



# **When Can Parents Let Children Be Alone?**

## **Child Neglect Policy and Recommendations in the Age of Free Range and Helicopter Parenting**



*A Research and Policy Analysis of So-Called “Inadequate Supervision” Child Neglect Claims in the Illinois Child Welfare System, with Recommendations for Policy Reform*

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## I. Introduction

Instead of protecting children and strengthening parent capacity, the child welfare system too often oversteps its authority and intervenes inappropriately in families' lives, with devastating consequences. This intervention frequently occurs when children are left alone for short periods of time. Why do parents leave their children alone? Parents may decide to leave children alone, reasoning that their child is ready for more independence. Parents may also decide to leave children alone because of a specific urgent matter or errand. In some cases, parents have not decided to leave their children alone at all. They may decide to put their children to sleep and then become intoxicated or may think their children are asleep when the child instead wanders out of the house.

In all of these situations, the child welfare system has faulted parents for the quality of care their children have received, labeling the parents neglectful for a category of child neglect called "inadequate supervision" in Illinois. In its most extreme form, inadequate supervision occurs when young children are left alone for long periods of time without the ability to safely care for themselves. In these cases, few would argue that the child welfare system should ignore the children's plight or tolerate parents' negligence. However, the range of cases that may come to the attention of child welfare authorities is so broad that child abuse reporters, parents, and their advocates, as well as judges and policy makers are unable to clearly and consistently use existing law and policy to distinguish reasonable parenting from child neglect. The child welfare system's ambiguous standards are challenging for everyone, including the most conscientious parent who is left incapable of determining where his or her conduct falls on the spectrum of acceptable parenting.

In the fall of 2014, the Family Defense Center, a legal services and policy advocacy organization that advocates justice for families involved in the child welfare system, first embarked on this research and policy project to explore the cultural component of a parent's decision to leave children alone. We intended to examine if parents were being labeled neglectful because they adhered to child care practices that were considered acceptable in their cultures of origin. However, the scope of our inquiry quickly broadened as cases involving so-called inadequate supervision suddenly gained national attention and our organization found similarities between those national cases and many of the families we are defending here in Illinois.

In January 2015, the child protective services agency in Silver Spring, Maryland investigated Danielle and Alexander Meitiv for allowing their children, ages 10 and 6, to walk



home from a local park alone during daylight hours.<sup>1</sup> The Maryland child protection authorities asked the children’s father to sign a so-called “safety plan” under the threat of removing the children from the parents’ care. Authorities later determined that the Meitivs were responsible for “unsubstantiated” child neglect for the incident.

According to press reports, the Meitivs’ decisions were founded in careful deliberation, not in a momentary lack of judgment or blatant disregard of their children’s best interests. The Meitivs openly adhered to a parenting approach followed by many parents for decades, but recently labeled by author Lenore Skenazy as “free range parenting.” In the press, the Meitivs articulated their belief in the importance of making parental decisions that instill self-reliance and independence in their children.

While the Family Defense Center’s clients have not openly declared themselves as “free range parents,” they have been charged with neglect for common, everyday parental decisions, such as allowing their children to independently walk to parks, play outside, or remain inside a car while the parent runs an errand. In contrast to the Meitivs, our families’ plights have not garnered national media attention. As a consequence of the recent national interest in this topic, we present an analysis of the Illinois inadequate supervision child neglect law and policy, along with recommendations for reform.

The Family Defense Center has been providing legal services to innocent families that are faced with allegations of abuse and neglect from the Illinois Department of Children and Families for ten years. Family Defense Center Founder and Executive Director Diane Redleaf has been defending families in these situations throughout her 35-year legal career. We have represented dozens of parents facing allegations in the “inadequate supervision” category of child neglect in Illinois. In addition, the Family Defense Center has been counsel in three appellate court cases that challenge the grossly broad use of inadequate supervision allegations in claims against parents who have not harmed their children. While our organization has provided much needed representation to these family members, thousands of Illinois families who face misplaced allegations of inadequate supervision are without legal resources to respond and defend themselves. As the Family Defense Center continues to work on these issues, our attorneys have learned that these problems are not unique to Illinois. What is unique is: (1) our own legal experience in addressing these types of neglect claims; (2) our method of challenging the legal conclusions the child welfare system has reached; (3) our examination of the laws and

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<sup>1</sup>Donna St. George and Brigid Schulte, *Montgomery County neglect inquiry shines spotlight on ‘free-range’ parenting*, The Washington Post (January 17, 2015).



policies that cause child welfare investigations to occur in the first place; and (4) our work to identify the traumatic impacts and outcomes of these investigations for children and families.

We call on policymakers to develop better law and policy around what Illinois calls inadequate supervision. Law and policy must: (1) focus on the underlying causes of children being left unsupervised; (2) not penalize parents who are making reasonable decisions about parenting their children; (3) provide clear guidelines for parents and professionals alike; and (4) not leave parents and children vulnerable to the traumatic consequences that a child neglect investigation can cause. This paper, therefore, explores the legal and social context of so-called inadequate supervision in light of research and the Family Defense Center's experience, and provides recommendations for legal, policy, and practice reforms that are needed in order to appropriately respond to these issues.

## **II. Scope of the Project and Case Examples**

In preparation for this paper, we reviewed the Family Defense Center's cases and other major Illinois cases from 2007 through 2014 for patterns and illustrative examples of the handling of inadequate supervision cases by the Illinois Department of Children and Family Services ("DCFS"). In order to understand the social context involved in inadequate supervision cases, we conducted a literature review of academic studies and census data pertaining to children being left without adult supervision. Finally, we consulted with community and statewide organizations that work in the fields of domestic violence, mental health, and substance abuse treatment in order to measure the prevalence of DCFS investigations of families who also receive these services.

Based on this review and analysis, the Family Defense Center recommends four strategies for improving DCFS policy and practices to ensure that child welfare intervention supports – rather than harms – families who are subject to accusations of inadequate supervision. We propose that DCFS: (1) creates a clearer presumed age at which children may be left alone; (2) revises the procedural steps for investigations; (3) provides guidelines to investigators on how to determine the likelihood of harm to a child as a result of inadequate supervision; and (4) provides alternative methods of intervention in response to families' needs.

Among the cases we reviewed, two Family Defense Center cases stand out as strikingly similar to the Meitiv case. The first involved two children in Chicago's Orthodox Jewish community in 2009. In this case, Mr. and Mrs. L decided their 9-year-old daughter was old enough to walk to a nearby park before dark with her 1½-year-old sister. The couple had prepared the 9-year-old well for this responsibility and she knew neighbors along the way in their close-knit community. However, on their way, an anonymous stranger stopped the 9-year-



old and insisted she be with her parents. This same stranger called DCFS, alleging neglect. DCFS targeted only the mother and not the father as neglectful, despite the parents' mutual consensus on sending their children to the park. The family chose not to publicize the unfairness of the decision, since the child welfare system's intervention directly threatened the mother's ability to continue working in child care. Unlike the Meitivs, this family lost its initial appeal to drop the neglect findings. The Administrative Law Judge who reviewed the case recommended that the findings be dropped, but the DCFS director disagreed and did not heed the judge's recommendation – maintaining that the parental decision amounted to inadequate supervision. The Family Defense Center appealed to the circuit court to overturn the director's finding of neglect. The Center secured pro bono counsel, who together with attorneys from the Family Defense Center, advocated successfully for expungement of the neglect finding against Mrs. L.

Another recent case of ours is similar to the Meitiv's case, but even more troubling. Our client, Natasha F., was indicated for inadequate supervision of her three sons, ages 11, 9, and 5, after she allowed them to play in the park next door to her apartment with their 9-year-old cousin. The children were outside for thirty minutes, with one of the children running inside briefly. They were within the view of Natasha's kitchen window, which she looked out of to check on them every ten minutes. The children were unharmed throughout this entire period, but an anonymous caller saw the children playing and called DCFS because she was concerned about a scooter or skateboard they were using and the fact that they were seemingly unsupervised. Unlike the Meitiv case or the L. case, the reviewing judge sustained findings of neglect against Natasha F. on the grounds that both the 11-year-old and the 9-year-old had attention deficit hyperactivity disorder ("ADHD") diagnoses and were not taking medication during the summer. However, the family doctor had advised Natasha that it was safe for the children to stop taking their medication during the summer. DCFS presented no medical or psychological evidence at Natasha's administrative hearing detailing the effects of un-medicated ADHD on the children's abilities to play outside unsupervised. In place of evidence, the Administrative Law Judge and the DCFS Director, who reviewed the administrative hearing decision against Natasha, simply assumed that the 11-year-old's condition made him incapable of supervising his younger siblings. Although no court case to remove the children has been pursued, Natasha has been labeled neglectful in the state child abuse register for almost two years and it has impacted her ability to find employment. The neglect finding in Natasha's case is currently under review by the Illinois Appellate Court.

In addition to cases similar to the Meitiv case, the Family Defense Center's caseload also includes allegations against parents – always women, in our experience – who decide to leave their children in parked vehicles during brief errands. Recently, we defended Elizabeth Z., who made a deliberate decision to leave her three children in a parked, locked vehicle, buckled safely into their car seats from which they could not remove themselves without an adult. Though her



errand took only ten minutes, Elizabeth found herself in a similar predicament to that of Mrs. L. and Natasha F. An anonymous stranger saw her children unattended in her car and called the police. The police officer visited the scene and saw that the children were fine, but called it into DCFS as standard protocol. Elizabeth was indicated for neglect due to inadequate supervision.

Elizabeth's decision was so deliberate that this specific scenario came up with the moms' group she leads through her church. The week before the incident, Elizabeth had thoroughly discussed the risks and benefits of leaving her children in the car, heard the opinions of her peers, considered a police officer's thoughts on the issue through one of her friends, and concluded through discussion with her husband that she could make the decision to leave them in the car if the circumstances were right. A few weeks ago, Elizabeth received a final administrative hearing decision. While the Administrative Law Judge recommended that the allegations be dropped, the DCFS Director disagreed and ratified the neglect decision, setting the stage for a continuing legal battle in the reviewing courts over whether Elizabeth should be labeled a child neglecter.

