a *Boston Globe* story on how Massachusetts schools take advantage of mandatory reporting laws to harass families – [particularly, again poor families of color](#) – and DCF encourages it:

The *Globe* tells the story of an immigrant mother whose first language is Spanish:

*Her young son’s behavior became difficult after schools closed in March, the woman said, adding that the boy clearly missed the structure and routines. She reached out to school staff for advice. “I was desperate,” she said. “I just wanted some techniques.” The mother met with a school therapist on Zoom, and asked about how to handle her son’s outbursts.*

*Although there was a language barrier — the meeting was held in English even though the mother struggles with the nuances of the language — she thought the conversation went well. “She seemed concerned and was very polite,” the mother said of the school therapist. “I felt trust.”*

*So she was shocked a few days later to receive a call from DCF. Someone from the school had alleged “general neglect” based on “behaviors observed or disclosed during remote learning.”*

*The timing of the call — just days after her call with the therapist — made her think it was the reason the school called DCF. She suspected that something she said during her meeting with the therapist was misunderstood.*

*“Maybe it was my English,” she said.*

Again, contrast this to what happened in New York City, when the system had to pull back and people could turn for help, without fear, to mutual aid associations.

### **Why doesn’t mandatory reporting work?**

Why has a system built on ever-expanding reporting and surveillance failed to stop the horror stories and failed even to curb the overall rate of child abuse? It seems intuitive that calling in more reports is bound to uncover more cases where intervention is essential.

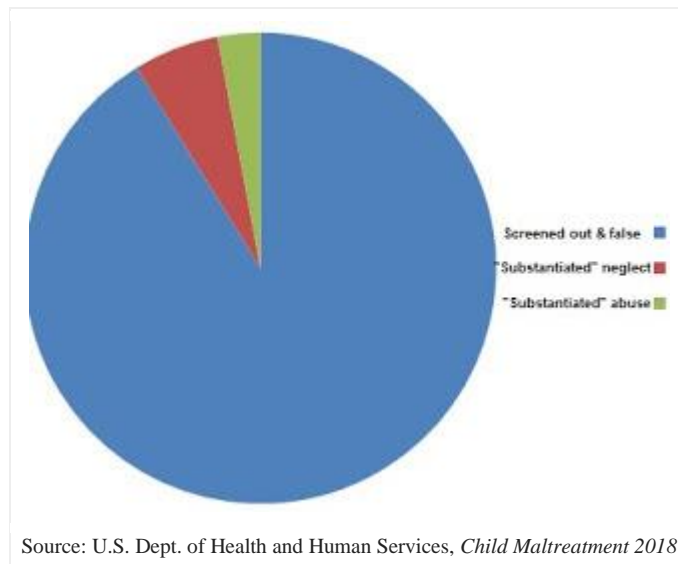
But when you look at the actual data about the families vacuumed up by the system the answer is obvious. In a sense, the proponents of this system were so anxious to fool the rest of us – in the name of “raising awareness” -- that they ultimately fooled themselves.

At the root of the problem is what’s been called [“health terrorism,”](#) an ends-justify-the-means approach to advocacy that says it’s OK to distort the true nature of a problem in the name of “raising awareness.” (The phrase “health terrorism” did not originate with us. It was used by a group that admits to having engaged in it.) For decades, we’ve read stories that begin with a gruesome case of murder or torture – again a tactic that dates back to the earliest days of the MSPCC. Then the story jumps to a statistic about the total number of “reports” alleging “child abuse.” So in our minds, every report is like the horror stories. In fact, almost none are.

As a result, we’ve created a child welfare surveillance state so omnipresent, particularly in poor communities, that one study estimates one-third of all children [and more than half of Black children](#) will be forced to endure the trauma of a child abuse investigation by the time they’re 18.

But pore over the federal government’s annual [Child Maltreatment report](#) and you find that nationwide, of every 100 calls to child abuse hotlines 91 are either so absurd they are screened out or they are found to be false after an investigation. Yes, defenders of the system sometimes say the reports weren’t false, the workers just couldn’t “prove” them. But no proof is required. In most states, including Massachusetts, all that is required to “substantiate” an allegation is a caseworker’s guess that it is slightly more likely than not that abuse or neglect occurred.

The only study we know of to try to second-guess these decisions is quite old. But it found that workers were two to six times [more likely](#) to wrongly substantiate an allegation than to wrongly label one unfounded.





Another six calls involve “neglect.” On very rare occasions neglect can be horrific. But far more often it simply means a family is poor. If a child is hungry, that is not a reason to call DCF, it is a reason to call a foodbank. If a family’s housing is unsafe it’s cause to fix the house or move the family to better housing, not move the child out of the family.

