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Risk, Reform, and Vocation in the Illinois Child Welfare System

by

Joshua Kilroy

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APPROVED, THESIS COMMITTEE:

James D. Faubion, Director
Professor, Anthropology Department

George E. Marcus
Professor and Chair, Anthropology Department

Colleen Lamos
Associate Professor, English Department

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DISertation A BSTRACT

RISK, REFORM, AND VOCATION IN THE ILLINOIS CHILD WELFARE SYSTEM

This dissertation examines changes in the mode of governance in the contemporary United States using societal responses to child abuse as an example. The phrase “child abuse” is only forty years old yet it has become the center of large public bureaucracies in every state. The history of the child welfare is reviewed with particular attention to the increased legal protection for abused and neglected children and how these rights reorganized the responsibilities of the Illinois Department of Children and Family Services.

The ethnographic section details the crisis in the Illinois child welfare system after the death of a three-year old child in 1993. The creation of an Inspector General’s Office is documented and several of their reform initiatives are considered in some detail, including the development of a Code of Ethics and the use of mediation in servicing families. One conclusion is that traditional agency-based services are being displaced by services offered within networks of providers. These network structures are built around a specific subject, the “child at risk.” The implications of these developments for modes of governance in contemporary society are examined.
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One of the central lessons that I learned through my research is that good institutions are necessary for the production of positive and creative innovations. This dissertation was blessed to be nurtured by four such institutions: the Anthropology Department at Rice University; the School of Social Service Administration at the University of Chicago; The Chapin Hall Center for Children at the University of Chicago; and the Office of the Inspector General for the Illinois Department of Children and Family Services. All of these organizations were generous in sharing their ideas and resources and patient with my often obtuse ways.

Of the individuals who deserve acknowledgement, one name must be mentioned up front. SSA Professor Elsie Pinkston not only hired me for the job that would become the basis of my research, she gave me enormous latitude in pursuing my research, was generous in sharing her insights about the OIG (and much else), and, among many others things, gave the computer on which I wrote my dissertation. I cannot express my gratitude to her strongly enough. Professor John Schuerman is not only a gentleman and a scholar of the highest order and a patient supervisor, but he provided me with access to crucial resources without which this thesis could not have been completed. Professor Philip Devenish first introduced to the writings of Mary Douglas, Michel Foucault, and Robert Bellah in 1988 in a class on moral philosophy and the social sciences; little did I realize then how that course would pay dividends years later. This dissertation is dedicated to these three teachers.
Another indispensable person in writing this thesis is Professor James Faubion, the chair of my committee. From first conceptualization to final articulation, his keen insights and sharp editorial eye have made this dissertation much better than it would have otherwise been. Professor George Marcus has devoted his career to pioneering new possibilities for anthropological research; hopefully he can see his inspiration somewhere in these pages. Professor Colleen Lamos provided helpful support in the early formulation of this project and shared her informed perspective on Foucault. I thank all of them for serving on my committee.

Another tenet of my research is that institutions are buttressed by diverse social networks. With this in mind, I would like to thank the many members of my social network. Johanna and Lawrence Kilroy, mom and dad, deserve first mention for their years of support. Gordon Mayer exerted gentle pressure to move forward over the last several years. Bart Pasquale made sure that I never forgot to take the occasional night off to have fun. Sandra Lyons was the ideal officemate for much of the writing of this dissertation and a supportive friend. Nicholas Degenova has been perhaps my enduring intellectual interlocutor over the last thirteen years and much of this work is a response to the challenge that his own poses. Claudia St. Clair, Paula Kamen, and Peter Enger provided crucial assistance at the very end to help complete the long process of writing. Paula Kamen, in addition to being a good friend, providing printing services that were very helpful.

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cynical about "the system," knowing her is an important reminder that most civil servants are decent people attempting to improve the situation of our most unfortunate populations. One of Ms. Kane's strengths is hiring highly competent and motivated people, people who made my time at the OIG one of personal and professional growth. I thank them all. I would also like to thank Denise for allowing me to use The Code of Ethics for Child Welfare Professionals as the Appendix for this dissertation.

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Introduction

Like many other research projects, this one came into being mostly through serendipity and chance. The decision to study a state child welfare agency was only made after almost all of the groundwork had been laid. By the time I came to formalize my fieldwork, I had already been working at what would become my fieldsite for several months. My fieldsite is the Office of the Inspector General of the Illinois Department of Children and Family Services (OIG) and it was while I was there that I made a connection between certain longstanding themes in my own life and in my theoretical interests.