Blanca V.'s case typifies a third common category of inadequate supervision cases. Blanca is an immigrant and mother of three small children. One morning, her middle child missed the school bus. In a rush, Blanca decided to leave her 16-month-old child at home, watching television in the care of her 8-year-old child for 20 minutes, while she took her son to school. Even though Blanca returned home quickly, her children were unharmed, and she had no prior history of leaving her children unattended, DCFS indicated Blanca for inadequate supervision after she confided in a social worker that she had left her children home. Blanca's case is the first of three Family Defense Center cases to enter the Illinois higher courts. In the Illinois Appellate Court's unpublished decision, the judges ruled that DCFS misapplied its own policies when labeling Blanca neglectful.

In situations that are currently ambiguous from a legal perspective, certain policies have been interpreted, or misinterpreted, to justify treating parents – like the L.'s, Natasha F., Elizabeth Z., and Blanca V. – as child neglectors when they decide to leave their children alone for short periods. These policies are discussed below.



### **III. Inadequate Supervision in Illinois: Definitions, Policies, and Statistics**

#### **A. Categories of Allegations Involving Inadequate Supervision; Frequency**

In Illinois, child abuse or neglect hotline calls are received in a central office. Hotline calls that contain a sufficient amount of information are coded into specific allegation categories. These allegations and their respective narrative reports are sent to DCFS local offices and assigned to investigators. After an investigation, the investigator and his or her supervisor label the allegations either “indicated” or “unfounded.”<sup>2</sup> Indicated findings are added to the state child abuse register for lengthy periods of time. Parents are typically listed on the register for five years for most neglect allegations. Findings and registry listings are disclosed to employers and others who are authorized to do background checks. In this way, the register operates as a blacklist for employment. It also has consequences such as preventing parents from volunteering at school, where background checks are necessary.

In this way, the Illinois system labels parents neglectful based on the discretion of an investigator and supervisor, and there is no required court process to review the basis for that finding. Then, the burden shifts to the individual to appeal the decision through an administrative appeal system.

In Illinois, there are three categories of allegations involving alleged deficits in parental supervision: Allegation #74, “inadequate supervision”; Allegation #75, “abandonment”; and Allegation #84, “lock-out.”<sup>3</sup> In 2012, these allegations were the categories most reported to DCFS, making up 20.11% of all hotline calls. They were also the largest category of calls that were found “indicated”; meaning, of all hotline calls that were eventually indicated, 20.4% of those were for these three categories of neglect.<sup>4</sup> Of all of these cases involving alleged deficiencies in parental supervision of children, 96% of the hotline calls and 98% of the indicated

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<sup>2</sup> A separate determination is made during the investigation as to whether children are believed to be in immediate danger and need to be removed from their homes and placed in protective custody. Virtually all of the Family Defense Center’s inadequate supervision cases have not involved a protective custody decision. However, in some cases, restrictions have been imposed on parents so that they had to be supervised while with their own children. The legal and policy issues involved in these sorts of non-judicial safety plan restrictions are beyond the scope of this paper.

<sup>3</sup> 89 Ill. Adm. Code 300. App’x. B (Allegations 74, 75, 84) (2011).

<sup>4</sup> Illinois Department of Child and Family Services, *Child Abuse and Neglect Statistics: Fiscal Year 2012* (2013).





findings were for inadequate supervision.<sup>5</sup> In 2012, 26,343 reports of inadequate supervision (Allegation #74) were made and 6,961 cases (26.4%) were indicated.<sup>6</sup> Altogether, these reports make up approximately 30% of the entire DCFS caseload. This is sizeable percentage of the overall number of allegations that were reported and a significant percentage of the overall indicated findings that DCFS makes.<sup>7</sup>

Illinois is one of nine states that explicitly stipulates that lack of supervision, care, or attention falls within the larger category of neglect.<sup>8</sup> Indeed, Illinois has an unusually detailed allegation system — many states simply have a general category of “neglect” and allow individual investigators to determine the nature and degree of reported neglect. Other states include “failure to provide care when able” as a type of neglect. Due to the inconsistent definition and classifications of neglect, it is impossible to measure the prevalence of inadequate supervision allegations on a national level.<sup>9</sup> Furthermore, even if the description “lack of supervision,” or even “inadequate supervision” is included, it is impossible to measure the seriousness or risk of harm to children because such a wide range of conduct can justify these labels.

## B. Illinois Law and Policy on Inadequate Supervision

No Illinois state law or DCFS rule specifies an age or a length of unsupervised time that automatically constitutes inadequate supervision. The Illinois Juvenile Court Act defines a neglected minor as “any minor under the age of 14 years whose parent or other person responsible for the minor’s welfare leaves the minor without supervision for an unreasonable period of time without regard for the mental or physical health, safety, or welfare of the

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<sup>5</sup> Illinois Department of Child and Family Services, *Child Abuse and Neglect Statistics: Fiscal Year 2012* (2013).

<sup>6</sup> *Id.*

<sup>7</sup> In 2012, the DCFS Hotline received 106,236 total reports of child abuse or neglect, of which 28,787 were indicated. *Id.*

<sup>8</sup> The other states are: Kentucky, Maryland, New Hampshire, North Carolina, North Dakota, Oklahoma, West Virginia, and Wyoming. U.S. Department of Health and Human Services and the Administration for Children and Families, *National Study of Child Protective Services Systems and Reform Efforts: Review of State CPS Policy* (2013), available at <http://aspe.hhs.gov/hsp/cps-status03/state-policy03/index.htm>.

<sup>9</sup> For example, national reports such as HHS Child Maltreatment reports typically include lack of supervision cases along with many other categories as “other maltreatment types.” See, e.g., U.S. Dep’t. of Health and Human Servs., *Child Maltreatment Report 2013*, 81 (2013), available at <http://www.acf.hhs.gov/sites/default/files/cb/cm2013.pdf>.



minor.”<sup>10</sup> While media coverage of the Meitiv case gave Illinois as an example of a state with a per se rule that children cannot be alone below the age of 14, this description misinterprets Illinois law. Fourteen is the oldest age at which a child can be found neglected under to the Juvenile Court Act due to being without supervision; however, every unsupervised 14-year-old child is not to be considered neglected under the regulatory definitions DCFS has adopted interpreting the state’s child abuse reporting law.

Illinois’s rule may be more specific with its upper age limit for inadequate supervision findings than most states, yet it remains very broad. The law lacks specific guidelines for parents to monitor their actions and for DCFS to find parents neglectful for inadequate supervision. Instead, they provide a broad invitation for all parties to use a high level of discretion in order to determine what constitutes inadequate supervision. DCFS’s rule for inadequate supervision allegations includes 21 factors that investigators should consider when investigating an inadequate supervision allegation<sup>11</sup> and provides great discretion to investigators to apply those factors to children below the age of 14. As a result, under current DCFS rules and procedures, a child of any age up to 14, depending on the circumstances in which they are left alone, may or may not be found neglected due to inadequate supervision. Furthermore, for DCFS, being left alone is not imperative for a finding of inadequate supervision. (See case example discussed on page 24 below).

On paper, DCFS cautions mandated child abuse reporters against deciding to report a caregiver for inadequate supervision and other forms of neglect unless they are sure substantial harm will ensue. The manual for mandated reporters of child abuse and neglect states:

“The definitions in [the Abused and Neglected Child Reporting Act] are not perfectly clear in helping mandated reporters (or DCFS investigators later) in distinguishing between inappropriate/undesirable parenting and those acts which constitute abuse and neglect. It is clear that there are many points at which judgments must be made. What is excessive corporal punishment? At what age is it safe to leave children alone? At what point does a dirty house become a health and safety concern? How do you distinguish poverty from neglect? A question to ask yourself is, ‘Has the child been harmed or been at substantial risk of harm?’ This helps focus the issue and moves away from value judgments and attitudes about lifestyles.”<sup>12</sup>

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<sup>10</sup> 705 ILCS 405/2-3(1)(d).

<sup>11</sup> See Appendix, which is DCFS Procedure.

<sup>12</sup> Illinois Dep’t. of Children and Family Servs., Manual for Mandated Reporters, 7-8 (May 2015), available at [https://www.illinois.gov/dcf/safekids/reporting/Documents/cfs\\_1050-21\\_mandated\\_reporter\\_manual.pdf](https://www.illinois.gov/dcf/safekids/reporting/Documents/cfs_1050-21_mandated_reporter_manual.pdf)



These guidelines explicitly acknowledge the complexities of family circumstances that arise when determining whether there has been inadequate supervision in a specific case. However, the practices of DCFS investigators do not reflect this understanding, calling into question the functional value and implications of such ambiguity in Illinois law.

### C. Illinois Court Decisions Overturning Inadequate Supervision Findings

Despite the emphasis in DCFS policy on the necessity of considering a wide range of factors to determine risk of harm, the Family Defense Center's review of cases<sup>13</sup> involving inadequate supervision allegations show that many parents are being indicated for inadequate supervision based on only two factors: (1) the age of the child and (2) the duration of the period during which the child is unattended. In many of the Family Defense Center's cases, including three cases that have reached the Illinois Appellate Court, DCFS has not documented *any* specific risk of harm to the child when it has indicated parents for inadequate supervision. It has been apparent, however, that DCFS investigators and supervisors indicate a parent – thus, placing their name in the state child abuse register – based solely on the age of the child and the length of time the child was left alone. In our cases, the period during which the child was allegedly left alone is never lengthy and is typically less than a half an hour. Therefore, investigators let age and duration – regardless of length – stand in as evidence for substantial risk of harm to the child. In the face of these decisions to indicate parents, the Illinois Appellate Court has expunged neglect findings based on DCFS's failure to consider all factors and provide real evidence of the likelihood of harm resulting from the inadequate supervision. These decisions illustrate the need for greater direction given to investigators regarding how they determine inadequate supervision.