All over the country, child welfare systems finally are coming to grips with this; in a few states, legislation is under consideration that would narrow definitions of neglect and make it harder to [confuse poverty with “neglect”](#). It is obscene that this commission would even think of making it easier.

Oh, but you see, defenders of the system will say, the poverty wasn’t necessarily *alone* – what about all those other problems the family might have? Sometimes that is true – but usually, those other problems are caused by poverty. How do we know the problem is poverty? Because of the striking number of studies documenting how often [the solution is money](#). Not a lot of money either; small amounts of additional cash significantly reduces what child welfare systems call child neglect.

That leaves three of every 100 calls with even the potential to be the kinds of horror stories we think of when we hear the words “child abuse.”

The cases we think of when we hear the words “child abuse,” the horror story cases, are the worst imaginable tragedies. The only acceptable number for such cases is zero. But they also are needles in a haystack. And every time you miss one in Massachusetts, the child welfare establishment comes up with the same idea: Make the haystack bigger. But that just makes the needles harder to find.

And that’s why mandatory reporting, and the empire of policing, surveillance and child removal it has spawned, does enormous harm to children, in every possible way.

The kindly-intentioned people who created the system, and constantly seek to expand it have some great applause lines: We’re “child-focused,” they say, we’re putting “child safety” ahead of “parents’ rights,” they say. Then there’s that favorite of the governor’s in which helping families is supposedly – “mission confusion.” And of course, the classic: Disrupting thousands of families, traumatizing children and tearing some of them away and forcing them into foster care is just “erring on the side of the child.”

But a child abuse investigation is not a benign act, it is an enormously traumatic experience for a child, all the more so when it is accompanied by a stripsearch.

How do we know how harmful this is? Just ask former Massachusetts State Rep. Shaunna O’Connell. She was shocked by how DCF treated a family in her district in 2017.

According to the investigative unit of Boston [Channel 5](#), it all began with a report to the state child abuse hotline about small bruises on one of the children. Then, according to the story, “...young children were strip-searched and emotionally scarred by state investigators who showed up at their home late at night.”

The next morning, the father said, “my four-year-old asked my wife, ‘Is DCF going to take us forever?’”

Channel 5 did at least two more stories about the case – they even asked the governor about it.

**Said Rep. O’Connell:** “You can’t just barge into someone’s house like that when clearly there’s not evidence for it, scare their kids, scare their family ...” she said. “As a mom, I can’t imagine that happening to my kids.”

Of course you say you can’t, Rep. O’Connell. And of course you can’t either, outraged journalists. Because this was one of those incredibly rare cases in which the victimized parents were white, middle-class *foster* parents. The original report alleging abuse was made by a caseworker who noticed the small bruises on a foster child. The foster child was immediately moved to another home. The family’s birth children were stripsearched and traumatized.

As for Rep. O’Connell’s claim that you can’t do things like this to families with no evidence, what she must have meant was, you can’t do this to *white, middle-class families* without evidence. DCF can and does behave this way in poor neighborhoods routinely.

As noted earlier, for Black children it is the norm. Where is the outrage in the legislature about that? Clearly, when it comes to being traumatized by DCF, Black lives really don’t matter.

All of that trauma is compounded, of course, if the child is placed in foster care. Precisely because the typical cases are nothing like the horror stories, it’s no wonder multiple studies, [two of them from MIT, massive in size and scope](#), involving more than 15,000 *typical* cases, found that children left in their own homes typically fared better even than comparably-maltreated children placed in foster care.

We understood it well enough when it happened to children at the Mexican border. Yes, there are differences. On rare occasions, children really do need to be taken from their parents – and DCF workers almost always are kindly intentioned. But that doesn’t change the trauma. The children [cry the same sorts of tears](#) for the same sorts of reasons. The experience is just as traumatic. How is that erring on the side of the child?

That harm occurs even when the foster home is a good one. The majority are. But the rate of abuse in foster care is far higher than generally realized and far higher than the figures you will get from DCF. When Children’s Rights brought a lawsuit against the Massachusetts foster care system, they commissioned a casereading. They found that among children who had been in foster care at least four-and-a-half years, 22 percent had been abused in foster care – and that’s only those that DCF caseworkers themselves substantiated and recorded in official case files. [Multiple independent studies](#) have found abuse in one-quarter to one-third of foster homes. The rate of abuse in group homes and institutions is even worse.

And here again the system is rife with double standards.