The roots of this project are grounded in my own childhood. When I was eleven, my parents broached the subject of taking children in need of a home into our family with my sister Samantha, who was then nine, and myself. While most of the specifics of the process are extremely cloudy in my mind, I do remember that Samantha and I were enthusiastic about the prospect of having younger children in our home on a temporary basis. Some months later, we drove up to a residential facility that housed a number of children in care of the state (which was Rhode Island). We met briefly with a four year old boy named Allen. He was exceedingly shy and rightly so. A few days later, he moved in and became our first foster child. He stayed with us for several years and eventually he was joined by his younger sister, Lori. Over the next six of seven years more than a dozen children, mostly infants, spent varying periods of time in our home. Four of them had their parents’ rights terminated and became eligible for adoption and
became permanent members of our family. Most, however, returned home to their mothers.

But the particular incident that, in retrospect, spurred this dissertation was the removal of Allen and Lori from our home. They had entered state care in the wake of their parents' divorce. Their father was well meaning but, as I remember it, ineffectual. Their mother was also well meaning but with an alcohol problem (that may also have involved the use of drugs) and seemed to socialize with "problematic" men. Throughout the time their children were in our home, their parents waged a protracted and vicious court battle over custody. I can remember that the mother would miss visits and Allen and Lori would wait for hours by the door in vain. There would be occasional visits by both parents but, by and large, they settled into our family and its routines. Then, quite unexpectedly, a judge decided that the children had been away from their mother long enough and ordered them returned to her care. Within days, they were gone. When one feels the sting of the state's capriciousness, it is rarely forgotten.

After college, I found a job at a research institute on the campus of my college that specialized in child welfare issues. I became a research assistant an evaluation of the Illinois Family Reunification Program. This project was designed to provide intensive services to families who had one or more children who had just entered into foster care. The hope was that by providing more intensive services to such families the length of stay for the child in foster care could be greatly reduced. This program and its sister project, the Illinois Family Preservation Program, responded to the concerns that too many children were being placed in the foster care system and that they were being allowed to languish in that system for too long once they were placed. My work
consisted of interviewing caseworkers and their supervisors to understand how cases were being handled. This was my first direct contact with the Illinois Department of Children and Family Services (DCFS) and with its efforts to reform itself.

During my time on this project (1992-1993), Chicago's newspapers were filled with numerous stories about the plight of youth in Chicago's poor (and mostly African American) neighborhoods. In October 1992, a young boy named Dantrell Davis was shot to death in the Cabrini-Green public housing project on Chicago's near North Side. He was walking to school holding his mother's hand, when a gunfight broke out between two warring gangs over drug-dealing territory. This incident riveted the attention of the city and raised concern about the quality of life for many urban youth. One consequence of Davis' death is that The Chicago Tribune, the city's largest paper, made a commitment to report - on the front page - on every child who was murdered in 1993. The series, called "Killing Our Children," ended up producing over 200 reports on the 62 children who were victims of homicide that year.

It was in this context that the death of Joseph Wallace became public in April 1993 and became a flashpoint for outrage over the perceived inadequacies of DCFS, the Juvenile Court System, the Public Guardian's Office and other institutions involved in the child welfare system. Joseph Wallace was a three year-old African American boy who had been placed in a foster home as an infant. His mother, Amanda Wallace, had a long history of mental illness that included many attempts to kill herself. After some intensive mental health treatment she fought to regain custody of Joseph and in March 1993 he returned home to her care. Several weeks later he was found hanged in his mother's apartment and there was strong evidence of repeated abuse in the final weeks of his life.
In the wake of his death, the newspapers sought to determine how a judge could return Joseph to such a dangerous set of circumstances. In the court hearing to decide on his return home, all of the parties, DCFS, the Guardian ad Litem (which is an office that provides professionals who follow child welfare cases with the child’s interest in mind), the Public Guardian (which is a county office that represents people who cannot make determinations for themselves – such as children, the mentally ill, and senior citizens), and some mental health professionals all advocated returning Joseph to Amanda Wallace even though the court’s records documented the extent of her mental illness. In response to intense public criticism, the General Assembly passed a bill proposed by Governor James Edgar to create an independent watchdog agency, the OIG, which would officially investigate allegations of malfeasance and misfeasance by DCFS employees or those private agencies that have contracts with DCFS.

Upon entering graduate school in the fall of 1993, my goal was to study new suburban cultural formations in the United States and how they were reworking notions of what the suburbs were as well as what it meant to be middle class in the 1990s. This project floundered for a variety of reasons and gradually I found myself thinking about the child welfare system. One crucial catalyst for this was my reading of Michel Foucault’s *Discipline and Punish*. This classic work examined how the prison became the exemplary disciplinary institution of modern industrial societies and helped to rework the practices of governance and the types of knowledge that get deployed on and around individuals. Building on this work, scholars like Robert Castel and Jacques Donzelot examined other practices of knowledge/power and how they relate to political, administrative, and social formations. Refering to this literature, I prepared a conference
presentation, *Risk and Moral Panic*, which discussed the construction of risk in light of the media coverage of the death of Joseph Wallace.

