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Introduction to Symposium, The Rights of Parents with Children in Foster Care: Removals Arising from Economic Hardship and the Predicative Power of Race

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**THE RIGHTS OF PARENTS WITH
CHILDREN IN FOSTER CARE:
Removals Arising from Economic Hardship
and the Predicative Power of Race**

**Association of the Bar of the City of New York
Monday, April 17, 2000**

Moderator: Dr. Megan McLaughlin
Executive Director, Federation of Protestant Welfare
Agencies

Speakers: Prof. Martin Guggenheim
Director, Family Law Clinic, NYU Law School

Sharonne Salaam
Parent Advocate and Director, People United for Children

Nanette Schorr
Director, Family Law Unit, Bronx Legal Services

INTRODUCTION*

The following symposium at the Association of the Bar of the City of New York explores the predicament posed by the surge of child removals through neglect petitions, and the subsequent placement of those children in foster care. The panel, whose comments are published here, offer some poignant reflections on the crisis of the child welfare system.¹

After the media fallout resulting from the 1995 death of 6-year old Elisa Izquierdo at the hands of her mother, the agency responsible for child protection in New York City — the Administration

* Introduction by Ann Cammett, Esq., staff attorney at the The Legal Aid Society, Civil Division, and member of the Committee on Civil Rights (2000-2002), Association of the Bar of the City of New York. Program was held on April 17, 2000, and jointly sponsored by the Committee on Civil Rights, Ronald Tabak, Chair; the Family Law Committee, Ann Reiniger, Chair; and the Children and the Law Committee, Edwina Richardson, Chair.

¹ It should be noted at the outset, that the overall number of children in the foster care system has dropped significantly since the April 2000 forum. Nevertheless, the persistent predominance of poor children of color removed to foster care, which gave rise to this symposium, still remains the critical issue for discussion.

for Children's Services or ACS — began to aggressively prosecute parents suspected of either child abuse or neglect.² That mandate was clearly expressed by then Commissioner Nicholas Scoppetta in his 1996 master plan for the agency, which declared, "[that] any ambiguity regarding the safety of the child will be resolved in favor of removing the child from harm's way. Only when families demonstrate to the satisfaction of ACS that their children are safe and secure will the children . . . be returned to the home."³ The policy directive, absorbed and implemented by agency officials and caseworkers alike, is crudely referred to as "when in doubt, yank them out." As a practical matter, the agency failed to make a distinction between cases of child abuse and severe parental neglect — which constitute a small percentage of indicated cases — and child neglect arising from poverty.

Harm can certainly come to children experiencing neglect related to their parents' inability to provide material and emotional support for them. Nevertheless, it is the city's stated policy⁴ — not to mention federal law⁵ — to make "reasonable efforts" to keep at-risk children in their homes when possible, by providing preventative services to ameliorate the conditions of poverty. The inherent rationale is that there are less invasive and punitive ways to protect children from the effects of poverty than traumatic removal from their families. Despite public policy favoring such preventative services, child removals accelerated across the board after the Commissioner's edict. In addition to parents' failure to provide necessary support, other grounds for removal became commonplace, including allegations such as: inadequate housing; "exposing" children to domestic violence⁶; poor housekeeping; and

² Center for an Urban Future, *Families in Limbo: Crisis in Family Court*, CHILD WELFARE WATCH 4 (Spring/Summer 1999).

³ *Id.* at 4; See also ACS 1996 Reform Plan, <http://www.ci.nyc.ny.us/html/acs/html/whatwedo/reformindex.html>.

⁴ ACS Permanency and Planning Principles, "A child who can be protected within his or her own family and home with the support of community services should not come into foster care." http://www.ci.nyc.ny.us/html/acs/html/whatwedo/pp_perm.html.

⁵ 42 U.S.C. § 671(15). "[R]easonable efforts shall be made to preserve and reunify families— (i) prior to the placement of a child in foster care, to prevent or eliminate the need for removing the child from the child's home."

⁶ In *Nicholson v. Williams*, 203 F. Supp. 2d 153 (E.D.N.Y. 2002), Senior District Judge Weinstein held that "[ACS's] policy of removing children from the custody of their mothers under New York law solely on grounds that mothers had been abused violated mothers' and children's substantive and procedural due process rights; policy substantially infringed on fundamental liberty interests of mothers and children in family integrity, and in mothers' in parental authority over raising children, and neither compelling nor substantial state interest justified policy, since unnecessary

educational neglect stemming from parents' unwillingness to consent to special education tracking of their children.

This panel discussion was born in the wake of lawsuits attempting to address the inadequacy of ACS's ability to cope with a myriad of problems in the child welfare system. Most notably, the *Marisol v. Giuliani*⁷ settlement concerned the protection of children in foster care, but not the rights of the *parents*, who have an independent interest in the overhaul of ACS policies. During the same period, parents in New York City with children in foster care were organizing in an effort to find support in navigating the Family Court system (especially as indigent litigants unable to hire private attorneys), and to force ACS to provide needed services to enable the return of their children. They also challenged the necessity for removing their children in many instances in the first place.⁸ These parents were overwhelmingly poor, and almost exclusively black or brown.

What arises from this forum is a compelling discussion of the tension that is created when the state, as *parens patriae*, exercises its right to routinely intervene in the families of communities that are almost entirely poor, marginalized, and lacking broad political support. The intersection of race and class renders the crisis of the child welfare system a complex and multifaceted problem indeed. While the safety and security of children is paramount, the crisis also manifests alternatively — as governmental intrusion into some families and not other, more affluent ones. Are some communities so disproportionately impacted by coercive state intervention that their civil rights are implicated?⁹ Does the caste character of the

removals harmed children, and cases brought by ACS were so procedurally skewed as to prevent courts from effectively protecting rights of mothers and children."

⁷ 185 F.R.D. 152 (S.D.N.Y. 1999). Lawsuit brought by children's rights groups (Children's Rights, Inc. and Lawyers for Children). City agreed to allow an outside panel of experts monitor ACS. The panel was given full access to ACS staff and records, but their authority was limited to making recommendations for changes in operations. See also Bill Alden, *Pact in Child Welfare Lawsuit Is Approved*, N.Y.L.J., April 1, 1999, at 1 (col. 5).

⁸ Various community based groups, including the Child Welfare Action Center and People United for Children, organized events to educate parents on issues related to ACS and foster care. A forum on April 15, 2000 entitled *NY Family Court's Affect on Families and Their Children in Foster Care* at the National Action Network in Harlem, drew hundreds of participants and stated as its purpose, "to find more effective solutions for monitoring and protecting children that are at risk at home and in foster care, and to find ways of expediting the return of children who may have been removed from their families mistakenly, or unjustly."

