

**Testimony of Michael Ramey, President of the Parental Rights Foundation
before the Colorado Child Welfare Study Committee**

July 18, 2023

The Parental Rights Foundation is a national parents' organization based outside Washington, D.C. I began my preparation for this presentation by comparing Colorado law to the list of reforms our organization has championed in other states around the country. First, I want to commend you for the reforms you have already put in place. And then I want to call your attention to two issues that can still be addressed: anonymous reporting, and racial disparity.

The first of these issues is the need to reform child welfare laws to replace "anonymous reporting" to child abuse hotlines with "confidential reporting." "Anonymous reporting" refers to the ability of a caller to make an allegation of abuse or neglect and not leave any identifying information. With "confidential reporting," the child welfare agency still keeps the caller's identity a secret, but the caller must provide their name and other identifying information.

There are several serious reasons to make this subtle but important change, including both the protection of family privacy and the saving of children's lives. I will get to these reasons in a moment, but first let me provide some legal background.

State child abuse hotlines arose in the 1960's and were adopted as a prerequisite for federal dollars when the Child Abuse Prevention and Treatment Act was adopted in 1974. Today, 39 states and the District of Columbia allow by statute anonymous calls to their child abuse hotlines.

I say "by statute," however, because most of the eleven that do not allow anonymous calls by statute still allow them in practice.

This is a problem because, as Dorian Lambelet Coleman wrote in her 2005 law review article, "Storming the Castle to Save the Children," "Generally, state officials are authorized to exercise extraordinarily unfettered discretion when they engage in [family] intrusions." She further laments that "approximately 70 percent of the time no abuse or neglect is found by the conclusion of these investigations."

Seventy percent, she said.

But that number is no longer accurate.

Based on national numbers reported by the states and published through the US Department of Health and Human Services, the figure has held steady in recent years at around 83%.

That is a full 5 out every 6 investigations opened into people's private lives, intruding into innocent families.

And these investigations are not without cost.

Vivek Sankaran of the University of Michigan published a paper in the Marquette Law Review in 2021 titled "A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families." In it, he posited that while those engaged in child protection concern themselves with "trauma" only as something that has happened to a child before the investigation began, we must also look at the trauma caused by the investigation itself. And in 5 out of 6 cases investigated, that is the only trauma present—the trauma caused by the investigation itself.

Such trauma has caused children to require counseling, and in some instances has led to symptoms in children of PTSD—Post-Traumatic Stress Disorder. One study even indicated that children who go through child welfare investigations, especially if they are separated from their parents, can suffer levels of PTSD *considerably higher* than that of soldiers coming home from an active battlefield.ⁱ

Children are simply not equipped to handle the levels of uncertainty and ambiguity caused by a child welfare investigation or family separation.

As one mother told us a few years ago, "Every child should be able to see their parent as superman, or as superwoman. They took that from us that day," referring to the day a CPS worker wrongfully took her child out of her care.

So, what help will a change from anonymous to confidential reporting provide?

To answer that, there's one more number you need to hear. That astounding 83% figure—5 out of 6—is for *all* investigations.

Among investigations started with an anonymous tip, the number of false or erroneous reports jumps to a whopping 96%.

That means that for every one case where abuse or neglect turns out to be indicated by the evidence, twenty-four *innocent* families are subjected to the irreversible trauma of an investigation.

Ninety-six percent.

How in the world does that happen?

Sadly, it's called "weaponizing the CPS system." It has a name, because we know it happens, and we need to stop it.

It's usually between jilted exes or unhappy neighbors or family members. But I'm aware of one instance (not in Colorado) where a criminal standing trial weaponized the CPS system against court and legal officials who were hearing his case. He made anonymous hotline calls and investigations ensued. Invasions of innocent families, to inflict trauma as retribution for how he felt they had wronged him.

But sometimes they don't call just once.

They call the first time and an investigation is opened. Trauma comes with the intrusion and the interview. But there's no separation, because there's no evidence.

Somewhere around the fourth or fifth report, however, the child welfare investigators start to suspect that "where there's smoke, there's fire," and some will remove the children, just to be safe.

We get to 96% because people are gaming the system for their own ends.

Confidential reporting will change that.

First, it will deter a lot of those callers from making false claims in the first place. The first time someone asks for their name will be the last time they call.

Second, it will allow the system to track those who are giving knowingly false information and are still bold enough to make repeated calls. When CPS gets a fourth or fifth call, their suspicion can fall on the caller when appropriate, and not on the family being wrongfully reported.

But confidential reporting can also save children's lives. How?

First of all, if we can eliminate even half of those 96% of investigations that are false, we will free up tremendous resources so that child welfare investigators can find and save the children who really do have a need.

But there's a second way this can save lives. There was an incident a couple of years ago of a child in New York who really was being abused. An anonymous tip came in and the caller gave the child's name and address.

Through comparing notes and asking about the child by name, the agency came to realize there really were some serious warning signs of life-threatening abuse. But they also learned they had the wrong address.

They were finally able, by reaching out to the community, to get the caller to call them back and correct the address. But by the time they got there, the child was already another statistic.

One reform—from anonymous reporting to confidential—can make tragic stories like this one a thing of the past.

Now, there is a second issue to be addressed, and the solution is not as simple. That's the matter of racial disproportionality in child welfare investigations. According to the numbers provided by Colorado to the federal Children's Bureau of HHS back in 2016, African-American children are taken into foster care at a rate more than double their rate of incidence in the overall child population. These numbers are a little out of date and I regret that I don't have a more recent update, but nationally the numbers haven't changed much in the intervening years.

This means that while African-Americans make up 4.3% of the child population in Colorado, they make up 8.9% of the foster care population.

Racial discrimination is hard to identify in these contexts and even harder to root out. It can happen at the start of an investigation, at the point of family separation, or even at the point of deciding to terminate parental rights. It can be as simple as expecting all parents to behave like middle-class white parents. And it often involves mistaking poverty for neglect, as racial minorities are disproportionately affected by poverty.

But we believe there is one solution that can help to address all these concerns, and that is to recognize and respect the fundamental liberty of all parents to direct the upbringing, education, and care of their own children. Some parents forfeit this right by abusing their children. Some parents sacrifice this right by willfully neglecting their child.

But in most cases, their rights are trampled by government workers who believe they know better than the parent involved.

The U.S. Supreme Court has pointed out that parents don't have to be the *best* to be the best option for their child. As long as they are doing well enough, they share with the child a fundamental interest in the preservation of their autonomous family relationship.

If we will respect parental rights at that level, suddenly the color of one's skin won't matter. If she's the mom and she's doing well enough, if he's the dad and he is not abusing his child, then we need to respect their role and leave them alone to be the Superman or the Superwoman that their child needs them to be.

ⁱ Delilah Bruska & Dale H. Tassin, *Adverse Childhood Experiences and Psychosocial Well-Being of Women Who Were in Foster Care as Children*, 17 PERMANENTE J. 131, 132 (2013), cited by Shanta Trivedi, *The Harm of Child Removal* (2019)