In the fall of 1996, I was hired by Professor Elsie Pinkston of the School of Social Service Administration to work part-time at the OIG as a research assistant. My first two assignments were to assist on two investigations. The first dealt with a DCFS caseworker accused of not performing her official duties. The second and more time intensive investigation dealt with an agency that was supposed to promote the availability for adoption of DCFS wards whose parents had had their rights terminated. Although I was already trying to develop a research project that involved DCFS, it was my involvement in this investigation that convinced me that the OIG would be an ideal location for my fieldwork. The key issue that emerged involved the different understandings by the OIG and DCFS, through its contractor, of what constituted doing an adequate job of promoting wards eligible for adoption. The agency under investigation had an established set of procedures for publicizing these youth and felt that as long as they followed their procedures they were doing a good job. The OIG investigation highlighted the ineffectiveness of many of these procedures and demanded a more innovative approach. In particular, the OIG noted that the process for people who were potentially interested in adoption was extremely complicated and forbidding. The final report made numerous suggestions for improving the promotion of adoption eligible wards, including more accurate descriptions of the youth and more outreach to potential adoptive parents. More intriguing from my point of view was that the OIG used this investigation as a springboard for developing collaborations with DCFS, the Juvenile Court, and private agencies that resulted in an adoption fair. This fair, called Chances for Children, not only
featured some of the available youth in person but combined this with a series of
information sessions for potential adoptive parents but also allowed them to begin the
process of applying for a license to adopt right there, gathering some of the needed forms
and fingerprinting them for criminal background checks. These processes were
traditionally separate and take a long time to complete and served to discourage many
people from pursuing their interests in adopting. What the investigation and the
subsequent adoption fair demonstrated to me was that there were generative principles at
work in the OIG’s mode of operations and that the OIG as an institution was a novel site
that could produce innovative systematic responses to perceived problems.

In early 1997, Professor Pinkston arranged for me to work fulltime – half the time
for her on a parent training program and half the time at the OIG. My primary obligation
at the OIG became to provide administrative support to the Illinois Family Conference
Program, which I will describe in more detail in Chapter Three. This program became
the locus of my research interests and provides a significant portion of the ethnographic
data in this dissertation. The core of this program was to use mediation as a way to
involve the client in the creation of the service plan for their family. The program
targeted cases that were not considered too severe or involved the placement of children
in foster care. In many cases, the families in this program were experiencing their first
involvement with the child welfare system. By working on these cases, I had the
opportunity to begin to see what I believe is a systematic difference in how risk is defined
on a case-by-case basis by DCFS and by the OIG.

In 1998, I was assigned fulltime to the OIG although I remained a University of
Chicago employee. Reflecting on the structure of my employment, I became curious
about the relationship between the School of Social Service Administration (SSA) and
the OIG. SSA provided a number of interns every academic year and there were several
employees, like myself, who were hired through contracts with the OIG. More
importantly, SSA provided a set of flexible consulting relationships to the OIG, most
prominently with Professor Elsie Pinkston. I will discuss the details of the relationships
later in the dissertation. DCFS also had its own set of relationships with SSA that
supplied management training and consulting that complements and contrasts with those
of the OIG.

My employment with the OIG lasted until August 2000 and came to involve
several other projects and investigations, some of which will be discussed later. It is still
unusual within anthropology for a researcher’s participant-observation to be structured in
the form of a job, although this is certainly less true than it used to be. Such an
arrangement carries advantages and disadvantages. The chief advantage is the full access
to the people and institutions that are being examined. This can also be a disadvantage
because there is the risk—indeed, the obligation—of “going native.” Furthermore, in my
research project there was the added disadvantage that half of the key information,
namely the opportunity to interview DCFS staff, was made practically inaccessible
because of the agonistic relationship between the OIG and DCFS. Because of my
position, I did not want to be in a position where DCFS senior management could reject
my research or demand effective oversight of my project. Consequently, my only
information about DCFS employees comes only from my professional interactions with
them and from other investigations undertaken by the OIG. This is hardly disinterested
data. Fortunately, there is some independent data from other researchers about DCFS performance that complements some of the observations recorded in this dissertation.

*The Context of the Research Project*

This dissertation research project analyzes the cultural dimensions of recent transformations in child welfare services in the state of Illinois over the course of the 1990s. More specifically, my dissertation will consider the complex interrelationships between legal liability, risk management, and professional ethics in the field of child welfare and what this means for contemporary forms of governance. Illinois revised its child welfare system in 1964 by creating a centralized bureaucracy, DCFS, which consolidated services previously done by the Department of Public Welfare, the Department of Mental Health, and various county agencies throughout the entire state.