This narrow and oversimplified interpretation by DCFS on inadequate supervision law manifests itself best in our docket of cases that have gone to the Illinois Appellate Court. In these cases, such as *Blanca V. v. DCFS*, DCFS has plainly misapplied its own discretionary factors when children are left home alone for a brief period of time, (2014 IL App (1st) 132758-U). In this unpublished decision, the Court states that all factors must be considered before making an indicated finding for inadequate supervision, and that choosing only one factor was insufficient.<sup>14</sup> The court held that the DCFS Director's assessment, that "an 8 year old should

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<sup>13</sup> Undertaken by Ms. Fuller in 2014-2015.

<sup>14</sup> This order was filed under Illinois Supreme Court Rule 23 and may not be cited as precedent in litigation by any party except in the limited circumstances allowed under Rule 23(e)(1).



not be watching a 16 month old,” cannot substitute for an individualized assessment of whether the children were actually in danger.

Before reaching the Illinois Appellate Court, four sets of DCFS employees had sustained the indicated findings against Blanca: the investigator and supervisor; the Administrative Law Judge; the Director of DCFS; and DCFS’s legal counsel. Also, the Illinois Circuit Court’s Assistant Attorney General, argued to sustain the neglect finding against Blanca. The number of people who believed Blanca was properly labeled a neglectful parent suggests a bureaucratic culture of finding neglect even when reasonable people would disagree. This illustrates the accepted and incomplete definition of neglect that labels cases like Blanca’s. This widespread error will be difficult to correct without clearer direction from the courts, legislature, or DCFS itself. Furthermore, recent cases have demonstrated that practices have not changed as a result of the Illinois Appellate Court’s decision in *Blanca V.*

In *Ghosh v. DCFS*,<sup>15</sup> the Illinois Appellate Court similarly ruled that, in inadequate supervision cases, parents cannot be indicated solely on their children’s age, or on speculation of what might have happened to the children during the time they were left without an adult’s care. Instead, there must be sufficient evidence of harm being reasonably likely during the time the children were alone.

In an earlier decision by the Illinois Appellate Court, *In re: J.B.*,<sup>16</sup> five children, ages 1 to 9, were left home for thirty minutes, while their mother went to look at an apartment two blocks away. Two of the younger children were asleep during the entire period. The mother left the children alone because she feared the landlord of the apartment would not rent the space to her if she brought them with her. She was being evicted from her current apartment and urgently needed new housing arrangements. In the ensuing juvenile court case, the state argued that the mother should be indicated for neglect, but its petition failed to prove neglect based on inadequate supervision. After being brought to the Illinois Appellate Court, the court rejected the state’s attorney’s claim that the children were neglected by virtue of this single thirty-minute incident. The court states that the children’s ages were not sufficient evidence for determining whether the situation constituted inadequate supervision.

As this paper is being completed, Natasha F.’s case, involving a thirty-minute incident in which 11, 9, and 5 year old children played in a park next to their home, is being briefed before the Illinois Appellate Court. Natasha F. makes the most sweeping argument against finding neglect due to inadequate supervision, based on a brief period in which children are allowed to

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<sup>15</sup> 2014 IL App (1st) 131099-U (not a Family Defense Center case).

<sup>16</sup> 312 Ill. App. 3d 1140, 728 N.E.2d 59 (2000) (not a Family Defense Center case).



be alone. In this case, the Family Defense Center argues that the DCFS rule on inadequate supervision is itself unlawful because it fails to comply with the Illinois Child Abuse and Neglect Reporting Act. If the Illinois Appellate Court agrees, DCFS may finally be required to amend its policies and practices to limit the circumstances in which it finds neglect.

In these cases and dozens of others, in which the Family Defense Center has been consulted or has provided representation, DCFS has failed to document any evidence that connects a particular parenting practice with a substantial risk of harm. It is unclear what kind of evidence *would* show a real, non-speculative risk to a child, according to the standards DCFS has created for itself. For example, while investigators must consider the child's maturity level and ability to respond appropriately in an emergency, DCFS's formal policy or training does not clarify how to evaluate a child for these characteristics. Ultimately, it is unrealistic to expect DCFS investigators to perform these complex evaluations without more specific rules and training. DCFS investigators already have large caseloads and many other complicated administrative responsibilities. Additionally, they are not required to have formal education or training in child development, which would better equip them to make these evaluations. To that end, DCFS should simplify its rules and provide more specific guidelines for the evaluation and judgment of inadequate supervision findings.

#### **IV. Child Care Instability and “Self-Care” in the United States: An Overview of Research and Statistics**

Before considering policy recommendations for DCFS's judgment of inadequate supervision, it is worth reviewing the incidence of lack of child care and the characteristics of the families that rely on children caring for themselves (“self-care”). This information will assist in determining (1) whether there are categories of children who truly are neglected or at serious risk and (2) if other forms of intervention might be more appropriate than a neglect investigation.

One frightening case illustrates concern about the best form of intervention for young children who are in danger if left alone. As profiled by Rachel Aviv in *The New Yorker* (December 2, 2013), Niveen Ismail's story encapsulates many issues at play in inadequate supervision cases, in which a parent has left a child alone for a longer period of time due to a lack of available child care. Niveen, a single mother and immigrant from Egypt, worked in the computer industry in California. On one work day, Niveen, overwhelmed and exhausted, left her three-year-old son at home unsupervised. She feared potential job loss, as she had previously missed a day of work to care for her son. After this incident, the Orange County Social Services Agency removed Niveen's son from her custody and placed him in foster care. The child was healthy, happy, and well-adjusted at the time of entering foster care and had a clear bond to



Niveen. The agency never offered Niveen work-related child care services so she could provide care for her son without fear of losing her job. After a two-and-a-half year long ordeal that Aviv's article documents in detail, Niveen's parental rights were terminated. Thus, an immigrant, single mother's one-time decision to leave her child home – in order to maintain job security – deprived the child of his mother's care for the next 15 years and changed their relationship for the remainder of their lives.

While an extreme example of child welfare authorities' punitive and unsupportive responses, Niveen's case calls into question the cultural and value biases that operate within the system. Immigrant and ethnic minority mothers may be especially vulnerable to the child welfare system's characterization of "good" parenting. This case raises additional questions about (1) whether a lack of available, consistent child care for working or student parents is a root cause of inadequate supervision cases and, if so, (2) whether providing these parents with consistent child care would serve children more effectively and efficiently than removing them from their parents.

Niveen's case also illustrates the compounding effects of child welfare authorities' current intervention strategies. The Orange County Social Services Agency's inadequate supervision claim and subsequent decision exacerbated Niveen's genuine problem — lack of child care — by introducing a deeper, much more tragic problem. Regardless of whether a child protection investigation for neglect based on inadequate supervision results in an "indicated" or "unfounded" outcome, the family is inevitably affected – even if a child is not removed from the home. Investigations increase stress and may endanger employment for the parents, especially if the investigation becomes known to the employer and if the parent works with children. When assistance or support services are not provided, standard child welfare system interventions exacerbate the very problems that spurred the investigation in the first place.

Why are cases like Niveen's discussed at the same time as cases like the Mietiv's? While available research is not comprehensive,<sup>17</sup> it suggests that the child welfare system does not accurately identify or differentiate the cases that involve real dangers to children, the cases that involve true deficits in child care or parenting, and those that involve reasonable parenting decisions. While there is a lack of research that would help to distinguish these cases, research does identify a need for more supportive services, such as child care, interventions in one case: when parents have documented mental illness that causes them to leave their children without appropriate supervision.

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<sup>17</sup> Our research found no study of neglect cases that differentiate data on cases with lapses of child care versus cases involving deliberate parenting decisions.



In addition, as discussed further below, our investigation of the published research concerning self-care for children shows that immigrant and minority parents are actually no more likely to engage in practices that lead to claims of inadequate supervision. Simultaneously, the financial instability of poverty does contribute to a higher prevalence of children left without child care. This suggests that an increase in child care accessibility for low-income families would significantly reduce inadequate supervision cases. Calling the DCFS hotline cannot, and does not, solve child care inaccessibility.

### A. Incidence of Self Care

While the high incidence of inadequate supervision cases may suggest that the United States has an epidemic of children being left unattended, research shows that this phenomenon is not nearly as widespread as the media would suggest. When children are left unattended, the situations seem to be highly nuanced; thus, generalizations about genuine inadequate supervision become speculative and challenging. Also, child care arrangements may rely on older siblings and/or informal networks that could appear inadequate to child welfare investigators, but reasonable to families.

In 2011, 13% of American families with preschoolers had no formal or pre-arranged informal child care arrangement.<sup>18</sup> This figure includes leaving children alone, otherwise known as “self-care,” or with an older sibling. While a small proportion of all families who lack a formal child care arrangement report using self-care, all families without formal or pre-arranged informal child care arrangement face a greater risk of using self-care in an emergency. Among families with children ages 5 to 14, about 11% of children living with a mother (including single mothers and mothers with partners) had relied on self-care in the previous month. Twelve percent of children living with only a father relied on self-care. Of these children, however, most were 12 to 14 years old; only 3.1% of 5-11 year-olds living with a father and 4.7% of those living with a mother had cared for themselves during the previous month.<sup>19</sup>

These numbers demonstrate that a notable number of families with young children rely on self-care. The number of children left alone, who are between the ages of 5 and 11, is somewhat higher than most people would expect and much higher than the percentage of cases called in to child welfare authorities each year. There may be a serious shortage or inaccessibility of child care for those families who rely on self-care. For this reason, child care

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<sup>18</sup> Laughlin, L., *Who’s Minding the Kids? Child Care Arrangements: Spring 2011*, p. 9, Current Population Reports, U.S. Census Bureau, Washington, DC (2011).

<sup>19</sup> Laughlin, *Who’s Minding the Kids?*, at 13.



resources must be expanded and offered to families using self-care by necessity. This would protect children from the risks of being unsupervised and protect families from the harm of a neglect investigation. Unfortunately, our current system leaves many families without a safety net for their children, and at risk of being blamed for inadequate supervision if they are unlucky enough to have a DCFS hotline call made on them.

It is important to note that some families may rely on self-care by choice. This means that the parents have determined that the risk of harm to the child is minimal and have decided the child is able to handle the situation. However, young children – especially those who are below school age – *do* require adult supervision, save for very brief periods of time or when they are safely asleep.