⁹ See also Martin Guggenheim, *Somebody's Children: Sustaining the Family's Place in Child Welfare Policy*, 113 HARV. L. REV. 1716 (2000) at 1718, n. 11, stating that one out of every 29 children of color in New York City is in foster care, as opposed to one out

child welfare system reflect a continuous failure to address poverty as a social justice issue?¹⁰ A candid exploration of these and other issues follows.

THE PROGRAM

[Prelude] Tonight's program arises from a surge in Family Court removal petitions brought against parents for *neglect*. In 1995, the city brought 6,658 new neglect cases. In 1998, 10,395 cases were filed.¹¹ In 1995, Family Court sanctioned the removal of 8,000 children. In 1997, that number increased to 11,958.¹² While the upswing in removals is alarming in and of itself, the numbers do not address the predictive power of race in determining what children are removed from their homes. Consider the following statistics:¹³

- In New York City, African American children were more than twice as likely as white children to be taken away from their parents following a confirmed report of abuse or neglect.
- In 1998, one of every 22 African-American children citywide was in foster care, compared with one of every 59 Latino children – and only one of 385 white children.
- In 1998, one of every 10 children in Central Harlem was in foster care.
- In 1998, one of every four African American foster children remained in foster care five years or more. Only one in ten white children remained as long.

of every 384 white children, [and] children of color are 13 times more likely to be placed in foster care than white children. *See also*, People United for Children, Inc. v. City of New York, 2003 WL 1918305 (S.D.N.Y.) (African American parents granted class certification to sue ACS, the former Commissioner and former Mayor, contending that an overwhelming majority of parents and children impacted by defendant's proclaimed policy of removal have been African Americans) *supra* note 2. *See also*, People United for Children, Inc. v. City of New York, 108 F. Supp.2d 275 (S.D.N.Y. 2000) (where the court denied defendant's motion to dismiss on equal protection claim based on race, as well as on substantive and procedural due process, search and seizure, and state law claims).

¹⁰ For an excellent analysis of racism in the child welfare system, as well as a theory of "group-based" harm, *see* DOROTHY ROBERTS, SHATTERED BONDS: THE COLOR OF CHILD WELFARE (New York: Basic Civitas Books 2002).

¹¹ *Families in Limbo: Crisis in Family Court*, *supra* note 2, at 11, *citing* The New York State Court System Family Court, NYC Caseload Activity by Type of Proceeding; 1998 projected year-end totals, Office of Court Administration.

¹² *Id.* at 4, quoting The New York State Family Court Improvement Study, Vera Institute of Justice, 1997.

¹³ Center for an Urban Future, "Race, Bias and Power in Child Welfare," CHILD WELFARE WATCH (Spring/Summer 1998) 1.

- According to a report by the Vera Institute of Justice, only one out of ten parents who fought abuse or neglect allegations in Family Court won. Only one in ten of parent's attorneys filed a single motion in their client's defense.¹⁴
- As of 1999, eight of the Giuliani administration's 15 Family Court judicial appointments have prosecutorial backgrounds. Only two of the others have practiced non-prosecutorial family law recently. The administration had not appointed a single children's or parent's lawyer to the bench.¹⁵

Nicholas Scoppetta, the Commissioner of the Administration for Children's Services (ACS), declined an invitation to join tonight's panel discussion. We've made copies available of [his response to our invitation], where he addresses the implications of some of the statistical data provided to you at this event.¹⁶ Let me introduce our guests for this evening's panel discussion.

Prof. Martin Guggenheim is a Professor of Law and director of Clinical and Advocacy Programs at the New York University School of Law. He was previously, among other things, Acting Director of the Juvenile Rights project of the American Civil Liberties Union Foundation, and a Trial Attorney in the Special Litigation Unit of the Juvenile Rights Division of the Legal Aid Society. He is currently a member of the Board of Advisors for the Administration for Children's Services on the Permanency Planning Advisory Board Sub-Committee and the Child Protection Committee. He served as chief counsel in the landmark case of *Santosky II v.*

¹⁴ *Id.* at 1.

¹⁵ *Id.*

¹⁶ In his letter dated March 21, 2000 declining the invitation to attend the panel discussion, Commissioner Scoppetta cited a number of recent improvements to the child welfare system including; fewer removals and a reduction of the total foster care population in fiscal year 1999. He also touted an increase in preventative services, timely reunification or expedited adoptions, and new initiatives including: neighborhood based services; the implementation of 72-hour Child Safety Conferences; and matching services to families with particular needs. On the subject of racism, he states that, "We recognize the need for constant vigilance when we say that ACS does not tolerate a policy of racial bias in any of our activities . . . [o]ur staff, frontline and managerial, is quite diverse and, in most instances, is representative of the community that we serve. In any analysis of the foster care population however, we feel it is also important to examine the effects of poverty on the racial composition of the families and children served by the system." There was no mention of specific policies undertaken to address the gross disparity in the representation of certain racial groups in the foster care system.

Kramer,¹⁷ and is the prolific author of numerous books and articles, including a 1999 Law Review article entitled, *The Foster Care Dilemma and What to Do About It: Is the Problem That Too Many Children Are Not Being Adopted Out of Foster Care or that Too Many Children Are Entering Foster Care?*¹⁸

Nanette Schorr is the supervising attorney of the Family and Education Law units at Bronx Legal Services, where she has worked for 12 years. Ms. Schorr has litigated in the area of foster care, representing parents and extended family in all stages of child protective proceedings, including termination of parental rights. She has worked closely with social workers in developing plans for family reunification, and is an adjunct professor at Fordham University's School of Law, where she co-teaches interdisciplinary courses in child abuse and neglect for law and social work students.

Sharonne Salaam is a grassroots advocate on the issue of foster care in New York City. She is a wife and mother of three children. For many years, she worked as a fashion designer and educator at Parsons School of Design. She began her advocacy on behalf of children as a result of the media coverage around the Central Park Jogger case. Ms. Salaam is a founder of People United for Children, which organizes parents of children in foster care. She believes that real change in the foster care system can only occur through direct action, community organizing and education.

Finally, it is a pleasure to introduce you to the moderator for tonight's panel.

Dr. Megan McLaughlin has been the Executive Director and Chief Executive Officer of the Federation of Protestant Welfare Agencies for the past 14 years. Dr. McLaughlin has spent her life identifying and giving voice to critical issues to influence positive change. As Chair of former Mayor Dinkins's Commission for the Foster Care of Children, she spearheaded the publication of several reports aimed at reforming foster care system in NYC. Dr. McLaughlin serves on many boards and has taskforces including the Administration for Children's Services advisory board. She also worked as a field instructor at Columbia University and as a social planner in

¹⁷ *Santosky II v. Kramer*, 455 U.S. 745 (1982).