As living standards improved over the course of the twentieth century, there was less need for orphanages, which had previously been the main focus of child welfare agencies. By the 1950s, the service most frequently provided by child welfare agencies were group homes for emotional disturbed children. Kenneth Cmiel states that one of the chief reasons for the creation of DCFS was to process the Social Security benefits of the children in the care of the state (Cmiel 1995, p.153). However, as child abuse claimed more public attention, there were more and more children removed from their homes because of allegations of abuse and by the late 1960s these efforts were their primary focus.

As noted above, the Illinois General Assembly created the OIG in 1993 after Wallace’s death. The public outcry in this case needs to be understood in terms of the
already existing crisis in legal liability that DCFS faced. There were a series of lawsuits in the 1980s and 1990s that alleged gross mismanagement within DCFS. The most important of these cases was *BH vs. Suter*. The Illinois Attorney General settled this lawsuit in 1990 by agreeing to a consent decree that committed DCFS to a major overhaul in its organizational practices. However, after Wallace's death, the state legislators decided that DCFS lacked the internal resources to provide a comprehensive and objective account of what had happened in this case and the ability to implement the appropriate reforms. Thus the OIG was created to serve two primary functions: 1) to investigate all serious complaints of malfeasance and misfeasance by DCFS personnel or by those private agencies that are funded by DCFS; 2) to propose the appropriate systemic reforms to improve child welfare services. Although many large public bureaucracies have inspector generals, the OIG is different precisely because of its independence from the organization it investigates and because it can recommend (and in some cases even directly implement) substantial policy changes. Its independence is secured by the direct access that the Inspector General has to the Governor's Office and by the fact that the General Assembly establishes its annual budget.

*The Outline of the Dissertation*

The first chapter lays out the basic assumptions and theoretical resources that are deployed throughout the dissertation. Perhaps the most central assumption is that the rise of child abuse as a concern of the state reflects some essential and novel about how power and knowledge operate in the governance of contemporary society. The most crucial reference here is Michel Foucault and his elaborations on the "bio-technico-political" which Rabinow suggests is best rendered within Anglo-American discourses as welfare (Rabinow 1989, p.8).
Welfare in this instance refers to a “field of power relations composed of both discursive and nondiscursive practices” (ibid.). As child abuse became the object of a professional discourse, it drew more and more of the practices of the family under its purview and it developed a typology of the forms of abuse and neglect. From this typology, professionals began to determine the outcomes for abuse for the child who experienced it. Furthermore, the abuser became a “kind,” an object around which professionals could devise a history and predict a future trajectory, as Ian Hacking has so eloquently argued. Child abuse entered the public domain at the same time as the Civil Rights Movement was beginning to achieve some its goals and as the Great Society was trying to accommodate the massive influx of displaced Southern agricultural workers into urban economies. Although much of the discourse about child abuse fit into the rhetoric of the children’s liberation movement (a much smaller, though not insignificant movement that peaked alongside the Women’s Rights Movement in the early 1970s) it continued to expand even as the liberationist energies of the 1960s and 1970s dissipated. It seems at least plausible to argue that the discourse about child abuse expanded and became the rationale for state agencies and non-profit organizations because of the fading of the various rights movements. That is to say that the claims of victimization that were increasingly discounted within the American political scene for African Americans and women were more and accepted for children who had suffered abuse. As the welfare state contracted throughout the 1980s and 1990s, state sanctioned interventions on behalf of abused and neglected children increased several-fold.

If Foucauldian ideas involving discipline and governmentality help to bring power/knowledge into focus, it is equally important to examine the idea of risk since it is explicitly under the rubric of “risk of harm” that the state justifies its actions in policing child abuse and neglect. The last fifteen years has seem a growing number of theorists give the idea of risk a central place in understanding the recent transformation of society. The cultural
theory of Mary Douglas, with its group-grid model that elucidates four types of social positions and their differing, but interlocking, understandings of risk, is one important theory that I will explore. The reflexive modernization theory of Anthony Giddens, with its close cousin the risk society theory posited by Ulrich Beck, represent another set of theories that I will use extensively. They argue that the practices and institutions of industrial society have gradually resulted in the dissolution of itself, leaving in its wake a new modernity characterized by a compulsive need to render the world intelligible by developing exhaustive narratives and elaborate institutions to keep the malignant side effects of modern society, like pollution, in check.

The second chapter is devoted to describing DCFS and the problems it faced in the early 1990s. Because DCFS is a very large public bureaucracy, I have chosen three elements of its operations to focus on. First, I will discuss how the Department was forced to address a variety of issues because it entered into consent decrees in order to resolve several lawsuits. The most important of these lawsuits was B.H. vs. Suter, which was a class action suit filed by the ACLU on behalf of a number of children who were wards of the state. The suit alleged a variety of violations of clients rights and inadequate service provision. The consent decree was issued in 1992 and it required a number of organizational changes for DCFS. The most important one involved hiring more caseworkers so that the average caseload for a caseworker was twenty. The changes were so extensive that the court assigned a retired judge to serve as a monitor for the decree. I will draw from various documents produced by the B.H. Monitor and the Advisory Panels that met to provide consultation on how DCFS should reform.