## B. Predictors of Use of Self Care

A family's reliance on self-care varies based on employment status, ethnicity, and income.<sup>20</sup> Families with mothers employed outside the home rely more frequently on self-care. By ethnicity, Latino families are the least likely to report reliance on self-care in the last month, while non-Hispanic, white families are the most likely. Perhaps counter-intuitively, families whose incomes fell below the federal poverty line are less likely to report reliance on self-care than those above it; families earning at or above 200% of the federal poverty line reported relying on self-care the most frequently.<sup>21</sup> A 2003 Urban Institute report found statistically significant differences between non-Hispanics and Hispanics on likelihood to use self-care for 6-12 year olds, as well as between families at 300+% of the poverty level and those below 300%, but not among other categories.<sup>22</sup> One study of the use of self-care found that immigrant parents are not significantly more likely to use self-care for school-age children than non-immigrant parents.<sup>23</sup> This evidence challenges stereotypes regarding the incidence of self-care by cultural groups and, at the same time, highlights the disproportionate representation of immigrant parents in inadequate supervision cases at the Family Defense Center. Biases in the child welfare system may contribute to these findings.

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<sup>20</sup> Laughlin, *Who's Minding the Kids?*, at 13.

<sup>21</sup> *Id.* (This report does not include statistical significance testing of these differences, so it is difficult to determine how important these differences really are, especially because a very small population relies on self-care to begin with).

<sup>22</sup> J. Calkins and J. Capizzano, *Unsupervised time: Family and child factors associated with self-care*. Washington, DC: Urban Institute (2003).

<sup>23</sup> K. Greene, K. Hynes, and E. Doyle, *Self-care among school-aged children of immigrants*. Children and Youth Services Review, (2011).





Although not captured by Census data, it appears that parents' mental and physical health also contribute to self-care use. Across all income levels, parents with reported mental or physical health challenges were significantly more likely to rely on self-care for children. Low-income parents with mental or physical health challenges were particularly at risk.<sup>24</sup>

One study found that mothers who are indicated for inadequate supervision have weaker social networks than those who were not indicated. These mothers were less connected to informal as well as formal child care networks.<sup>25</sup>

### C. The Use of Sibling Care

The prevalence of sibling care is difficult to evaluate because sources tend to categorize it only when the eldest sibling is about 12 or younger, and even this age range depends on the source. Reports may classify sibling care as "relative care" when the eldest sibling is 13 or older. Qualitative research suggests that immigrant parents may view sibling care more favorably than their non-immigrant counterparts, but there is little quantitative evidence to suggest that immigrant families actually use sibling care at higher rates than non-immigrant families.<sup>26</sup>

### D. When Can Children Safely Be Left Alone? Cultural Norms and Evidence

#### 1. *Safety and Cultural Norms*

Although lack of quality child care in the United States is one factor influencing inadequate supervision findings, there has also been a dramatic cultural shift in the perception of self-care in the United States. In recent years, parental philosophies, particularly among middle- and upper-class individuals, have shifted from teaching children independence and self-reliance to providing constant adult supervision. This is what some call "helicopter parenting." Contrary to popular belief, this shift in perception does not correlate with an increased risk of harm to children in our country, nor has there been new research in child development supporting the

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<sup>24</sup> Calkins and Capizzano, *Unsupervised Time*.

<sup>25</sup> C. Coohy, *Social networks, informal child care, and inadequate supervision by mothers*. *Child Welfare*, 53–66 (2007).

<sup>26</sup> C. Hafford, *Sibling caretaking in immigrant families: Understanding cultural practices to inform child welfare practice and evaluation*. *Evaluation and Program Planning*, 294-302 (2010).



concept. In fact, crime rates have dropped substantially in the past several decades<sup>27</sup> and child development research now supports the promotion of self-sufficiency and responsibility in children. Helicopter parenting – specifically, never leaving children alone or in the care of siblings – is a very new strategy in childrearing. It lacks basis in any evidence and creates a social pressure in certain socioeconomic and cultural groups, generally middle and upper middle class families, who feel that they should have the time and resources to provide constant supervision for their children.

When these recent perspectives on the need for constant adult supervision of children are taken into account, it becomes even more troubling that these seemingly arbitrary and subjective norms are being imposed on families by child welfare system authorities. Plus, apart from these inadequate supervision cases harming, rather than helping, families, they take up inordinate resources and staff time investigating cases in which the statistical risk of harm to children is virtually nil. A constant refrain in the Family Defense Center’s inadequate supervision cases is “doesn’t the child welfare system have more urgent cases to focus on than these?” Rather than focusing on the actual likelihood of harm to an unsupervised child, DCFS often evaluates inadequate supervision based on investigators’ personal values of parenting. This behavior not only results in inconsistent professional practices, but it is contrary to the legal standard of child abuse and neglect investigations. Investigations are appropriate when a child is at serious risk of harm due to potentially *provable* neglect or abuse. If DCFS wishes to go down the path of further policing parental decisions, authorities must consider social science research on child development, and adopt policies that take into account the age that children are deemed capable of caring for themselves and for other children. There is no justification for arbitrary evaluations of child neglect when there is no clear risk of harm.<sup>28</sup>

## 2. *Child Development Research*

Unlike helicopter parenting, the strategies of parental autonomy and allowing children to self-supervise are supported by child development research. While child development experts do not agree on the appropriate age at which children are developmentally prepared to be alone, we

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<sup>27</sup> Federal Bureau of Investigation, *Crime in the United States* (2010); Bureau of Justice Statistics, *National Crime Victimization Survey* (2011). See also n. 31 (Pimental article)

<sup>28</sup> For further analysis of the mismatch between cultural expectations for childrearing and actual risk to children, and the resulting overreach of the child welfare system, see D. Pimentel, *Fearing the Bogeyman: How Child Protective Services' Overreaction to Perceived Danger Threatens Families and Children* (2014), available at [http://works.bepress.com/david\\_pimentel/17/](http://works.bepress.com/david_pimentel/17/).



can examine children's increased ability to be autonomous to draw reasonable conclusions about their safety in a given situation.

Jean Piaget, who pioneered the theory of stages of cognitive development in children and who is still widely cited today, postulated that children typically begin developing the ability to exercise abstract reasoning, planning, and strategy at around the ages of 11 to 12.<sup>29</sup> These skills enhance a child's ability to safely stay at home alone or with siblings. Public health organizations advise that most children are ready to be left home alone for short periods during the day by the age of 10 or 11. By the age 12 or 13, most children are prepared to transition to being left without adult supervision for short periods at night and to supervise younger children.<sup>30</sup> However, these recommendations stipulate that a child's age should be considered along with other factors such as the child's maturity, neighborhood safety, and the child's knowledge of emergency situations. Children as young as 5 years old are permitted to fly "alone," meaning without a parent or adult caregiver, but programs have been specifically set up through airlines to assist children from ages 5 to 11 in managing this form of independence. Children 12 and over are not required to enroll in a special supervision program managed by the airlines when they fly. On many carriers, they are allowed to travel by themselves as long as they purchase an adult ticket. This suggests a general acceptance of the ability of children who reach these pre-teen and early teen years to manage many responsibilities, including traveling, on their own.<sup>31</sup>

Perhaps more noteworthy, the American Red Cross has a widely recognized babysitting certification program for children ages 11 and up.<sup>32</sup> Certainly, if the American Red Cross

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<sup>29</sup> Piaget Cognitive Stages of Development. *available at* <http://www.webmd.com/children/piaget-stages-of-development> (2014).

<sup>30</sup> S. Dowshen, *Leaving Your Child Home Alone* (2013), *available at*, [http://kidshealth.org/parent/firstaid\\_safe/home/home\\_alone.html#](http://kidshealth.org/parent/firstaid_safe/home/home_alone.html#); *Preteens: Age for Babysitting & Staying Home Alone*. Available at <http://www.webmd.com/parenting/home-alone-or-watching-younger-siblings>;

<sup>31</sup> See <https://www.southwest.com/html/customer-service/family/unaccompanied-minors-pol.html> and <http://www.united.com/web/enUS/content/travel/specialneeds/minors/default.aspx> as of July 2015.

<sup>32</sup> [http://www.redcross.org/lp/babysitter-training-varcat?scode=PSG00000E017&subcode=babybing&utm=a&device=d&utm\\_source=bing&utm\\_medium=cpc&utm\\_campaign=Bing\\_Alpha%20-%20Babysitting%20-%20Paid%20-%20Search&utm\\_term=red%20cross%20babysitting%20course](http://www.redcross.org/lp/babysitter-training-varcat?scode=PSG00000E017&subcode=babybing&utm=a&device=d&utm_source=bing&utm_medium=cpc&utm_campaign=Bing_Alpha%20-%20Babysitting%20-%20Paid%20-%20Search&utm_term=red%20cross%20babysitting%20course)



considers 11-year-old children to be old enough to set up a “babysitting business,” as its materials suggest can be done with the certification it provides, children who are 10 or older, and many who are younger, can manage some time alone. The endorsement of the American Red Cross of age 11 as an appropriate babysitting age suggests that parents who decide to allow their somewhat younger children to care for themselves for short periods of time or to even briefly watch younger children may be making sound decisions that are age-appropriate rather than neglectful.

These recommendations support that it is not only safe, but developmentally beneficial, for children in their pre-teen and early teen years to self-supervise for periods of time in the day or evening, once their parents have determined that they are ready. Some public health organizations have publicly endorsed some amount of self-care by age 10. We recognize that this endorsement holds for the average child, but also believe that parents should be permitted to make reasonable decisions about self-care for children who are younger than 10. Thus, many children younger than 10 are fully capable of playing in a nearby park, where known adults are available in the event of any emergency. Similarly, it is unclear why a parent who runs into a store alone, instead of waking a sleeping child of virtually any age, should be investigated and labeled neglectful. In this commonplace action, the likelihood of harm to the child is extremely low, especially considering mild weather conditions, the safety of the neighborhood, the distance of the parent to the car, and the time the parent is in the store.