¹⁸ Martin Guggenheim, *The Foster Care Dilemma And What To Do About It: Is The Problem That Too Many Children Are Not Being Adopted Out Of Foster Care Or That Too Many Children Are Entering Foster Care?* 2 U. PA. J. CONST. L. 141 (1999).

the Office of the Prime Minister of Jamaica. Dr. McLaughlin is a recipient of numerous rewards and honors for her distinguished work in human services, and has served as a mentor to countless young professionals in this arena.

[Dr. McLaughlin] Why don't I take this opportunity to thank the organizers of this affair, as it is very important for us to keep the issue of children in foster care on the public agenda? We want to make sure that the converts are reinforced. And for those who are not yet converted — we need you to learn what's going on, so that we can rely on you to be advocates as you go along in your daily work. So without further adieu, why don't we get started and ask Ms. Schorr to make a brief presentation for us to chew on?

[Nanette Schorr] Thank you. The first thing I wanted to talk about tonight was the dehumanization of parents in the child welfare system. I think my main credential for participating in this panel is that I've had the opportunity to meet and work with many parents whose children are placed in foster care. Through that work I've come to know people with enormous strength, fortitude and determination, who fight through their pain, who struggle for self-esteem. They face enormous obstacles. And, I have learned about the networks and support systems that sustain families in crisis. Through it all I've come to appreciate greatly many of the people that I've had a chance to work with.

As a result of having engaged in this work, I have also come to experience through my clients, some of the ways that policies which drive the child welfare system have the effect of diminishing the humanity of the parents who enter that system - most of whom, as we know, are low income, and people of color. These policies, which deem it appropriate to err on the side of removal and to fast track termination of parental rights while investing little in legal representation and preventive services delivery, reinforce feelings of powerlessness which make it difficult for people to rebuild their lives. In my opinion, a key goal for advocacy for change in the child welfare system ought to be that of insuring that those families who are in the system are treated with dignity and respect.

I will never forget the morning I walked into my office at Bronx Legal Services about 9:30 and our receptionist told me that a woman had been sitting in our waiting room since 8:30 crying and refusing to leave until a lawyer could see her. The woman was a

Hispanic woman who lived in a low-income neighborhood in the Bronx and depended on public assistance. When I met with her, it emerged that her child, a 3-year old boy, had been removed from her care about a week ago. She had not been told where he was or how he was doing. She was desperate to see him and to know of his welfare. After a number of phone calls, I was able to locate him at a foster care agency and set-up a family visit. The primary reason for removal was that the mother had allowed the baby's father back into the home after an incident of domestic violence in which she had received an order of protection from Criminal Court. The child was not hurt during the incident although he may have been present when it occurred.

The ACS caseworker was hostile towards the mother because when the child was removed, the mother had screamed and pushed her. This is a mother who loved her child desperately and would do anything to get him back. I couldn't help but think what enormous trauma it was for this mother to not know where her child was for a week. It seemed to me that this mother was treated almost like a risk factor rather than a human being. It took a year for the child to be returned to his mother despite her immediate and full compliance with all ACS mandates — and even then only because fact finding had been inordinately delayed. It took a Family Court Judge's firm inquiry of what the imminent risk was for all parties to agree that this child should go home.

I next would like to talk about racism and bias in the system. State Assemblyman Roger Green recently prepared a statement entitled, *Racism/Class Bias in the Child Welfare System*.¹⁹ Assemblyman Green documented, through statistics, three very compelling points. First, the likelihood that African-American children will be removed and placed in care without the provision of preventive services. Second, that 90% of all abuse and neglect reports involve neglect and not abuse. Third, that poor children of color experience long lengths of stay in the foster care system. Assemblyman Green also posited that over-representation of African-American children in foster care is due to biases which occur at the point of investigation, and that racism and class bias continue to influence perceptions, expectations and service delivery within the child welfare system.

I am a member of the task force composed of a diverse group of

¹⁹ *Racism/Class Bias in the Child Welfare System*, Roger Green, Assembly member, New York State Assembly, 57th District; position paper dated December 22, 1999.

advocates around the city who represent parents in Article 10 child protective proceedings. Many task force members like myself work in community based legal services. When we met a few weeks ago, I decided to pose to my colleagues the questions that have been asked by this committee prior to tonight (specifically, regarding the predictive power of race in termination proceedings regarding neglect.) During our discussion there was an outpouring of feeling by task force members related to this subject. The theme that emerged in our discussion was that racial and class biases appear to influence all three areas identified by Assemblyman Green — perceptions of parents, expectations of parents and service delivery to parents. Advocates felt that child welfare personnel were quick to assume parental inability to care for children and that during the stay of the child in foster care, insufficient attention was paid to parental strengths. They also felt that little was expected of parents involved in the child welfare system. It was also felt that children were removed from their parents far too quickly and before adequate investigation, and that preventive and reunification services were provided with a “cookie-cutter” approach, rather than looking at the needs of the individual. Services were compartmentalized, and clients had to go to many different locations. There was no — what social workers call — differential assessment diagnosis; that is, if one child in a sibling unit had more complex needs than the other children and the parent needed additional help to meet those needs, none of the children would be sent home until the parents could meet the needs of all of the children. Task force members also felt that child welfare intervention was often harmful to children and families. Specifically, they felt that too many children enter foster care where less restrictive means of protecting them and helping their families could have been used, and that the impact of removal on children ought to be considered as part of the decision of whether or not to remove.

Task force members felt that the following changes should occur as solutions to some of these identified problems. First, that mandated reporters should, where feasible, investigate reports before calling them in. People discussed the fact that public facilities such as hospitals, schools, mental health clinics and other such public institutions are heavily utilized by low-income people of color in New York City. The question of whether to report a case comes under heavy scrutiny from supervisors, due to the potential of criminal liability for failure to report. By virtue of this, there was unduly heavy pressure on service providers to report cases.

Secondly, task force members felt that cultural education should be a large part of child welfare training because cultural differences can distort judgment. Third, it was recommended that more of the judges hearing removal cases reside in the communities in which those families live. And fourth, the therapeutic intervention on behalf of parents both before and after removal must be of a higher quality. Such services are often provided by institutions with high turnover rates, and are staffed by part-time or per-diem clinicians, carrying high caseloads. Clinicians are generally not reimbursed for collateral work — such as interaction with service providers, attending meetings, preparing reports, testifying in court — all of which are very crucial in family reunification cases.