Another aspect of DCFS’ operation that I will discuss is the Illinois Family First Program. This program had two main components; the Family Preservation Program and the Family Reunification Program. The core idea behind both of these efforts was to provide
intensive services to families right at the time they first entered into the system in order to reduce the length of time of the state intervention into the lives of these families. The Family Preservation Program was considerably larger and more heavily publicized than the Family Reunification Program. DCFS also committed themselves to conducting an experiment with the Family Preservation Program. The Family Preservation Program represented a highly publicized effort to meet the needs of a rapidly shifting client population while staying within a politically acceptable budget. It also represented DCFS' best attempt to apply the state-of-the-art theories and to overcome the widespread impression that it was a mismanaged agency. However, this program became the center of controversy as influential political and media figures charged that this program was keeping children in dangerous homes that threatened their safety and their lives.

All of this reached a critical point when Joseph Wallace was found dead in April 1993. Although it was not a Family Preservation case at the time of his death, the family had received preservation services years earlier. The Wallace case became proof positive for critics of DCFS that the agency valued the rights of parents over "the best interests of the child." The newspapers kept the Wallace case on the front page for weeks and public pressure was applied to political leaders to fix the system. There was legislation passed that declared the best interest of the child to be the highest priority in servicing families. In the immediate aftermath of Wallace's death caseworkers were more willing to remove children from homes they deemed dangerous and judges were less willing to return children home to "suspect" parents. The General Assembly created the OIG as an attempt to provide better oversight of the child welfare system and Governor James Edgar appointed Denise Kane as the first Inspector General.

The third chapter looks at how the OIG began its operations. Its most pressing task was to produce a definitive report on the Wallace and to suggest reforms. However, as Ms.
Kane settled in to the position, it was clear to her that much more needed to be done. How the OIG came to understand the main problems with the child welfare system and to offer suggested reforms will be examined. Furthermore, I will consider the types of organizational relationships that the OIG developed, particularly with SSA and how the OIG came to understand how to assess risk. From the confluence of these values, practices of knowledge, and institutional arrangements, a set of reform efforts emerged.

Chapter Four discusses one such reform effort, the Illinois Family Conference Program. It is a particularly apt illustration of how the OIG operates and the social work values it promotes. Ms. Kane conceived of the program in the wake of a highly publicized story involving nineteen children who were left unattended in a dirty apartment. The three mothers of the children (two sisters and a cousin) all had significant substance abuse issues and had been involved with DCFS prior to the children being found by the police. This case, known popularly as the “Keystone Kids,” attracted national, and even international, attention and was singled out in President Clinton’s 1994 State of the Union Address as a cause for concern. In investigating this case, Ms. Kane learned that the paternal grandmother had tried to get state authorities to intervene well before the case became well known. Ms. Kane thought about how child welfare officials could get the input of extended families in these types of cases. She studied a model that was being used in New Zealand by child welfare officials working with the Maori people. Under this model, tribal elders and other people important to the family were brought in to help devise a service plan rather than professionals. Ms. Kane started a pilot project based on this model but with numerous significant changes. I will discuss the nature of these changes and the types of power relations that the Illinois Family Conference Program sought to implement and how the program.
Chapter Four will also look at how one feature of the Illinois Family Conference Program, family mediation, was then deployed in other casework settings using the Older Caregiver Project as an example. The Older Caregiver Project was developed as the OIG became aware that many more senior citizens were being asked by DCFS and their contracting agencies to care for young wards. Much of this trend was fueled by the rise of kinship care, the practice of placing children who cannot remain with their parents in the homes of relatives. Over the course of the 1990s, relatives of the children became the most important source of new foster and adoptive homes. One consequence of this was that many of the caregivers were grandparents, even great-grandparents, as well as older aunts and uncles. With the great push by DCFS (spurred by federal legislation) to increase the number of adoptions for state wards who parents' rights had already been terminated, many of these arrangements were finalized and the state withdrew from the family’s affairs. After a child died in the home of an elder foster parent, the OIG investigated and became concerned that too many of these older caregivers had been overburdened. The Older Caregiver Project was developed to provide expertise on issues – such as medical, housing, and geriatric social work issues - that affected senior citizens and to design appropriate service plans. This project provides several ethnographic examples that demonstrate the degree of difference in attitudes towards risk between OIG personnel and DCFS caseworkers.