Considering that public health organizations and child development experts approve of self-care by the pre-teen years, it is even more difficult to understand why child welfare investigators increasingly intervene in reasonable parental decisions. If thoughtful parents decide that the risks of leaving their child unattended for a few minutes is negligible, it is imperative that child welfare authorities consider this rational process or, at the very least, set forth reasonable criterion for neglect and inadequate supervision. Given that DCFS has few resources for better supervising parents’ decisions, isn’t it time to rely on parents’ best judgments with their children and to label parents neglectful only if they truly place their children in danger?

#### E. Disproportionality in Inadequate Supervision Cases

Despite statistics on the prevalence of self-care by ethnic group and level of income, the parents defended by the Family Defense Center who have been indicated for inadequate supervision have been primarily low-income African-American and Latina mothers. Fourteen of the 21 clients the Family Defense Center represented in expungement cases qualified for a full waiver of fees, meaning that their incomes were under the poverty line. In 16 of our cases, the indicated person was a single mother, or had a partner with whom they made joint parenting



decisions but only the mother was indicated for inadequate supervision. Immigrant mothers were also disproportionately represented, despite their lower rates of relying on self-care in reports. This suggests that a possible bias on the part of DCFS investigators and judges, well-documented for the system as a whole, is also at work in inadequate supervision cases.<sup>33</sup>

#### F. Other Biases Affecting Inadequate Supervision Claims

In addition to the biases against certain ethnic and social groups already discussed, other family characteristics put families at greater risk of being investigated for inadequate supervision, regardless of whether there was a risk to a child. Parents, particularly mothers, who are struggling with their own partner abuse, mental health concerns, substance dependency, and homelessness are known to have higher rates of child welfare investigations across all of the allegation categories. While court rulings have determined that child welfare authorities must not presume that a mother who is experiencing domestic violence or homelessness is neglecting her child,<sup>34</sup> DCFS continues to use these factors without establishing evidence that these conditions are actively harming children.

It is also worth noting that all of these conditions are more likely to occur alongside and be exacerbated by poverty. However, the high rate of investigations for conditions rooted in chronic poverty under the premise of inadequate supervision has become a method for the child welfare system to continue de facto targeting of impoverished families. The lack of acknowledgement of how poverty plays a role in these cases simply encourages child welfare authorities' tendencies to attribute parenting difficulties related to resource constraints to individual character flaws.

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<sup>33</sup> For more information on the Family Defense Center's work defending mothers who experience bias in the child welfare system, see <http://www.familydefensecenter.net/fdc-programs/mothers-defense/>

<sup>34</sup> See, *Nicholson v. Williams*, 203 F.Supp.2d 153 (E.D.N.Y. 2002)(preliminary injunction decision), appeal at *Nicholson v. Scoppetta*, 344 F.3d 154 (2d Cir. 2004), and *Nicholson v. Scoppetta*, 3 N.Y.3d 357 (2004)(case on referral of question of state law to N.Y. Court of Appeals).



## 1. Domestic Violence

The inappropriate child welfare investigation of parents who are victims of domestic violence is a long-standing concern among advocates, and one that has been taken up by the Family Defense Center through its Mothers' Defense Project and several federal civil rights lawsuits. Historically, parents who were victims of domestic violence were often indicated under a category of neglect called "environment injurious" in Illinois.<sup>35</sup> The Family Defense Center's landmark victory in *Julie Q. v. DCFS*<sup>36</sup> held that this allegation is void because it is not authorized by the Illinois Abused and Neglected Child Reporting Act. A class action lawsuit, *Ashley M. v DCFS*, was filed in order to compel DCFS to amend its rules on the books to conform to the *Julie Q.* decision.<sup>37</sup> Rules issued following the *Ashley M* settlement now declare that domestic violence alone cannot be presumed to be neglect. However, now that environment injurious allegations have slowed as a result of this litigation and policy reform, child welfare authorities appear to be using inadequate supervision allegations at times to circumvent the *Julie Q./Ashley M.* decisions.<sup>38</sup> Child welfare authorities' apparent need for a "catch-all" category of neglect seems to have found a new home in inadequate supervision allegations, which gives rise to the concern that domestic violence victims may find themselves the target of inadequate supervision allegations next.

A Family Defense Center client, Esmerelda, exemplifies the inappropriate use of the inadequate supervision allegation against mothers who are victims of domestic violence. Esmerelda left her abusive husband and, as part of the terms of their divorce, stipulated that he could not be allowed into her and her children's home. One day, her ex-husband, who had recently gone off his medication for schizophrenia, appeared at the house. Esmerelda immediately called the police, who called DCFS. Esmerelda was indicated for the inadequate

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<sup>35</sup> 89 Ill. Adm. Code 300, Appx. B (Allegation 60).

<sup>36</sup> *Julie Q. v. Dep't of Children & Family Servs.*, 2013 IL 113783, 995 N.E.2d 977 (2013). Several private attorneys and the firm of Jenner and Block, in addition to Center staff, represented Julie Q. through the Center's pro bono legal services program.

<sup>37</sup> *Ashley M. v. Dep't of Children and Family Servs.*, 2013 CH 20278 (Atkins, J.).

<sup>38</sup> Indeed, the Illinois Appellate Court raised the question of whether DCFS was simply trying to circumvent the *Julie Q.* decision by reclassifying cases as "inadequate supervision cases" in one of the Family Defense Center's cases with client Lisa F. Lisa, whose case is discussed on page 24, was originally investigated for environment injurious. However, DCFS later added an indication for inadequate supervision, reasoning that the "environment injurious ground was being tested in the courts." After all environment injurious findings and names were removed from the register in the wake of *Julie Q.*, Lisa's case proceeded to the Illinois Appellate Court on the inadequate supervision claim alone. See note 40 *infra*.



supervision category of neglect on the grounds that she “broke the terms” of the safety plan agreement. This investigation clearly did not follow the guidelines for the determination of inadequate supervision, as Esmerelda’s children were never left unsupervised and their mother took appropriate steps to protect them from her abusive partner.

## 2. *Mental Health Concerns*

As previously note, parents with mental health problems, particularly those living in poverty, do report higher-than-average rates of leaving young children without adult supervision and may in fact create a genuine risk of harm for their children who are not able to fend for themselves when left alone. However, these parents are also more likely to be investigated and indicated for inadequate supervision and other neglect allegations *even if* they are receiving treatment and there is no evidence of a negative impact of the parent’s mental illness on their children. Mental illnesses such as bipolar disorder, depression, and even anxiety have also been used as grounds to remove children from their parents even if parents are receiving treatment and even in circumstances where the parent has not left the child alone at all; in these cases the parent’s mental health condition is used to declare her supervision “inadequate” due to her condition alone. These cases demonstrate rank discrimination against parents with mental health conditions, further stigmatizing them for a condition that they are working hard to manage.

In other cases, DCFS investigators and supervisors have inappropriately alleged inadequate supervision for parents of children with special needs. The DCFS procedure for investigation of inadequate supervision includes the question, “Does the child have a medical condition; behavioral, mental or emotional problem; or disability that impacts on their ability to protect themselves or significantly increases a caretakers stress level?” This question may be answered “yes,” without showing any real evidence of an impact, but merely because a child has such a condition. This is what occurred in Natasha F.’s case, which is discussed above: DCFS investigators did not establish any connection between her sons’ ADHD diagnoses and their abilities to protect themselves or their younger sibling. Nevertheless, the DCFS investigator and supervisor, the Administrative Law Judge, the DCFS Director, and the circuit court judge who reviewed the decision to indicate Natasha for inadequate supervision each relied on the ADHD diagnosis to draw conclusions about her 11-year-old and 9-year-old sons’ inability to care for themselves and their younger brother. Without clearer standards for making determinations of the impact of a child’s mental health diagnosis on a parent’s decision making or a child’s abilities to care for himself and/or younger siblings, any parent or child with a mental health diagnosis is at increased risk of DCFS finding neglect based on this factor alone.



### 3. *Substance Dependency*

The inadequate supervision category of neglect rightly includes parents who may be physically present but who are unable to ensure their children's safety due to actual or presumed effects of serious intoxication. According to guidelines and legal precedent, DCFS is obliged to demonstrate a connection between substance use and insufficient supervision that demonstrably creates a safety risk for a child. However, with cases with these factors, like domestic violence and mental health, DCFS investigators often substitute their own assumptions about the level of intoxication and the degree of impairment that such intoxication causes, as well as assumptions about the level of risk such intoxication poses to the child, for actual evidence that the parent's substance use means the child is inadequately supervised.

The Family Defense Center's client Lisa F. was the victim of these misplaced assumptions in the absence of evidence of risk or harm to her child. Lisa was indicated for inadequate supervision in part based on her use of synthetic cannabis (legal at the time of her use) to alleviate symptoms of ADHD, obsessive-compulsive disorder, anxiety, and depression, as well as past trauma from her experiences with an abusive ex-partner. She smoked the synthetic cannabis ("K3") at night after her child was asleep. Nonetheless, concerned about her drug habit, Lisa sought treatment to help her quit, but was informed by hospital staff that no such treatment program existed. After someone called the DCFS hotline, authorities indicated Lisa for inadequate supervision on the basis of her substance use. DCFS guidelines state that substance use can constitute inadequate supervision when "the parent or caregiver who repeatedly uses drugs or alcohol to the extent that it has the effect of producing a substantial state of stupor, unconsciousness, intoxication or irrationality." The effects of using synthetic cannabis are not consistent with the severity of these symptoms, and Lisa was not using while her child was awake. Moreover, she was taking steps to address her substance dependency and should have been supported in this effort, not falsely labeled as a child neglecter.

Ultimately, Lisa was exonerated of neglect in the first published appellate decision in a Family Defense Center case involving inadequate supervision claims.<sup>39</sup> As the unanimous opinion of the Illinois Appellate Court held, "In sum, there was no evidence that plaintiff's use of K3 rendered her unable to adequately supervise [her child] while he slept. This holding is consistent with the well-established principle of law that 'in the context of a child protection proceeding, DCFS must show a nexus between respondent's conduct and the care of the children.'"<sup>40</sup> Despite this ruling, parents who use intoxicating substances remain at risk of being

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<sup>39</sup> 2015 IL App. 2d 131037 (March 11, 2015).

