

## EXECUTIVE SUMMARY

In recent years, the Child and Family Services Agency (CFSA) has removed hundreds of District of Columbia children from their families only to send those children back home to their families very quickly. Anywhere from one quarter to more than one third of all children removed return home within four months.

CFSA's child removal decisions must balance the need to protect children from serious abuse or neglect with the need to protect children from the significant emotional trauma that comes from the government separating them from their families. The Citizens Review Panel – a group of informed District citizens volunteering their time – engaged in a close examination of 27 cases involving 41 children in which children left foster care soon after they entered to determine if CFSA decided to remove children from and return them to their families appropriately and with an adequate balancing of all pressing needs. Two separate Panel members reviewed each case and completed a standard review tool modeled in part on existing CFSA quality evaluation tools.

The Panel found some good news: the vast majority of these children safely reunified with their families, and did not suffer repeat maltreatment.

This finding, coupled with the short timeline involved, raises questions about the propriety of the removals themselves and about CFSA decision-making from the removals through the child's exit from foster care. These removals are only justified if they are necessary to protect children from an imminent risk of abuse or neglect posed by their families. If, as found in this report, these children safely reunify soon after their removal, could those children have stayed safely at home the entire time? Could CFSA have put government or community-based supports in place without removing children? Could Family Court proceedings and CFSA visits ensure children's safety at home without removal? Are there new approaches that could keep these children safely at home without the harm of removal?

The Panel concludes that CFSA generally was right to have significant concerns about a family, but, in the Panel's view, was often wrong to conclude that removing children from their families on an emergency basis was necessary to address those concerns. In contrast, CFSA's decisions to return children to their families were virtually always right – children rarely faced either significant safety concerns in those homes at the time of their exit from foster care or documented cases of further maltreatment in that home. Taken together, these findings point the way towards urgent reforms to prevent unnecessary removals – and the unnecessary harm they cause for children and families.

The Panel makes 17 specific findings:

- 1) CFSA removed children quickly after receiving abuse and neglect reports. In 20 of 27 cases reviewed, removals occurred on the same day as a hotline report. In five other cases, removals occurred within two days of a hotline report. CFSA investigated more than two days before removing children from families in only two cases; 12 days in one case and more than four months in another.

- 2) In all 27 cases, CFSA removed children without a Family Court Order, meaning they required some emergency to have a legal justification. When it had time to obtain a Family Court Order, CFSA did not do so.
- 3) Because CFSA removed children so quickly after receiving a hotline call, pre-removal Family Team Meetings (FTMs) rarely occurred. In 26 of 27 cases reviewed, CFSA removed children without holding FTMs.
- 4) In 16 of the 27 cases reviewed, CFSA held a FTM after removing children. These meetings often identified effective plans for children to stay safely with their families. Although pre-removal FTMs are not possible in every case, convening FTMs before removing children might have prevented many of these removals.
- 5) No immediate danger to children justified CFSA's quick removals in the majority of cases. Less than one quarter of all reviews explicitly found that immediate dangers to children justified removals. The average evaluation of children's safety and parenting quality at the time of removal was 3.64 and 3.61, respectively, on a 6 point scale – reflecting concerns, but not emergencies.
  - a. In many cases, services to families helped children reunify quickly but were not provided prior to removing children.
  - b. In many cases, alternatives to foster care – especially the provision of in-home services or safety plans – were unused or unexplored by CFSA prior to removal.
  - c. In a significant minority of cases, CFSA properly removed children due to an immediate danger.
- 6) Finding 5 has several important implications. In cases that lacked an emergency justifying removal without a court order, CFSA (a) lacked an adequate legal justification for the majority of its removals; (b) could and should have sought Family Court approval first; (c) should have held a pre-removal FTM.
- 7) CFSA's investigations did not account for different facts regarding different siblings, and instead removed entire sibling groups. The report describes three cases in which CFSA removed 9 children in total. The Panel concluded that the removal of 4 of those children was justified; the other 5 children did not face an imminent danger and could have remained safely at home with services.
- 8) Cases involved some legal complexity, yet in no case did social workers consult with CFSA lawyers before removing children.
- 9) Several cases involved children who needed very short-term alternative caretaking arrangements. To address these situations and provide safe alternatives to removing children, District law and a federal court order suggest CFSA should provide respite care. In cases in which respite care was indicated, CFSA did not use it to prevent a removal or offer it to the family as an alternative.
- 10) Several cases involved parents who had designated or could have designated an alternative caretaker – usually another relative not implicated in any abuse or neglect. Yet CFSA appeared not to consider or to decide to not abide by such designations, and did not usually ask a parent her preference for alternative caretakers who might be able to provide an alternative to foster care. In no cases reviewed did CFSA permit children to live with alternative caretakers.