The fifth chapter is an account of one of Ms. Kane’s most cherished projects; the creation of The Code of Ethics for Child Welfare Professionals. Accompanying the Code was an Ethics Handbook and an Ethics Advisory Board that provides counsel on ethics issues for the Inspector General. In some respects, these efforts reflect the true novelty of the OIG. Illinois is the only state in the country at this time with a specific Code of Ethics for its child welfare professionals. This chapter will trace the origins of the Code in an early OIG investigation of malfeasance by a DCFS caseworker and the perceived need for stricter
accountability. However, in working out the principles of the Code of Ethics, it gradually became clear to OIG personnel and their consultants that child welfare had some particular issues that were specific to it. Confidentiality was one of these issues. There are situations in which the parent’s rights to confidentiality may come into conflict with the need to provide the most adequate services for the child. In trying to work through these issues, the OIG consulted with Alan Gerwirth, a retired philosophy professor at the University of Chicago who developed an elaborate deontic philosophy for determining ethical actions. He produced an article, currently. Turning a Code of Ethics into ethical casework practices has proven to be an ongoing project. In order to turn the abstract principles of the Code into practical guidance for the caseworker, the OIG wrote a Handbook that shows how these principles might be applied in actual situations and then held a series of trainings with workers and administrators. The OIG also created an Ethics Board that is available to work with caseworkers on specific issues that arise from their cases.

In the Conclusion, I will consider the empirical data in a broader context. How does the Illinois child welfare system function in terms of regulating populations and how have the reforms described in the previous changed that function? It is clear that the system deals primarily with poor, urban, and African American families as does the prison system. I will argue that the child welfare system is part of a continuum of regulatory institutions that includes the prison, parole, the post-welfare program Temporary Assistance for Needy Families (TANF). Following Thomas Dumm, I believe that the prison no longer serves the disciplinary function that it did previously. The prison now serves to contain a significant population that is seen by the state to be largely unrefordable. However, this does not mean that discipline has ceased to be exerted by state authorities. Rather, the discipline is now imposed through the child welfare system,
TANF, and community-based NGOs, among other institutions. These organizations deal with many of the same populations as the prison system and they often operate with the threat of prison as the alternative. The notions of personhood that emerged through the practices of modernity are being continually reworked but the current notions support the tentative constellation of organizations and the knowledge they produce about their subjects. The cultural dynamics of risk assessment are likely to continue to inform such knowledge/power practices and to produce new constellations of institutions that seek to coordinate these practices.
Chapter One

THEORIZING WELFARE: RISK AND THE CHILD IN THE CONTEMPORARY UNITED STATES

The field of child welfare in the United States has experienced a state of intensive reform in recent years. One can date this age of reform in numerous ways. One could cite the publication of the article “The Battered Child Syndrome” by C. Henry Kempe in 1962, which brought the term child abuse to public awareness and launched the modern era of child welfare services. Alternatively, one could refer to the passage of The Child Abuse Prevention and Treatment Act (CAPTA), which was marked the first comprehensive intervention by the federal government into child abuse issues, in January 1974. Or the passage of the Adoption Assistance and Child Welfare Act (better known as PL 96-272) in 1980 which enshrined the principle of permanency planning and the practice of Administrative Case Reviews (ACR) into the child welfare profession. But beneath these overarching frameworks are more localized circumstances that spurred an extensive rethinking of child welfare. In many large states like New York and California, the emergence of crack cocaine as a popular drug for many urban residents spurred an increase in the number of reported cases of abuse or neglect in the mid- to late 1980s and the number of children who became wards of the state. These increases made an already overwhelmed system more difficult to operate and raised questions of how to better provide services.

In Illinois, the state that I will be concerned with here, significant reform efforts began in the early 1990s and became more vigorous over the intervening years, cresting
perhaps with the implementation of the Performance Contracting initiative in 1997. The increase in reported cases and the number of state wards began several years after New York and California and many child welfare researchers believe this is because it took longer for crack to become widely available in Chicago. Whatever the reason for the time lag in growing caseloads, once the increase started it was rapid and significant. In 1986, there were 14,842 children in foster care through the Illinois Department of Children and Family Services (DCFS), in 1992 there were 33,777 (Goerge et al, 1994, p.11). In 1997, 60,000 children were in foster care, in nine years the number of children in out-of-home placements had quadrupled. In the next chapter, I will examine this situation, and the response by the child welfare system, in greater detail. This dissertation will focus on one aspect of this response, the creation of an independent watchdog agency, The Office of the Inspector General for the Illinois Department of Children and Family Services (OIG), in 1993.