<sup>40</sup> *Id.*, citing *In re N.B.*, 191 Ill. App. 2d 338, 351 (2000).





faulted for inadequate supervision under the discretionary judgments DCFS investigators and supervisors make, which do not require a showing of the likely impact of the parent's condition on the child's health or safety.

#### *4. Homelessness*

Although DCFS is legally barred from citing a lack of stable housing alone as a basis to find neglect, the breadth of the inadequate supervision allegation as currently defined opens the door for unfair targeting of parents experiencing homelessness or living in transitional housing. When Jennifer B. sought legal services from the Family Defense Center in 2013, she was living in an apartment provided by a domestic violence program with her three small children, after being attacked by her youngest child's father while she was pregnant. She was investigated and eventually indicated for inadequate supervision after she momentarily left her infant son asleep while she took out the trash, even though she had taken a baby monitor with her as an extra precaution. During the course of the investigation, a DCFS investigator told her that baby monitors were only to be used inside a house when a parent and child were on different floors — despite the fact that the trash can was no further away from Jennifer's apartment than if she had gone up to the second floor of a large house. This example illustrates again how DCFS may not collect evidence about the likelihood of harm resulting from an alleged lack of supervision. Instead, investigators allow conditions in the home, such as Jennifer's housing situation, to stand as evidence.

#### *5. Other Examples*

In other cases, parents have been indicated for inadequate supervision even when they were present with their children and in no way impaired. Family Defense Center clients Melinda and Larry were indicated for inadequate supervision after their 4-year old was spotted on the balcony alone one evening wearing fleece pajamas. The ensuing DCFS investigation uncovered that the parents had put the child on the balcony for a minute or two at most because they had been instructed to use time-outs for their son, who had special needs that made it difficult to process verbal reprimands. A passerby, who made the DCFS hotline call, was concerned that the weather was too cold and was unaware that Larry was monitoring the child closely. Regardless of one's opinion of the disciplinary technique the parents used, this conduct clearly does not constitute inadequate supervision in the usual sense, as the parents were present, aware of what was happening, and not impaired in their ability to supervise their son. Nevertheless, the open-ended DCFS definition of inadequate supervision provided an invitation to pass a judgment on these parents' time-out technique. While these parents were exonerated prior to a full hearing, they endured months of anxiety and incurred legal expenses in order to clear their names from the state child abuse register.



Family Defense Center clients Gloria and Martin were also the victims of an investigation and indicated finding for inadequate supervision when their 4-year-old child accidentally fell into a large pot of hot water while they were present. Gloria had boiled the water earlier in the day and placed it on the floor, preparing to make a large vat of soup. When she allowed her daughter to play in the area hours later, she mistakenly believed that the water had already cooled. In the DCFS investigation, she was criticized for her decision to place the water on the floor and to let her child play in the area. Regardless of the validity of these criticisms, this situation did not involve a question of supervision; the child was being supervised by competent caregivers who were nearby throughout the time the incident occurred.

These examples provide further evidence of DCFS's tendency to use the category of neglect called inadequate supervision as a "catch-all" allegation. Media and policy discussions of the child welfare system have historically been almost entirely focused on the relatively small number of tragic cases in which a child is killed or gravely injured following the supposed failure of child welfare authorities in protecting the child from his or her parents. In contrast, there have been few consequences for child welfare authorities who indicate a parent of neglect or remove a child from the home without evidence. Therefore, child welfare authorities are motivated to jump to label a parent neglectful, even if the consequences of the decision are anything but helpful to the child and family. Overly broad policies, such as the standard for inadequate supervision, reinforce these tendencies. If authorities are concerned about backlash for not acting, but have no evidence that a child is actually being harmed, the allegation of inadequate supervision makes it possible to indicate parents. While this is somewhat understandable from a psychological and organizational perspective, it does not make these decisions acceptable.

## **V. Impact of Child Welfare Investigations on Families**

Being wrongfully investigated and indicated for inadequate supervision is more harmful to families than it may seem to the general public, which has historically clamored for the expansion of child abuse reporting laws. Investigations cause an enormous amount of distress in a family's life, and can have the unfortunate impact of making parenting even more difficult and costly for already busy and stressed parents. This is due to a potential loss of employment, added stress with scheduling and responding, and potential legal fees incurred by parents who have to respond to DCFS hotline calls, investigations, and indicated findings.

While virtually anyone who works with children is a mandated child abuse reporter, and many of the cases described here were reported by persons who believed they had a duty to make a DCFS hotline call, investigations hamper parents' abilities to care for their children. The DCFS investigation itself is simply traumatic for parents and can be traumatic for children. The presence of a state official asking probing questions about family life is invariably embarrassing,



intrusive, and unwelcome. Parents who are being investigated also face the threat or reality of being separated from their children for periods of time or losing their jobs if they work with children. Parents are understandably fearful of these consequences even if the likelihood of these outcomes is remote.

After a DCFS hotline call has been made, investigators can require the implementation of a “safety plan.” This is the plan that places children outside the home or requires another adult to supervise the parent’s interactions with their own children – often without a clear end date. Even though safety plans are supposed to be signed voluntarily by parents in cases where children are in immediate danger and all parties wish to avoid court-ordered protective custody, DCFS investigators often utilize safety plans in cases where there is no evidence of danger. Parents are told that they must sign the safety plan or DCFS will take protective custody — a situation that is hardly voluntary, but rather, extremely coercive. This experience leaves parents in dire fear that their children will be taken away if another DCFS hotline call is made. Even if no safety plan or removal ever occurs, parents can become extremely anxious after a child abuse investigation ensues against them.

Often, DCFS involvement can cause new problems within a family, including when one parent is blamed for joint parenting decisions or when one parent disagrees with the reasonable decision another made. Investigations can put parents into complex positions, with many feeling forced to support their spouse in the face of an investigation even if they disagree with the spouse’s decision at issue. Their hope is that DCFS gets out of their lives as soon as possible. In our experience, mothers are uniformly blamed for inadequate supervision while fathers are frequently excluded from the determination, even if both parents made the parenting decision. This bias against mothers can set up its own corrosive dynamic in a family. Where family tensions already exist or where there are custody disputes or other stresses, a child abuse or neglect investigation can cause irreparable collateral consequences to family stability.

Many DCFS investigators do not seem to have a duty to provide social services during an investigation and may not even provide referrals. In fact, many cases include indicated neglect findings without DCFS providing services or removing the children at any time. The sole outcome of these investigations is the labeling of the parent as a neglecter and the placement of the parent’s name in the state child abuse register.

Even assuming the DCFS investigator believes that parents have committed child neglect, indicating them without providing any follow-up services or support does nothing to help the children involved. Additionally, being indicated, and thus listed on the state child abuse register, can cause indicated caregivers to lose their jobs and bars them from applying to a wide variety of positions in the future. These consequences exacerbate families’ other stressors, such as poverty,



and makes them even more vulnerable to continued involvement with DCFS. It also interferes with parents' abilities to be involved with their children's schools and other activities.

Family Defense Center client Lisa lost opportunities to volunteer in her son's classroom and on school field trips after she was unfairly indicated for inadequate supervision. She told us that even though her indicated finding was later expunged after a long legal battle that went all the way to the Illinois Appellate Court, the original finding still impacted her negatively: "I will never get that time back. Never."

In addition, being investigated by DCFS strongly discourages parents from reaching out for help when they need it. Family Defense Center clients have been reported to the DCFS hotline by neighbors, service workers, and the police — all people whom clients are now less likely to ask for help now that they know what may result. In interviews, several former clients who were accused of inadequate supervision by DCFS told us that they were afraid to ask for support when they needed it. Blanca told us said that she had not connected with child care resources as part of her involvement with DCFS, and now would hesitate to seek such resources in the future as a result of her lengthy and traumatic involvement with the system. Natasha suffers from even more profound effects of her system involvement. After she allowed her children to play in the park next door and it resulted in a child welfare investigation and indication, she is now afraid to let her sons ever leave her sight, including to allow them to take out the trash. She reports heightened anxiety, isolation, and loss of employment as a home health worker because of the indicated finding against her.

These traumatic impacts of child welfare intervention are the opposite of the support and protection of children that the system is intended to provide. The method of intervention in these cases has been ineffective at best. At worst, it creates deep and lasting damage for parents and families. The child welfare system must be reformed so that it does not intrude on the lives of innocent families and provides appropriate resources for those who need them.

## **VI. Policy Recommendations**

It is clear that many DCFS investigators, supervisors, Administrative Law Judges, and even Illinois Circuit Court judges – whose decisions have been reversed by reviewing courts – are misapplying the laws and policies for determining inadequate supervision. If that were not the case, the Family Defense Center would have lost, rather than prevailed, in the cases highlighted in this paper.

Mandated reporters and families themselves also need to know what the legal standards are in order to act appropriately. Currently, those standards are not available. The factors that



DCFS considers are very broad and there is no guidance for how investigators should be evaluating and weighing the presence or absence of these factors. This lack of clarity hurts everyone, for it sows conflict and confusion as to the state of the law and adds to the expenditure of scarce resources that other cases of genuine harm to children sorely need.

The following recommendations would improve upon the current policies and practices, and also put parents on notice of what they need to consider themselves when considering self-supervision as an option for their children. DCFS should:

- a. Establish a presumptive age at which children can be left alone, with clarification and training as to how investigators should decide when a child is not sufficiently mature to be left alone.*

Everyone would greatly benefit from the establishment of a specific and reasonable rule that sets an age at which self-supervision is presumed not to be neglect except under special circumstances. Furthermore, an additional rule should stipulate the age at which minors can take care of younger children. With a specific age presumption, parents could be better informed and the number of inadequate supervision investigations could be significantly reduced. This would add clarity for mandated reporters and provide parents some piece of mind about their parenting decisions.