At a conference I attended here at the Bar Association a few weeks ago called *Partnerships Across Borders: A Global Forum on Access to Justice*,²⁰ I heard Justice Katherine Bransom speak of the justice system in Australia concerning its adjudication of the issues concerning Australia's aboriginal population. Speaking of the judiciary in Australia and the issues they face when dealing with aboriginal claims and disputes and internal disputes, Justice Bransom posited that members of the judiciary tended to be most literate in the culture from which they come and tended to view facts in that context. She urged, as I think we must here, that mere intention to be free of biases is not enough. I do not doubt the good intentions of most of the people involved in the child welfare system, and this genuine desire to help children, alleviate suffering, and advance the overall social good. But to better that system, we must recognize our own biases, continuously raise them, expose them and fashion remedies to address them.

There's another dimension of analyzing bias in the system and that is the type of question we ask when we talk about reform. In the fall of 1999, I attended a national Child Welfare Advocates Conference organized by the National Center for Youth Law. The conference was attended by child welfare agency administrators and people from around the country who are involved in systemic reform initiatives. The conference was held in part to review current issues in the child welfare system particularly in light of the passage and implementation of ASFA [Adoption and Safe Families Act].²¹ In a report summarizing the discussion at the gathering, the following

²⁰ *Partnerships Across Borders: A Global Forum on Access to Justice*, a program of the Association of the Bar of the City of New York, April 6-8, 2000.

²¹ Adoption and Safe Families Act, Pub. L. No. 105-89 (1997).

visions and goals of child welfare advocacy were set forth. First, that the child welfare system should be limited in scope to ensure that only families whose children are at serious risk of harm enter the system in the first place, and second, that families be able to exit the system as soon as serious risk to children are resolved. Second, that intervention can hurt families as well as help them, by failing to distinguish between poverty and neglect, by treating domestic violence victims punitively, and by failing to provide high quality services while children are in foster care. Thirdly, that child welfare advocates need to think of themselves as anti-poverty advocates. That it's not enough to advocate for change within the child welfare system — one of the primary ways to affect that system is to improve the adequacy of services and support for families outside the system. This means advocating for affordable housing, help for children with disabilities, improved access to mental health and substance abuse treatment services.

The Conference also dealt extensively with ASFA, and its impact on the child welfare system. A number of themes emerged that I want to touch on briefly. One theme that advocates emphasize is the need to raise awareness to the connection between prompt high quality preventive and reunification services and effective permanency planning, including shorter stays in foster care and adoption of children who cannot return home. A second theme is that ASFA itself can be used to advocate for better and earlier services for families (perhaps using surplus money from TANF, or Temporary Assistance for Needy Families), and for innovative permanency options such as open adoption and financial subsidies for relatives who take legal guardianship. Conference participants also felt that judges should consider denying termination of parental rights petitions if no permanent placement has been planned for the child at the time of termination. Obviously, and I'm sure we'll talk about this more later, a major unresolved issue is the conflict between the time required for effective services to resolve family problems, such as substance abuse, and the short permanency time line set by ASFA. Conference attendees felt that child welfare reform initiatives are inextricably linked to core poverty issues and discussions of prevention. Other recommendations, and I'm going to cut this short due to lack of time, dealt with "failure to protect" cases, cases where women are charged with failing to protect their children from domestic violence. It was felt that there needed to be better education of child welfare caseworkers about the dynamics of domestic violence and the importance of domestic violence advocacy

focusing on empowerment and voluntary choice.²²

The last theme I want to touch on before I end is the theme of litigation. I think that litigation can be a partner for change in the child welfare system. The recent decision in the *Tenenbaum*²³ case — of which people may be aware — which held, “[i]f, irrespective of whether there is time to obtain a court order, all interventions are affected on an emergency basis without judicial process, pre-seizure procedural due process for parents and children evaporates.” This is an enormous statement. The policy, at least here in New York City, of removing children on an emergency basis, without court authorization, automatically led to far more children being placed in the child welfare system than if courts had reviewed the decision and made a reasonable efforts inquiry. So, I think this is an important reform yet to come in New York City.

[Dr. McLaughlin] Thank you very much. Why don’t I ask the panelists to comment on the presentation or to share some thoughts with us? I’ll start with Sister Salaam.

[Ms. Salaam] Well, it sounded very good to me, but a lot of times when you put all this good stuff on paper, there’s really no implementation for it. At the end of the assessment all you have is the assessment papers. If much of what’s already law had been implemented, you wouldn’t need parent advocates. One of the things that parents face is that when people come to remove their children and as they go through the court process, there is a constant degradation of their constitutional rights, their human rights, their rights to have family throughout the whole process.

Also, what is not usually covered when you are looking at things is the financial incentive that goes along with this. How are you going to deal with that if you are going to change things around so that the agencies and courts must have a different approach? How are these agencies and other entities going to keep their profit at a level that they can now free up some of these children that they get paid to give care to, so that now they can go home?

[Dr. McLaughlin] Professor Guggenheim. . .

[Professor Guggenheim] One cannot address the subject of chil-

²² Nicholson, *supra* note 6.

²³ *Tenenbaum v. Williams*, 193 F.3d 581 (2d Cir. 1999).

dren in foster care in the United States, and especially in New York City, without staring at a shocking truth of a system that a veritable Martian couldn't help but recognize to be apartheid. In fact, my most memorable story about the practice of law in the United States was told to me by Bob Schwartz, who is the head of the juvenile law center in Philadelphia. He had made a trip to South Africa during the apartheid era, and the trip was reciprocated with a person from South Africa coming to Philadelphia to visit the juvenile court there. And, after spending a day he turned to Bob and said, "Where's the white juvenile court?"

White children are not removed from their parents in this city. That is not theory. That is a fact. A removal is aberrational. It is so extreme as to present no public policy issue of any sort. There is no issue concerning the removal of white children from their parents in New York City that deserves any public policy discussion. One could see the system as it applies to white families as being one in which all efforts are made to prevent unnecessary removals. All efforts are made to protect children from harm by keeping them at home. And only in the most extreme cases would removal ever be made. That is both the law and the practice in New York City as it applies to white children.

On the other hand, with respect to children of color, we can predict before they are born how many of them will end up in foster care. We have the highest out of home placement rate of any country on the planet of children of color — and indeed of adults of color. And there is a far more powerful link between our propensity to coercively remove children of color from their families and our propensity to incarcerate adults than I think has been recognized. Not only are prisoners shockingly disproportionately themselves foster children — ex-foster children — but I think it bespeaks other things about ourselves and our culture that deserve far more attention than it gets. Frankly speaking, the lack of attention it gets carries itself to this small room. And this is really an issue that I'll spend an hour talking about and go home and there will be no change in the complexion of the people who come to family court tomorrow or next year.