How many people on the commission remember [Avalena Conway-Coxon](#)? She died in a foster home that anyone could see was unfit - but which DCF was desperate to keep open because they were taking away so many children and had no place to put them. Where were the calls to reduce needless foster care, so more children wouldn’t suffer the same way? Where were the sweeping conclusions about the state not doing enough to keep families together to

avoid such tragedies? If a child is taken from a home that is safe or could be made safe with the right kinds of help, only to suffer the fate of Avalena Conway-Coxon, how is that “erring on the side of the child”?

But even that isn't the worst of it. As the studies of mandatory reporting show, and as that Massachusetts caseworker union leader warned more than 30 years ago, the more that workers are overwhelmed with false allegations, trivial cases and children who don't need to be in foster care, the less time they have to find children in real danger. So they make even more mistakes in all directions. That's almost always the real reason for the horror stories about children left in dangerous homes – the very stories that start the cycle of despair. How is that erring on the side of the child?

The take-the-child-and-run approach, the child welfare surveillance state approach, the approach this commission appears so ready to embrace again makes all children less safe.

### **Training won't fix it**

Imagine if a special commission were convened to study police brutality in Massachusetts. Imagine if they said that all the problems could be solved if we just gave the police more training. Imagine if they claimed the problem isn't, say, massive use of stop-and-frisk policing; we just need to give the police more training in whom to stop and how to frisk them.

People would immediately recognize it for what it was: a whitewash – in every sense of the term.

Yet over and over and over we hear that all the problems of the child welfare surveillance state will be solved, all that wrongful removal of children will end through the magic of “more training.” Similarly, we are told that the problems of mandatory reporting will be solved if we just give the mandated reporters more training.

But training is no substitute for due process. And that's even if you could do it. Since vast numbers of state residents are mandatory reporters, there's no way you can provide more than a few hours of training, probably online. And who will design the training? The same people whose mantra is report anything and everything – so more training might actually make things worse. That is certainly the case in another state, where I took one of the [officially-authorized training courses](#) for mandatory reporters.

In any event, when it comes to training, this commission seems to be suffering from “mission confusion.”

The chair of this commission told *Commonwealth Magazine* that mandatory reporters “should be trained to ask a hungry child why they are hungry, then differentiate between a family that needs money for food, and a family where a child is being punished or a parent is forgetting to feed their child.”

But a commission proposal “eliminates a clause that says neglect should not be reported if it is due solely to poverty or disability.” So apparently even after the magic of training kicks in, the mandated reporter still is supposed to call DCF.

And even if that's not what they're supposed to do, if they call DCF needlessly terrible trauma might be inflicted on the child, but the reporter is safe. If the reporter misunderstands the training and doesn't call when someone in authority thinks s/he should, another commission proposal would make her or him liable for a fine of up to \$10,000.

There also is a peculiar double standard concerning training. In many cases, mandated reporters have vastly more training than DCF caseworkers. When a parent has a substance use issue, why are well-trained medical professionals denied the opportunity to use *their* training and *their* professional judgment concerning whether the substance use is endangering a child and whether DCF intervention would help? Instead, they are forced to turn the judgment over to caseworkers who may be far less qualified.

### **Buzzwords are not enough**

Given that the commission does not seem even to have considered any proposal involving dialing back the power to intrude on families, I fear that the recommendations will indeed endorse further confusing poverty with neglect and expanding who has to report to DCF. The only difference will be the buzzwords. This time the report will be filled with terms like "equity" "diversity" "inclusion" and maybe even "racial justice." Often these buzzwords will be preceded by "we recognize that..." and followed by something about, yes, training.

That would be worse than meaningless – it would only add insult to the injuries – physical and emotional – endured by children at the hands of the latter-day Cruelty, a system that so often destroys children in order to "save" them.

Instead, it's time to go back to the drawing board.

Mandatory reporting laws perfectly illustrate a double standard that pervades child welfare. If you want to do anything that helps keep families together, you'd better be able to dot every i and cross every t on lots and lots of rigorous studies. (Fortunately, we can do that.) In contrast, interventions that tear families apart, whether it's mandatory reporting, [foster care](#) or [residential treatment](#), dominate the field – with no evidence of effectiveness and considerable evidence of harm.

We can do so much better. COVID-19 has forced us to re-examine so much in our lives. And that new study from New York tells us there are lessons about how to do child welfare right – lessons that are precisely the opposite of what the fearmongers had predicted. Let's seize the opportunity to rethink and rebuild a system, centering community-based solutions that ameliorate the worst aspects of poverty. Let's rebuild a system in which people are unafraid to reach out for help – and the help is what families really need. Let's build a system based not on a caseworker's "vibe" but on due process of law.

Mandatory reporting laws should be judged by a simple standard: There is no evidence that they work – so get rid of them. Mandated reporting belongs in the dustbin of child welfare history.

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