The age of 14 currently does provide a ceiling after which inadequate supervision cannot be alleged. But this age is far too high and provides an unreasonable threshold for investigations, except as to children with serious cognitive or emotional deficits. Given that public health organizations and standards suggest that children age 10 and older can be left alone for reasonably short periods of time, a presumption that mirrors this understanding should be established. Such a rule would provide that children age 10 and older can be left alone, except overnight, without the parents facing neglect investigations. This presumptive age threshold would provide a reasonable starting point for a policy that better reflects an understanding of child development. Below the age of 10, investigations may or may not be warranted, but factors should be assessed more carefully so that there is not a per se rule against leaving children alone at any age. Children as young as 7 or 8 can be and often are mature enough to be left alone. Even younger children can play in parks without their parent hovering next to them and parents who take out the trash while leaving a young child inside should never have to fear the wrath of child welfare authorities second guessing their decision. The law should not fault parents who know their children's capabilities and allow them to be alone.

The current DCFS rules stipulate that the child's maturity and abilities should be taken into account, but these rules give no guidance to investigators as to how they are expected to



evaluate that maturity. Evaluating a child's maturity should not be the DCFS investigator's job, except in extreme and obvious cases in which a parent has blatantly ignored their child's true abilities. To be sure, children above the presumed age limit can have developmental or mental health conditions that raise concern for the child's ability to care for themselves or for siblings. Conversely, in cases where the child's age is below the presumed age at which children can safely be alone for short periods (which we propose should be age 10), and where the parent has made an informed judgment that the child is capable of handling the situation, the child's maturity should be evaluated with deference to the parent's assessment. In addition to presuming parental competency to make decisions about their own children's maturity, there must be mechanism, such as a clinical review, by which DCFS makes more reliable assessments of the child's ability to care for himself.

Guidelines should also be set regarding the age at which older siblings can safely be presumed to be able to attend to their younger siblings without an adult present. It is important that determinations are based solely on the child's ability to safely manage the particulars of the situation that gave rise to the child welfare investigation. If child welfare authorities override parents' judgments on these matters, they should do so only with clinical guidance and clear policy direction, not their own assumptions about parenting.

Guidance is also needed to stop biases against certain groups of parents or children who are involved with child welfare authorities. We have uncovered examples, as discussed above, of the inappropriate use of mental health diagnoses and assumptions about a child's abilities. These assumptions are used in place of evidence that a child was not able to supervise himself or siblings in a specific situation or that the parent was inadequate in his or her supervision. Child welfare authorities should be able to discern factors that limit a parent or child's ability to supervise and provide actual evidence of those factors, instead of acting on their personal feelings or biases.

The rules defining inadequate supervision must be clarified, but ultimately will always include some consideration of factors. However, a presumption in favor of fit parents who make their own reasonable decisions about when and how long they can leave children alone should be adopted into the standards governing these cases. If a child is entirely unharmed by being left alone, if a child felt safe in the situation, if the parents made a deliberate decision to let the child be alone, and if there are no reasons to believe the child was in a danger, there should be no basis to find neglect. When these factors are present, investigations should end.

At the same time, the public is entitled to know that individuals listed on the state child abuse register are actually dangerous to children. Even more importantly, employers who use the state child abuse register as for employment background checks need to rely on the



soundness of the information they are receiving. Mandated reporters, which include virtually every professional who works with children, are also entitled to know when they must report child neglect due to inadequate supervision and when the parent's conduct is within the sphere of parental discretion.

While deliberate parenting decisions deserve deference, one-time and hasty decisions to allow children to be alone for short periods of time should also be allowed. Reasonable parents make such decisions and should not have to be second guessed unless they commit an act of blatant disregard of their children's safety. Blanca should not have been deemed neglectful when she decided to run her son to school when he missed his bus. Parents who run short errands should not have to live in fear of the DCFS hotline.

In place of the 21 factors DCFS's rule now employs to assess inadequate supervision, the standard itself should mirror the amended Illinois Abused and Neglected Child Reporting Act ("ANCRA"), which governs environment injurious cases.<sup>41</sup> That standard requires the state to show a likelihood of harm to the child and a blatant disregard by the parent of an obvious danger to the child. "Blatant disregard" in turn requires showing that the parent failed to take reasonable precautionary measures. This legal standard can work for inadequate supervision cases too. It affords a way to define the children who truly are neglected by virtue of a parent's decision to leave them alone. Unlike the open-ended DCFS rule that allows investigators to make their own judgments about the child's abilities to manage any sort of circumstance, this standard gives deference to the reasonable parent to make a judgment about their child's maturity. This standard, coupled with clearer age limits after which the presumption is that the child is not neglected, would represent a significant improvement in current law and practice, and would enable child welfare authorities to target its resources to cases in which true neglect has occurred. Under this revised legal standard, the Meitivs, Blanca, Lisa, and Natasha would not have been investigated or indicated for any form of neglect. Spared the trauma of a DCFS investigation, these healthy and happy children with caring parents would have benefited from the state

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<sup>41</sup> As amended in 2012 after the *Julie Q.* Illinois Appellate Court decision declared Allegation 60 to be void for lack of legislative authority, the child abuse reporting statute, ANCRA, 325 ILCS 5/3, now provides as follows: "Neglected child" means a "child ...who is subjected to an environment which is injurious insofar as (i) the child's environment creates a likelihood of harm to the child's health, physical well-being, or welfare and (ii) the likely harm to the child is the result of a blatant disregard of parent or caretaker responsibilities. The statute further defines "blatant disregard" to mean an incident where the real, significant, and imminent risk of harm would be so obvious to a reasonable parent or caretaker that it is unlikely that a reasonable parent or caretaker would have exposed the child to the danger without exercising precautionary measures to protect the child from harm .



allowing their parents make decisions about how best to raise them. Moreover, children who are genuinely abused would benefit, too, as more state resources would be directed toward real abuse and neglect cases.

*b. Provide additional procedural steps for investigations.*

In most of the inadequate supervision cases reviewed for this paper, DCFS investigators did not document or even seem to discuss the caretaker or the incident factors, which are included in the current guidelines on inadequate supervision. Even if they had incorporated these factors into their determinations, there is no DCFS policy on how they should be used by investigators in determining whether supervision has been inadequate. At a minimum, investigators should have a documented evaluation of how these factors increased or decreased the child's risk of harm in the situation in question. Factors such as parental mental health or substance use are only relevant factors if they were influencing parental behavior during the alleged incident and determined to have directly increased the risk to the child in the particular situation.

The current structure of the DCFS factors that are supposed to be considered in each inadequate supervision case suggests that each factor is equally important. In practice, however, investigators routinely prioritize one or two factors while discounting or ignoring others. If DCFS authorities' intent is to prioritize some factors and have others be of secondary importance, this should be reflected in the written guidelines and communicated clearly to investigators and supervisors.

*c. Provide clear guidelines and training for investigators on determining the likelihood of harm to the child as a result of inadequate supervision, and on what constitutes appropriate evidence for likelihood of harm.*

While the current rules specify that DCFS must establish a nexus between the child and caregiver factors and the inadequate supervision incident in question, it is almost never apparent in investigation records that the evaluation of this nexus has been completed. Through cross-examining investigators at hearings, we have frequently shown that there has been no consideration of the factors under the current policy. Moreover, there is frequently no assessment of the actual level of risk to the child due to use of self or sibling care. Instead, any fear of a risk of harm that *might* befall a child who is left alone is allowed to trump the parent's decision. Risks that are presented often include ones that are highly unlikely, and are instead fueled by sensational media reports and not data.





Instead, an investigation should include evidence of a clear likelihood of harm to the child within that particular situation, such as evidence of danger in the locale where the child was left alone. Investigators must clearly document the specific risk to the child that has been created by lack of supervision. A statement of the child's age or the length of time left without adult supervision is not a statement of risk. Moreover, the danger to the child must be obvious to the parent and not simply discoverable in retrospect.

In documenting specific risks, it is important to note that the general statistical risk of harm predicted by factors outside of the parents' or caregivers' control does not constitute evidence for likelihood of harm. For example, statistics on harmful outcomes to children who witness domestic violence in the home do not constitute evidence that a specific victim of domestic violence is culpable of causing a reasonable risk to the child. The correct consideration of the conditions above will prevent inappropriate investigations of families for inadequate supervision, for which domestic violence, mental health concerns, and/or poverty are the presenting issue.

*d. Provide alternative interventions in response to families' needs.*

In addition to the questionable application of the inadequate supervision standard, the social service referrals DCFS provides to families being investigated for inadequate supervision often do not address the family's presenting issues of domestic violence, substance abuse, lack of child care, or any of the other conditions that families accused of inadequate supervision often face. As a result, an investigation and indication for child neglect does not solve the original problem spurring the investigation. Indeed, as shown above, Family Defense Center clients report being more hesitant to seek services they need after being investigated by DCFS.

More often than not, Family Defense Center clients who were referred to social services as part of an inadequate supervision investigation are referred to "one-size-fits-all" mental health counseling or basic parenting classes. For families with a true difficulty with adequate supervision, these services clearly do not assist with finding and paying for appropriate child care services. Lack of access to child care is an endemic social problem and not a personal flaw of parents to be "treated" on an individual basis. As such, families with a true child care issue should be connected with child care options. By the same token, families who are experiencing the other issues described above, such as domestic violence or substance dependencies, should be connected to relevant services as the first step.

Services cost money, and during times of massive government budget shortfalls, these forms of assistance seem to be in ever shorter supply. But labeling families neglectful when they need child care or other supportive services is even more costly, as this paper has shown. While



it may appear to be protecting children to call parents neglectful, this label often does nothing to help children and instead, needlessly traumatizes them and their families.

## **VII. Conclusion**

It is clear that DCFS is misapplying the inadequate supervision category of neglect to the detriment of Illinois families and, from our experiences and conversations with others across the country, it appears that the flaws in the Illinois system are mirrored in the child welfare systems of other states. Despite the social realities of child care instability for many low- and even middle-income families, parents who lack child care are treated as neglectful by the child welfare system. Furthermore, parents are swept into the system and labeled at fault when they have made reasonable parenting decisions. Child welfare system resources are currently being devoted to the investigations of neglect allegations, such as inadequate supervision, where children are not at risk. This means fewer resources to investigate and indicate the serious cases of neglect or abuse. Families who are struggling with domestic violence, mental health issues, poverty, and other environmental and personal stressors that are not the fault of the parents are not well served by a neglect label.