Now, I do not wish to suggest that a single person employed by the administration for children's services is intentionally discriminating against anybody on the basis of race or ethnicity. I have no intention of suggesting that. I read commissioner Scoppetta's letter

declining an opportunity to be here tonight, and I agree with virtually every word in it. ACS is doing a better job than was being done in New York last year and two years ago and three years ago, but let's recognize the abysmal job that New York City Child Protection officials have been doing and inflicting on families of color for the last 50 years. And let's not celebrate the improvements, but let's concern ourselves with how much further we still have to go. There are no important lawyers with wealth or prestige who pay attention to this issue of racism. There's no money to be made in this field. The parents of children in foster care in New York City are not only disenfranchised and irrelevant to the political process but they have no lobby — no disrespect intended to the wonderful Roger Green. They have no lobby of significance. They have no influence in Albany. They have no influence in City Hall. And they are also despised. . .

It is the element of hatred that I wish to mention for a minute. There is a shocking presumption generated by fear, by otherness, by a lot of things — that the parents of children in foster care are bad for their children. They don't love them enough or they don't have the ability enough to raise them well. And I'm here to say that in my 30 years of work in this field, that is the most despicable slander of all, and the most difficult falsity to refute. Loving, wonderful adults are blamed for being poor, for living in certain areas of New York, which we can identify by zip code, as being unworthy citizens. And instead of suggesting it, and I am as sincere as I can be in saying that I am not suggesting that anybody affiliated with ACS acts with any intention to discriminate. But the child welfare system has been permitted to be defined as one in which we don't care about, in which it is framed as one in which parents are bad. And the desire of separating children from their parents is a first principal. Take for example, visitation. Now, everybody in the field knows that visitation is the most important thing children need — continuity of relationship with their parents. Everybody, this is not a disputed theoretical proposition. The good, the bad and the ugly agree, that the last thing that you should do to a child when you rip her out of her parents' home at two years of age is banish the parent from the child's life and give her the privilege of a visit for one hour in an ugly, windowless room under the watchful gaze of somebody taking notes. And yet that's treating parents well by New York City standards. Why? We do to children in foster care, in the name of love for them, what we would never do to our own children. I could go on. I won't.

[Dr. McLaughlin] And we, we will ask you to do that in a few minutes. It seems to that race is a factor that is here, there, everywhere — but somehow my sense is that it is difficult for us to name it most of the time. We call it everything else. I majored in sociology, have almost a doctorate in anthropology, and I think I understand the difference between the concept of race and culture. And we have gone from race to culture to diversity. We just have to get away from it. And I'd like to put that front and center here, because until we can name what we are talking about, I don't think we can even address it. So we are talking about race.

If the panelists could comment on that just to get it front and center here, I'd appreciate that. Then we can move to some other questions. Because we have two themes here: rights of parents and race as a factor in removals of children to foster care.

[Professor Guggenheim] Well, I very much want to support what you say, but I'm going to say something that'll sound like it's in disagreement slightly.

[Dr. McLaughlin] Don't you dare (ha, ha, ha)!

[Professor Guggenheim] . . . [t]hat is the inter-relationship of race and poverty in child welfare. All of the children in child welfare come from poor families. Again, statistically it makes no difference to talk about the rest. The rest exist. But we have a formal myth that child protection is classless. That was deliberately designed by Senator Walter Mondale in passing the Child Abuse and Protection Act of 1974,²⁴ which created the modern child protection state. To sell it as a disguised basis for redistributing wealth and continuing the great society's effort that the Nixon Administration had undermined, the plan was to use child protection on the claim that it was universal aid for children. And what that has accomplished, especially among white liberals who couldn't find a way to help government help people anymore in the ugly 80's — and much uglier 90's, where liberals were afraid to acknowledge that they were liberals — was that they went into child protection and said "that's where I'm going to do good for children."

But in the end, it turned out that the only children in foster care come from poor families. But not all poor children end up in fos-

²⁴ Child Abuse Prevention and Treatment Act, Pub. L. No. 93-247, 88 Stat. 4, 4-8 (1974).

ter care. That's only the children of color. And what we have done is, by taking outside of the government interest the well being of poor children — other than when it can be linked to how their parents have harmed them — we have lost the opportunity to improve the communities from which the children who enter foster care come. And that is why I say one can be a faithful employee of ACS and not discriminate intentionally at all, regarding that as repugnant, but be necessarily part of a scheme by which we are doing that nonetheless because we do not have the political will to go into communities to improve them *other* than through this device of child protection.

[Nanette Schorr] It's hard to improve on that. I really agree with most of what Marty said, actually all of what Marty said. For me, I think that child welfare work is, as I had said earlier, anti-poverty work. The reality here in New York City is that most of the children in the child welfare system are children of color; but they're also poor children of color. I see the effort to address the problems in the child welfare system as Marty framed it — having the political will to help change conditions in communities the children grow up in, supporting community institutions, doing community development work and investing genuine resources, so that people are able to get meaningful jobs, so that they can change their economic circumstances. I think fighting abuse and neglect is in large measure a fight against poverty and developing, supporting a social environment where people are not living in conditions of poverty. So, though I agree with Dr. McLaughlin, that race is at the center of the question, because of the children that are in the system in New York City, I find it hard to separate addressing the issue of race from addressing issues of poverty. I think they're interwoven, and they both have to be addressed together.

[Dr. McLaughlin] I think there is no disputing that the child welfare system is a poor people's system and I think we all know that, but it's poor people of color who are in there, not other poor people, and there are a lot of people of non-color who are poor. So it's a poor people's system and it's a people of color system. So, I don't think that I was trying to say otherwise.

[Ms. Salaam] I am the great granddaughter of slaves. We were brought to this country to work for the people in control of this country. Many of us who worked for these people are now finding

ourselves — our children — in the foster care system. And to us, it's just another form of that old slavery, that old racism, that old thing that cannot be dealt with because it [technically] does not exist in America. We are still making money for someone else other than ourselves, whether it is in prison or in the child welfare system, with a majority of those children heading off to prison. And, as for those people who are coming into our homes, many of them also look like us who are making these decisions in terms of which children to remove. That's another part of the racism and that elusiveness that slips by. When I was growing up, they didn't have undercover black police. So when I went out and I spoke to a brother, I was speaking to a brother. Now, I have to be careful what I say to the brother next to me. He might be "the man." Things have changed. . . . Many of us in this country feel that slavery is alive and well in America. It's undefined. It's unseen. And when you ask, "How can you say that?" You can only look at where we are, and how people are still making money off of free labor. In prisons, people are working for, what is it, 40 cents a day or 40 cents an hour.