In this chapter I will lay out one possible way of examining the operations of the child welfare system. There are several ways of thinking about these issues, all of which serve important purposes. By far the most common is the rational, technical perspective. This approach seeks objective, and usually positivistic, information about the types of family and individual problems that brings children to the attention of the state and about the types of services that are the most effect in addressing these problems. In striving to make the research into child welfare issues more scientific, some researchers make the analogy between the current state of knowledge in child welfare with that within the field of medicine in the early 19th century. Duncan Lindsey writes:

“Medical practice was transformed into a respected profession because of the development of scientific knowledge and technology for the treatment
of medical problems...As with medicine, so it is possible in child welfare to develop scientifically tested programs and intervention strategies, a technology that will allow for better service to children and families in need.” (Lindsey 1994 pp. 7-8)

Although this perspective has long been dominant within child welfare research – and more generally within social work as a whole – there has been a concerted effort over the last fifteen years to rely more extensively on scientific experimental procedures with control groups and randomized assignment to determine if services are effective. Prior to that, single case studies seemed to have been the most common way of testing effectiveness. Concurrent with effort, there is more data collected about client problems and circumstances. For instance, it was not until 1986 that there was good annual data about the number of child fatalities caused by parents and other caregivers. This is important because it is widely thought that the annual number of fatalities caused by abuse is one of the few objective measures for determining whether abuse is increasing because other measures, such as allegations of abuse or the number of children in foster care, depend upon subjective opinions and bureaucratic resources and practices. That the number of fatalities increased sharply in the late 1980s gave rise to the concern that there was a genuinely increasing risk faced by children, again with the use of crack as the leading suspect (Interview with Deborah Daro).

Another way of thinking about child welfare issues is to look at how the profession is caught up in networks of political or social power. For instance, there have been a series of books and articles that allege that child welfare systems serve the political imperatives of conservative political regimes by keeping many minority families – particularly African American families - under a state of constant surveillance, thus
reinforcing racist social structures in the absence of explicit racist laws. The most recent articulation of this type of analysis is Dorothy Roberts' book *Shattered Bonds: the Color of Child Welfare* (Roberts, 2002). She starts from the most glaring truth about the clients of the child welfare system – that African Americans make up almost fifty percent of the children in out-of-home placements while constituting about approximately fifteen percent of the population – and proceeds to critique every phase of the process of child protection for being inadequately concerned with the fate of African American children. While I personally find this critique overly broad and somewhat misguided, as I will elaborate in the Conclusion, this kind of analysis brings basic questions about race and justice to the forefront rather than leaving them in the background as many of the ratio-technical investigations do.

Still another way to examine the child welfare system is to focus on the political lobbying of interest groups and how they determine legislative action. The classic example of this is Barbara Nelson’s *Making an Issue of Child Abuse: Political Agenda Setting for Social Problems*. This study discussed the legislative history of CAPTA and how the various interest groups defined child abuse in order to influence the legislation in ways that were favorable to them. Perhaps the strongest conclusion of this study is that the political atmosphere of the mid-1970s made legislators unwilling to confront the fact that child abuse is largely a product of poverty requiring that child abuse be defined as a class-neutral, individualistic phenomenon so that federal efforts to address it would not seem like a welfare program. By contextualizing the various frameworks for interpreting child abuse, Nelson begins to approach a social constructionist perspective, although only to a point. Her work is stamped by the sense that an opportunity was missed with
CAPTA to address what she considers to be an objective phenomenon. I share her concern about the inadequacy of the federal interventions but I disagree about the objective status of child abuse.

Somewhat surprisingly, there has been a growing amount of literature within the social work profession about social constructionism in general and regarding child abuse in particular. Books and articles with titles like *The Social Construction of Child Abuse*, *Manufacturing "Bad" Mothers, Social Working*, “The Social Construction of Child Maltreatment,” and “Beyond Social Constructionism: Critical Realism and Social Work” all engage – with varying levels of sophistication – questions about how child abuse is a product of prevailing cultural attitudes and practices. These texts reflect a sense that the profession has backed itself into a corner with services that don’t meet client needs and perpetuate social hierarchies. This dissertation has its roots in the insights of social constructionism but shares Ian Hacking’s concerns about its limitations and tries to transcend them.

First, Hacking does not find it very interesting to discuss the social construction of ideas that can only have been generated historically: such ideas are necessarily social constructs. Hacking, working within a long line of philosophers of science, proposes two types of categories: indifferent kinds and interactive kinds. Indifferent kinds – what in a more innocent age were called natural kinds – are those categories where the principle of classification does not having any meaning for the classified elements. Hacking uses bacteria as an example. Interactive kinds are those categories in which the principle of classification does interact on those classified, producing what Hacking calls looping effects. Child abuse is one such category. People are labeled abusers by professionals
and both the abuser and the professionals respond to that label. Some people labeled abusers embrace it and seek the prescribed help to overcome their behaviors; others resist it and insist that they are good parents and that the state is intruding upon the life of their family. Likewise, the professionals can act sympathetically with those they have labeled abusers or they can respond with revulsion. These distinctions are helpful and I shall return to them later in the dissertation.