Many of these issues are the result of a needlessly lengthy and vague set of guidelines for determining whether supervision has been inadequate and when that alleged inadequacy amounts to true child neglect. The number of mistaken and harmful investigations would be reduced dramatically by: creating a clear presumption in favor of reasonable parents; demanding proof of a blatant disregard of parental duties of care; simplifying the applicable guidelines; training investigators; and making sure that DCFS investigators, supervisors, and Administrative Law Judges are aware of and properly applying the rules. Additionally, services, rather than indicated findings that simply make life more difficult for parents without making children safer, should be provided whenever possible. These steps will go far to making the child welfare system more just for Illinois families. The same steps may also turn Illinois from being a state with rampant overuse of inadequate supervision findings to a model that other states might emulate.



## **Appendix: DCFS Procedure on Inadequate Supervision**

### **INADEQUATE SUPERVISION (74)**

#### **a) DEFINITION | b) TAKING A REPORT | c) INVESTIGATING A REPORT**

#### **Allegation of Harm #74**

##### **a) DEFINITION**

The child has been placed in a situation or circumstances which are **likely** to require judgment or actions greater than the child's level of maturity, physical condition, and/or mental abilities would reasonably dictate. Examples include, but are not limited to:

- leaving children alone when they are too young to care for themselves;
- leaving children who have a condition that requires close supervision alone. Such conditions may include medical conditions, behavioral, mental, or emotional problems, developmental disabilities or physical disabilities;
- being present but unable to supervise because of the caregiver's condition (This includes (1) the parent or caregiver who repeatedly uses drugs or alcohol to the extent that it has the effect of producing a substantial state of stupor, unconsciousness, intoxication or irrationality; and (2) the parent or caregiver who cannot adequately supervise the child because of his or her medical condition, behavioral, mental, or emotional problems, developmental disability or physical disability.);
- leaving children unattended in a place which is unsafe for them when their maturity, physical condition, and mental abilities are considered; or
- leaving children in the care of an inadequate or inappropriate caregiver, as indicated by the caregiver factors.

##### **b) TAKING A REPORT**

- 1) Acceptable Reporter/Source



Any person who has reason to believe that a child has been/is being inadequately supervised may be the Reporter or Source of the CA/N report.

## 2) Usage

-The reporter/source has reason to believe that the child has been/is being inadequately supervised due to the disregard of his or her responsibilities by the parent or other person responsible for the child's welfare. (NEGLECT)

## 3) Factors to be Considered

The following factors should be considered when determining whether a child is inadequately supervised.

### A) Child Factors

i) Child's age and developmental stage, particularly as it relates to the ability to make sound judgments in the event of an emergency.

ii) Child's physical condition, particularly as it relates to the child's ability to care for or protect him or herself. Is the child physically or mentally handicapped, or otherwise in need of ongoing prescribed medical treatment such as periodic doses of insulin or other medications?

iii) Child's mental abilities, particularly as it relates to the ability to comprehend the situation.

### B) Caretaker Factors

#### i) Presence or Accessibility of Caregiver

- How long does it take the caregiver to reach the child?
- Can the caregiver see and hear the child?
- Is the caregiver accessible by telephone?
- Has the child been given phone numbers to call in the event of an emergency?



ii) Caregiver's Capability

- Is the caregiver mature enough to assume responsibility for the situation?
- Does the caregiver depend on extraordinary assistance to care for self or child?

iii) Caregiver's Physical Condition

- Is the caregiver physically able to care for the child?
- Does the caregiver's health impede his or her ability to care for the child?

iv) Caregiver's Cognitive and Emotional Condition

- Is the caregiver able to make appropriate judgments on the child's behalf?
- Does the caregiver show signs of confusion or memory loss?

C) Incident Factors

i) Frequency of occurrence.

ii) Duration of the occurrence (as related to the "child factors" above).

iii) Time of the day or night when the incident occurs.

iv) Child's location (the condition and location of the place where the minor was left without supervision).

v) Weather conditions, including whether the minor was left in a location with adequate protection from the natural elements such as adequate heat or light?

vi) Other supporting persons who are overseeing the child (Was the child given a phone number of a person or location to call in the event of an emergency and whether the child was capable of making an emergency call?)

vii) Whether food and other provisions were left for the child.

viii) Other factors that may endanger the health and safety of the child.



**Note:** This harm is always NEGLECT.

### **c) INVESTIGATING A REPORT**

#### 1) Documentation/Evidence Needed to Indicate

A) Documented observations that demonstrate that a child has been inadequately supervised or placed in circumstances that are likely to require judgment or actions greater than the child's level of maturity, physical condition, or mental abilities.

B) Specific and thorough identification and documentation of supervision issues which pose harm or significant risk of harm to the child as well as documentation of the parent disregard and/or failure to correct the situation.

C) Detailed explanatory statements of the victim, perpetrator, witnesses, and any other person with knowledge of the condition have been obtained.

D) If police have conducted an investigation, the final finding must be obtained and documented. If the police report is not available, a case note must be included indicating the report has been requested along with documentation of the verbal statements. The supervisor must review police report when it is received to ensure findings do not conflict with previously documented information received verbally.

E) All other required contacts made, or documentation as to why they were not.

F) Apply and document the application of the "Factors to Be Considered". Each factor should be assessed as to relevance to the specific case and that assessment should be documented on a **SACWIS Case Note** or other form designed for this purpose.

G) Waiver of any of the above must be given by the supervisor and documented on a **SACWIS Case Note**.

#### 2) Requirements for Initial Investigation

A) Data check and Soundex of members of the family and other subjects regularly frequenting or living in the home. Review prior investigation.

B) Interview reporter, source and OPWI identified in the current report or related information.



C) In person, individual interview with alleged child victim(s), assessment of physical condition, and completion of CERAP.

D) In person or phone interview with law enforcement, if police have had contact on report. This contact is to help establish the need to move to the formal investigation phase.

E) Interview DCFS or private agency caseworker if a service case is currently open.

F) In person, individual parents/caretakers. Parents should be contacted on the same day as contact with child victim(s) if at all possible. If CERAP is marked unsafe, parents must be interviewed immediately to ensure the child's safety, and the formal investigation must be commenced.

G) Interview alleged perpetrator either in person or by phone.

H) Observation of the environment where the lack of supervision occurred.

I) Notify Guardian ad Litem if alleged child victim is DCFS ward or ward of the court (e.g., a child home with a parent under an order of protection).

J) In cases with non-verbal children and an anonymous reporter, an interview must be conducted with an individual (collateral) who has (or would likely have) knowledge of the family situation and/or reported incident.

K) Waiver of any of the above contacts must be given by the supervisor and documented on a **SACWIS Case Note**.

### 3) Requirements for Proceeding to Formal Investigation

A) A formal investigation must be commenced if:

i) the CERAP is marked unsafe; or

ii) there is reasonable cause to suspect that the child victim was inadequately supervised as a result of the caretaker's disregard of their responsibilities, and/or the allegation is on a non-verbal child and a suitable collateral cannot be identified; and

iii) the alleged victim is under the age of 18.



B) Apply "Factors to Be Considered" to determine if there is reasonable cause to believe the child was inadequately supervised as a result of neglect.

#### 4) Requirements for Formal Investigation

A) In person, individual interview with parents/caretakers. If CERAP is marked unsafe, parents must be interviewed immediately to ensure the child's safety.

B) In person, individual interview with alleged offender.

C) In person, individual all other adults and verbal children of the victim's household. Non-verbal children must be observed.

D) In person, individual all other adults and verbal children of the perpetrator's household. Non-verbal children must be observed.

E) Interview all identified witnesses who are reported to have knowledge of the incident.

F) If the family or the subjects identify two or more possible collateral contacts, at least two must be interviewed either by phone or in person.

G) Interview DCFS or private agency caseworker if service case is currently closed but has been open within the past two years.

H) Interview other community professionals who have firsthand knowledge of the incident.

I) For children under the age of 12, interview school teacher or child care provider who has knowledge of the child and/or the level of care provided to the child.

K) Interview child protective services in other states in which the family members have resided in the previous five years. If history of maltreatment is uncovered for this time period, attempts must be made to gather abuse/neglect history for the previous five-year period.

L) Waiver of any of the above contacts must be given by the supervisor and documented on a **SACWIS Case Note**.

#### 5) Required Medical Information and/or Consultations





The worker must ensure that the child receives an immediate medical examination if evidence exists that the child is in need of urgent medical care.

#### 6) Law Enforcement/State's Attorney Involvement or Notification

Notification of law enforcement and the State's Attorney is mandatory if protective custody is taken.

#### 7) Assessment of "Factors to be Considered" to Support Case Finding

A) What age is the reported child(ren)?

B) Does the child have a medical condition; behavioral, mental or emotional problem; or disability that impacts on their ability to protect themselves or significantly increases a caretakers stress level?

C) Is there a pattern of similar instances with this child or other children for whom the caretaker has been responsible?

D) What is the severity of the condition? (Identify specifics including caretaker too intoxicated to supervise child, caretaker's age or physical condition prevents them from caring for the child.)

E) Is there a previous history of abuse and/or neglect? (More weight should be given to a documented history and DCFS files used as a basis for identifying history should be reviewed prior to being considered a factor. History described by subjects or collateral's should be viewed in the spirit and light it is presented. )

F) What dynamics are present between the child and the parent? (Identify the child's level of fear of the caretaker. Does the caretaker appear to be concerned about child's welfare and protection? Is there an appropriate parent-child relationship?)

G) What is the level of stress/crisis in the home? (Is there a positive home environment or is the environment chaotic?)

H) Is an appropriate support system in place for the child and the caretakers? Are there supportive people in the home?

#### 8) Notification of Findings



- A) Verbally notify the family of the recommended finding.
- B) Verbally notify the mandated reporter of the recommended finding.
- C) With parental consent, notify collateral contacts that were interviewed if the case is unfounded.
- D) Notify the Guardian ad Litem of investigative findings if the victim is a DCFS ward or a ward of the court (e.g., a child home with a parent under an order of protection).

Source:

[http://www.state.il.us/dcf/dcfwebresource/allegations/allegations2-20.htm#P1929\\_201711](http://www.state.il.us/dcf/dcfwebresource/allegations/allegations2-20.htm#P1929_201711)