Our children are filling the child welfare systems, the foster care rolls and all these big agencies are making money hand over fist. This is a democracy built on making money. And what happens once the child has been removed from the home, and after the system finishes doing a job on him/her? It sends the child back in the home, and then you have a dysfunctional home. This is why so many of them end up in prison. And this is part of this perpetuation of this system. If there were jobs available for people to stabilize their homes, many people would opt, I'm sure, to go and get these jobs — even those people on the street that you see selling. These are the people who come from your system who live in the racism everyday that you can't really define. These are the people that you see lined up to get the job at Burger King. These are the people who can't really go anywhere [sic] because they have a prison record. And these are the same people who don't have a lobby either. And they're not looking for a lobby. They're looking for answers so they can get out of this mess and start being productive human beings. This is why it is so easy for those people who do have jobs to come to our homes and pick up our children and take them into the foster care system — because they've made it.

[Dr. McLaughlin] Thank you. You have a question?

[**Audience**] OK. I'm not going to take up too much time. One thing that you have to realize is that the welfare system creates tens of thousands of jobs here in New York State. If we're going to do anything for foster care and children in foster care, first we have to have a respect for law by agents of government by ACS and its primary contract providers. There is a failure of compliance with statutes — that's one issue. . .

[**Dr. McLaughlin**] Could you spell that out so we know what you are talking about. . .?

[**Audience**]. . .for example, the two weeks notification prior to a case client review, and primary contract providers doesn't notify parents. There was recently an action in the Supreme Court — an Article 78 that was brought by Brooklyn Legal Services. It was recognized there's been a failure of compliance by ACS. Another issue is, when you look at Article 10 proceedings, there are serious violations of due process. We look at assigned counsel — there's lack of vigorous representation. The case outlines ACS failure to investigate, failure to charge foster parent, failure to review medical evidence — the reports are unfounded. And in Family court proceedings, hearsay evidence is sufficient for a conviction.

[**Audience**] You talked about *Tenenbaum*²⁵ and how the holding is monumental. When I first read it, I really idealistically thought that it would in fact make a difference, but I don't think it made a difference at all. In fact, it seems people pretend it doesn't even exist and I'm wondering if you had thoughts on that. Or a comment about or why is that the case?

[**Dr. McLaughlin**] Can people who ask questions please identify themselves?

[**previous speaker**] I'm sorry. I'm Deirdre O'Sullivan. I run a pilot project from C-Plan, working with social workers and 18-B lawyers.

[**Ms. Schorr**] I guess I don't really have an answer to why *Tenenbaum* isn't being followed. This seems like a policy that's been entrenched for so many years here in the city. As an attorney who's been doing this work for a long time, I've always seen it as a terribly, terribly, detrimental aspect of the system — the fact that children are removed from homes every single day without a judge

²⁵ *Tenenbaum*, *supra* note 23.

taking a look at the case and making an inquiry as to whether reasonable efforts have been made to keep this family together. It is so important to take the situation away from the intensity of the investigative process that the ACS worker is caught up in, and have a court review before this very fundamental decision is made. To me, the holding in *Tenenbaum* was [an] incredible recognition of what I always felt to be true, not only on a human level, but on a legal level, as a constitutional issue; and so I was enormously gratified by the decision. And yet, on the other hand, I have not seen the *Tenenbaum* decision being followed. Perhaps there are other people in the audience or in the panel who can speak to that as well?

[**Guggenheim**] *Tenenbaum* didn't even announce new law. I mean, all it did was clarify what the statute said when it was written in 1970. I like Dr. McLaughlin's suggestion that if we're not all converted, we will be. And it is jarring, I think, to be [talking] about race and racism in the way that some of us have done tonight. I certainly appreciate that. But let me suggest a very simple formula for what would allow race to re-enter the consciousness of privileged Americans. And it's simply the golden rule. Ask yourselves whether what we are doing to children in foster care we would tolerate for our own children? And then ask yourselves, how many government-sponsored activities can we say that about?

The simple fact is that compliance with the law is a scheme in which the law needs very little improvement . . . [F]or the most part; this is a wonderful system on paper. Respecting the rights of children and families to be together except when there are extreme justifications for intervention and then even when there are extreme justifications for intervention, you cannot remove unless there is an imminent risk of harm. And there are hundreds of ways in which doctrine and practice have watered that down to a point where we celebrate when a court simply declares that practice violates the written law. It isn't really something to rejoice over.

[**Dr. McLaughlin**] [. . .] it seems to me if we look, if we are all interested in keeping children with families, and we're concerned about child removal, we do have to broaden the debate because the child welfare system is embedded in some broader systems. There was something called welfare, aid for dependent children was the title of it, ADC. When that was being created, I don't know how many child advocates were involved in trying to make sure that parents had money, so they could keep their children at home.

I'm shifting the discussion a little bit, because I think we have to somewhat cover what we can do before we leave here tonight, what role can we play? Can we do something a little bit different you know after we leave here tonight? And two things, one, if we can begin to see child welfare in a broader context, the racial dimension if you look at ADC — Aid for Dependent Children when welfare reform before was being discussed, it was made into a racial issue. You know, the welfare mother was a black woman in a Cadillac riding around town and it was projected that way so we could get the welfare reform passed. And what that did was to take money from families hanging onto their children. Now that's connected to what we are talking about here and I'd like to recall the discussion of advocacy on welfare reform. It was very difficult to get the child welfare community involved in that debate, yet we really are all saying that we understand poverty is an issue. We understand that when parents do not have money, there's a problem there and we understand that a disproportionate number of people of color are in that poverty category. So, we understand these things are related, but somehow, the issues get disconnected when it counts. And I'd like to have some more comments from our panelists and then maybe some more people in the audience.

[Prof. Guggenheim] The statistics that we all know, those in the field well, and those outside the field don't know (because you couldn't know it from the press), is that again if we accepted that the child abuse cases end up in foster care, we would have such a small foster care population that it wouldn't be a public health crisis, child abuse is not a public health crisis, right? Automobile fatalities is a public health crisis, asthma is a public health crisis. Infant mortality rates are a public health crisis. We don't have universal health care for children. These children, they don't get health care. We don't, so we won't allow the lie to be spread, that this is about protecting children. This is not about protecting children. This is about something else, and partly, this "something else" is that we have not just tolerated but, I think some would suggest, designed a system by which we have children growing up in unacceptable conditions, such that a mother must choose between running out to buy milk and leaving her child home or taking her child with her while she has a fever and it's bad weather and then we blame the parent for having to have to make a choice. We don't believe in preventing that choice from having been made by providing the wherewithal to raise children.

We have designed a system that allows us to feel good for removing the child from the parent when, God forbid, she comes home to a tragedy, and even arresting her and allowing her to be on the front page of the tabloids as a bad person who killed her child — when she is a victim of a system that we have the ability, but not the will, to change. And, shame on us for not only tolerating that condition, but then celebrating our inadequate and ugly post-op intervention that allows politicians to say, “I now demonstrate and declare my love for these children, I’ve arrested the mother.”