- 11) In several cases, Metropolitan Police Department (MPD) actions caused harm to children and impeded CFSA's work. In three cases involving domestic violence, the MPD arrested both the perpetrator and the survivor, leading CFSA to remove the survivor's children. In one case, MPD refused to permit CFSA access to a parent to discuss immediate child care arrangements. In another, MPD removed a child based on his mother's alleged unwillingness to care for him despite her pleas to not take her son. These cases demonstrate the need for CFSA and MPD to review policies and practices in situations where their work intersects.
- 12) In two cases reviewed, CFSA properly removed children from neglectful mothers, but did not release them to their fit fathers. No evidence in the case record suggested safety concerns in placing the children with their fathers or suggested any evidence that the fathers were unfit or unwilling to take care of their children. This action violated a core child welfare principle: Children's best interests are presumptively served by living with fit parents, unless CFSA can prove otherwise. Unnecessarily separating children from fit parents does not serve their best interest.
- 13) After reviewing an entire case file and rating various elements of CFSA's work in the case, reviewers answered a bottom line question: based on everything in the case file, was the removal justified? 29 of the 54 case reviews completed<sup>1</sup> concluded that the case record did not justify the removal.
- 14) In 25 of the 27 cases, children left foster care to the same home from which CFSA removed them. (In the other two cases, they left foster care to live with their fathers, in the cases noted in Finding 12.) Children's quick exits from foster care, therefore, cannot be explained by changes in custody.
- 15) Children were safe upon leaving foster care and returning to their families. In 26 of 27 cases reviewed, children did not suffer abuse or neglect that could reasonably have been predicted when the children left foster care and reunified with their family.
- 16) CFSA made or supported most of the decisions for children to leave foster care, either returning children on its own or supporting a Family Court decision to do so. In only 4 of the 27 cases did the records reflect that CFSA objected to a Family Court order returning children home.
- 17) In two cases, CFSA records lacked essential data regarding the removal decision-making.

The Panel recommends that CFSA take thoughtful and urgent steps to reform these areas. The Panel makes the below recommendations elements of such reform:

- 1) CFSA should clearly define what immediate risks to children justify their removal without a Family Court order. Existing CFSA policy documents lack such a definition. The Panel's core finding that emergencies did not justify the majority of removals studied suggests a significant need for clarification of the standard for such emergency removals and effective training and supervision to implement it.
- 2) CFSA should make better use of legal procedures to file a case without removing children. A legal process exists when CFSA has concerns about a family but an

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<sup>1</sup> There were 2 reviews completed on the 27 cases studied.

- emergency does not require removal. CFSA, surprisingly, does not have a policy in place to use those procedures when true emergencies do not exist. CFSA should develop such a policy and use it when appropriate.
- 3) CFSA should increase its use of pre-removal family team meetings in non-emergency cases. When pre-removal family team meetings are not possible, CFSA should continue making extensive efforts to hold post-removal meetings.
  - 4) CFSA investigative social workers should consult with CFSA attorneys – who work in the same building as CFSA social workers – before making a removal, when doing that would not delay appropriate emergency action. CFSA should promulgate a policy to put this change into effect.
  - 5) CFSA must make an individualized determination for every child – even children in sibling groups. CFSA should promulgate a policy reflecting that the facts of one child are relevant to – but not decisive in – the individualized determination whether other children in the home are abused or neglected and, if so, if they face an imminent danger requiring immediate removal.
  - 6) CFSA should make more frequent and effective use of alternatives to foster care, including respite care; kinship care arrangements (especially those directed by parents through the District’s custodial power of attorney statute); and respect for non-offending parents’ rights. CFSA should promulgate formal policies to guide practice in these areas and train its staff appropriately so that CFSA uses these alternatives when they can keep children safely with families.
  - 7) CFSA should coordinate with MPD to avoid the problems revealed in several specific cases discussed in Finding 11. CFSA should negotiate with MPD to ensure that (a) MPD consults with CFSA prior to removing children; (b) MPD understands the harmful consequences of arresting both perpetrator and survivor of domestic violence; (c) MPD permits CFSA access to arrested parents so parents may identify alternative caretakers for their children.

The Panel believes that these recommendations will significantly improve CFSA’s investigations and removal decision making.