[Dr. McLaughlin] We’ve talked a lot about problems. I’d like to ask what could we do to change things? Are there one or two things that we’d like to recommend to talk about? [We’ve addressed] the number of children who have been taken from their families for neglect versus abuse, we’ve talked about that, we’ve talked about the disproportionate number of children of color in the system, the disrespect and disregard of parents. . . Are there any suggestions regarding ways of addressing any of these issues, because we want to come up with some of those. Okay, some hands were up over there.

[Audience] I’m Carol Bronde. I work in the Juvenile Rights Division of Legal Aid, so I represent children and I think that one thing that I would like to see us able to do more, which I guess I would call, humanizing the parents, is that I would like more of an opportunity to get to know the parents of the children and see the parents and the children together, because I know sometimes I do have chances to do that and it makes a tremendous difference. I think that if there were ways that things like that could be encouraged in court, it makes a tremendous difference for you to be able to see how the children and the parents interact and be able to, I don’t know, just get a human feeling for these people, which is something that is lacking a lot.

[Dr. McLaughlin] You mean as someone representing the child?

[Audience] Yes.

[Dr. McLaughlin] You want to get a handle on the parent?

[Audience] Yes. I’m saying this would be true about anybody in the system — seeing the people involved as people, getting to see, and getting some sense of them as a family, that I think can make a big difference. There are small ways in which we could encourage this,

we, 18-B attorneys, law guardians and ACS attorneys, I think, could have conferences among them. I sometimes try to encourage the foster parents to bring their children to court, so that the children are in court and they can have sort of an informal visit with their parents when it's appropriate and it can work and that gives me a chance to see them together, but I think there are certain strategies that we could think about in ways to humanize the parties involved.

[Dr. McLaughlin] Any other suggestions? Yes.

[Audience] I'm Maxine Ketcher. I'm with Bronx Legal Services. I think, in child welfare, it's the only system where we divide what we consider our basic unit. There are parents and there are children, and nobody talks about the family directly.

As Marty said, we have to start treating these people as we treat ourselves and we don't go around calling our parents our bio-parents or our adoptive parents. And I think if we just start with the language we use for each other it would be a real [big] step. It doesn't cost anything, it would even save paper, if you could cross out the adjective in front of three-quarters of the descriptions, and it makes it clear who's in control of this child until there's a reason legally to separate that control. A long time ago, one judge in a different conference, said, you know, I don't assign law guardians, except where the law makes me, because who knows this child better than the person who has taken care of them every day? And I think if we start respecting the families we work for as families, who are doing it despite anything we do or don't do for them, we could really just make a change, and it's that basic to just change our language we use around the people we serve. We better start serving them instead of doing to them.

[Dr. McLaughlin] Yes?

[Audience] I'm Judge Lopez-Torres. I'm a Family Court judge in Brooklyn. I think that being poor is very stressful. I think with the stresses of poverty come a lot of problems, lack of housing . . . and even where people have housing, it is often inadequate housing. And, of course, the problem of drugs. . . I think that what the Child Welfare System has forgotten is social work. Families are not provided social work. The attitude is not about helping the family with the stresses of poverty and racism. It has become, because a series of high profile cases, about making the child welfare system

act in a protective manner. The emphasis has been away from providing a social worker to these families toward doing what's considered the *safest* thing. Safe for whom? That's debatable, but certainly safe from greater scrutiny. It appears to me to be an approach that removes children first and investigates later. Or, let the judge do the investigation, let the judge make the decision. Because if something happens, it will be the judge's decision.

I find that I get a lot of cases in court of not really serious matters — inadequate housing, failure to send the child to school. Are all those important? Of course they are, but I think they should first be handled from a social work perspective, and in court. And, by the way, I have yet to receive a pre-removal request, not once. Not before *Tenenbaum*, not after *Tenenbaum*. And in speaking to my colleagues, they also have not gotten these requests for pre-removal orders. How do you approach racism? That's a larger picture, and that's harder. I don't know if I have an answer to that. . . but I do think we need to put social work back into child welfare.

[Audience] Could I play devil's advocate for a moment and ask a question? From a social worker's, or someone in protective services' point of view, you get a call which may or may not be accurate. A child is being abused — you don't know, but that's the call you get. Do you go and get an order before you remove that child? How does that work? How do you do that?

[Audience] That isn't what people are asking.

[Audience] That's what I'm trying to clarify.

[Audience] They're asking that a visit be made, that information be gathered and that when a worker believes that justification for removal exists, then you get judicial approval for it.

[Audience] Prior to the removal?

[Audience] Yes.

[Audience] So, you leave the child there?

[Audience] You can leave the child there in a variety of circumstances. You can make a phone call to the courthouse, to your liaison worker, to get the [removal] order the way the police seek warrants. Again, why do the police seek warrants?

Well, that actually doesn't happen either. **(Laughter)**

[Audience] Hi, good evening everyone. My name is Anne Williams-Ison, and I'm a member of the Law & Family Court Committee. I'm a resident of Central Harlem, where I'm raising two children with my husband — and I'm an employee of ACS. So, this is a topic that is close to my heart for many different reasons.

You know, I sit here and I deal with racism every day in New York City, and I try to come up with solutions in dealing with it. I don't know, Megan, when you ask the question what can we do for tomorrow? Marty said, you know, tomorrow, nothing's going to change, but I can't believe that or else I wouldn't be able to wake up in the morning. So, I guess what I do is I think about awareness and about saying the word "race" every day — to talk about it, to bring it out, because it's something that people don't want to talk about it. . . kind of like naming the monster and putting it on the table so that we could start to struggle with it together.

I think education is a very important aspect of it. I go around and I talk about child welfare all the time, and when I'm talking to community groups, I can get them to focus on police brutality, when I want to talk about child welfare, nobody wants to listen to me, they want to get up and they want to leave because (I think Marty is right), because they think, "these are bad parents, there are a lot of issues that I have to deal with, I don't want to deal with bad parents." Just the concept of society feeling like people of color do not care about their children in the same way as other people do. I've been seeing that a lot lately. The language issue that somebody mentioned a few minutes ago, I think was interesting because two times in this room, somebody referred to people in the child welfare system as these people, and I'm sitting here and I get hairs on the back of my neck because they're not "these people." I don't mean to put anybody on the spot but it's something that I deal with all the time — so we need to be conscious of that. I think training is very important for caseworkers when you talk about how do they make those. We, as a society, are going to put that caseworker's name in the newspaper the next day if something goes wrong. And you have to feel as a person, comfortable leaving a child in this house and be able to go to sleep at night. None of us here has to make those decisions. I don't know how they're supposed to do this job, and how we're not supposed to have racism in child wel-

fare, when we have it in every other aspect of our lives. So, those are my questions and issues.

[Prof. Guggenheim] You know, for me, the more serious problem with respect to child removal, is not the fact that judges aren't asked before children are removed to remove them, but the fact that all objective observers have found for the last 30 years in New York City that most children removed were never in imminent need — risk of harm. That's a serious problem, and that's even when they're brought to court, the court continues the removal. So, let's not pretend that judges are going to solve this problem. It is, first and foremost, an agency level problem of being willing to apply the principal that removal is an extreme act of government power — to be preserved for the most serious cases.

[Dr. McLaughlin] We were listening some years ago, I recall, when another commissioner started at what was then SSC, or whatever name [ACS] was before that. Some of us suggested that there should be, at a minimum, a morning after review. Not two weeks, not thirty days, a morning after review — so that if the child was traumatized that night, we know by next morning, and that review should not be just with a judge. Now we're at the Bar Association. I'm not putting down judges, but I'm saying that it should be by a panel of folks from the community who know what resources are there, who have a better understanding of the families, and who look more like the families we're talking about. They who could be much more objective, you know, looking at the realities of those families. I don't think it's too hard a thing to do, but somehow, I don't even think they listened too long.

[Audience] ACS has never come closer to meeting that goal than now.

[Dr. McLaughlin] The morning after, yes.

[Audience] What they are is within 72 hours, in many cases, and that is a major improvement. I don't know much about the operation of that practice, but that certainly is a significant improvement.

[Dr. McLaughlin] I would agree, but I would think that for most of us, 72 hours would be like a death sentence. So, as far as I'm concerned, if you're going to go 72 hours, you might as well go the

next morning. If you want to do it, I would really push for something like that.

It is now a few minutes to eight. We have time for a couple more comments or questions.

[**Audience**] My name is Hank Orenstein and I'm a director of the C-Plan, Child Planning at the Advocacy Now Project at the Office of New York City Public Advocate, Mark Green. We're a kind of unique public/private partnership and we provide a lot of case advocacy services to parents involved in the child welfare system. I want to pick up on something that Judge [Lopez] Torres had said about putting the social work back into child welfare. I just wrote an article for the local social work journal *Currents*,²⁶ which is about to come out. And that is exactly the title of my short article entitled, *Putting the Social Work Into Child Welfare*. Because I think that what's happened in the desire and the challenge to protect children is that a lot of the social work has been forgotten — and there [are] some really basic core things that need to be addressed and changed. Such as, looking at just how people are treated from the very first contact with the child welfare system. I've learned a lot from the parents that we work with and also from talking with, and with a lot of the protective workers and people in the foster care agency. There's this really vicious cycle of fear and mistrust among both the parents, the child-protective staff and the foster care staff, and I think we really have to — I agree with Anne — there needs to be a lot more training on how to actually work with people. Training needs to be more hands-on in terms of role-playing. The work must be at a basic human level. How do we treat people to win their cooperation? Basically, a lot of parents feel they're being criminalized right from the get-go, so immediately their defenses go up. I think there are a lot of wonderful reforms taking place. I worked in the child protective system in Family Court for Legal Aid back in the 1980's, and I think there certainly have been some improvements. But until we get back to basics, I'm really concerned about how much farther we're going to be able to go.

[**Dr. McLaughlin**] The lady at the very back.

[**Audience**] Hi. My name is Bonnie. I'm not an attorney, but I'm

²⁶ Hank Orenstein, *Putting the Social Work Into Child Welfare*, National Association of Social Work, available at <http://www.naswnyc.org/c31.html> (last visited Feb. 25, 2003).

with Parents United For Children. I have been writing to a lot of the state assemblymen, a lot of state legislators, asking them to pass a bill. I have been a victim, but thank God, I have my daughter back. My daughter is 17 years old. I will not go into details, it's just that I'm involved in a vicious cycle right now which, when this ends, hopefully next month, I will sue the system for everything that they've done to me. Phony calls were made on me [to ACS] in October. Instead of the emergency workers really investigating and conducting themselves in a professional manner, they terrorized my daughter and myself, they called five police to my home, and they grabbed my daughter, who was 16 at the time. They didn't investigate. A few days later, I went to court. No case that day. I went to speak with supervisors. I was told a whole lot of nonsense. They said they did not want to file a petition on me. I went to court to file one on October 15. They filed a petition — a phony petition. I hired a private attorney, but I think in some instances within this family court system, they don't see you as a human being — to them you're a file in court, you're a piece of paper. I went back to court last month March 28. My file was lost. We are all pieces of a file in this court system — you sit there all day long. But, there are some good case workers who really do their job, but some people have been framed up by the system, so you can't help but think of them as being the enemy, because they terrorize people everyday. I agree with you on one thing — it should be a next day review.

[Dr. McLaughlin] Thank you. I'm now going to ask that panelists give us one second for final comments. Two seconds maybe!

[Prof. Guggenheim] I would say in terms of practice tomorrow, law guardians in the room — demand that unsupervised visits be allowed in every case in which the removal was for other than physical injury to the child.

[Nanette Schorr] I think a really wonderful thing has emerged tonight. In the course I'm teaching at Fordham University on "Interdisciplinary Responses to Child Abuse and Neglect," we went back to look at the principles of the social work profession — fostering autonomy, self-determination, social justice and serving the needs of the families; and that is what we are talking about here.

A number of people addressed the [issue] of law guardians speaking to parents and getting to know them. This raises for us the

problem of the adversariness in the family court system – the barriers between parents and children that become erected through that system, but also the dilemma that a parent faces if they do speak to the law guardian, and the possibility that their statements can then be used to influence the law guardian's position in the case. So, if there were some way to decrease the adversariness and raise the human aspect of the family units in the family court system, I would support that.

[Ms. Salaam] Well, one of the first things you need to do to decrease that adversariness among the case workers and staff in the family court system, is to stop quite a few of them from lying and inventing stories [about] the parents. That is one of the first things you need to work on. Part of what you need to do in terms of making effective change in a long term situation is that there needs to be a cap on the per diem rate of pay that goes into the keeping of these children. Many of our parents feel that if a child is in foster care and they know that you are only going to get \$20,000 or whatever might be for the care of their child, quite a few of their children will be returned when they lose that financial incentive to hold on to them.

Now, we also feel that there needs to be a legal entity set up for parents — different from 18B. Those that have the services, the funds and the backing that are there strictly for the parents — just like the children have their attorneys.

[Dr. McLaughlin] Okay. I would again like to take this opportunity to thank the panelists. Could you join me in giving them a hand please? And I would like to thank the organizers — Ann Cammett, Sania Metzger, Peter Moulton, Tanya Douglas and Deirdre O'Sullivan. Thank you all — and our thanks to all of you who showed up tonight.