Hacking's other concern about the use of social constructionism is that it can often be used as a way of treating abuse as if it were not real. He claims, and surely he is correct, that something can be both constructed and real (Hacking 1995, p.68). Rather than futile discussions about the constructed nature of interactive kinds, Hacking urges a focus on the very real effects. He writes, "What [is] of interest is the successive stages in which this concept has been made and molded, and how it has interacted with children, with adults, with moral sensibilities, and with a larger sense of what it is to be a human being" (Hacking 1995, p.67). Using this statement as a guide, I will begin to lay out more specifically the theoretical framework for this dissertation.

Unlike the ratio-technical literature, I will argue that child abuse is not a phenomenon about which we can possess objective knowledge such as that produced by the natural sciences. In contrast to the researchers who claim that the child welfare system is merely an attempt to maintain racist hegemony, I will argue that this system is a complex of occasionally conflicted organizations operating, largely in good faith, on the basis of deeply held cultural values. While often agreeing with those researchers who emphasize legislative initiatives and political movements, I additional argue that these "macro" efforts are perhaps best considered as necessary supplements to the actual
practices that continually produce and reproduce the child welfare profession. With the
social constructionists, I claim that child abuse is indeed constructed but, I add with
Hacking, with real effects.

Child Abuse and Advanced Liberal Society

Ultimately this dissertation is concerned with the management of child abuse and neglect
by the state in the contemporary United States. That is to say, it is an investigation into
political rationality in an advanced liberal society. According to Nikolas Rose, advanced
liberal rule

“seeks to degovernmentalize the State and to de-statize practices of
governance...It does not seek to govern through ‘society,’ but through the
regulated choices of individual citizens, now construed as subjects of
choices and aspirations to self-actualization and self-fulfillment.
Individuals are to be governed through their freedom, but neither as
isolated atoms of classical political economy, nor as citizens of society,
but as members of heterogeneous communities of allegiance, as
‘community’ emerges as a new way of conceptualizing and administering
moral relations amongst persons.” (Rose 1996, p.41)

I will demonstrate that the child welfare system in Illinois has exhibited these three
qualities in the last decade. First, it has tried to de-governmentalize the state by
privatizing many of the functions that used to be performed primarily by DCFS. In the
late 1990s DCFS began an ambitious effort called performance contracting. Under this
scheme DCFS retained the function of investigating allegations of abuse and neglect and
appearing before court to press for custody of children they believe to be at risk of harm.
Once a finding is made by the court, almost all of the foster care, adoption, and intact
family services are provided by private agencies whose level of funding is dependent on
meeting predetermined goals established by DCFS and evaluated by them on an ongoing basis.

Second, regarding the de-statization of the practices of governance, there have been many initiatives. There is a greater focus on using community-based agencies to provide services on the theory that these organizations have great reservoirs of local knowledge that cannot be adequately obtained by government bureaucrats. Additionally, more children are now placed in “kinship care,” which can be either foster care or adoption by extended family members so that the child’s life is not disrupted as much as it might be a regular foster home. The state thus pushes more of its previously defined obligations upon pre-existing kin networks. Finally, and a continuation of the second point, DCFS has adopted some techniques, such as family mediation, and adopted some theories, such as family system theory, that seek to work with client, not as an isolated person with individualized problems but as a member of a network of family, friends, and community members with assets and deficits.

Of course, none of these initiatives were launched with the idea of achieving advanced liberal rule of a targeted population, although the popularity of neo-liberal ideas such as privatization within the state legislature and DCFS management were strongly in keeping with national and international trends. More directly, these efforts were attempts to respond to local problems that included the influx of a large number of children into the system, class action lawsuits that imposed reform efforts, and several highly publicized deaths of DCFS wards. As I mentioned in my introduction, the OIG was created after one such death. One reason that child abuse is a particularly apt site to examine advanced liberal rule is that it has emerged as a primary focus of government
precisely as the "traditional" welfare state, which had a relatively brief period of
dominance, was being dismantled.

Rose's conceptualization of "advanced liberal rule" is derived from the later
writings of Michel Foucault. In *Discipline and Punish*, Foucault traced a shift in the state
punished those who violated laws. His account begins, famously, with a description of
the execution of the unfortunate Damiens in 1757 for the crime of regicide. The
spectacle of the prolonged torture and the extraction of a confession from the condemned
man reinforced the power of the sovereign that had been briefly challenged by the subject
who breached the sovereign's law. Moving forward into the nineteenth century, Foucault
observed that these spectacles from the system of punishment. In their stead there was an
elaborate process of establishing a new figure – the delinquent. The delinquent did not
violate cosmological laws like those who challenged the sovereign had, rather, the
delinquent was a figure that obeyed its own natural laws, however perverse these were
deemed to be by others, laws that had their own predictability and internal logic and
actions that had their own history. The pride of place given to the executioner and the
clergy who took the confession gradually, over the course of the eighteenth and
nineteenth centuries, shifted to the "experts" who studied the delinquent. Entire
disciplines (criminology, psychology) developed around the effort to understand the
deviant and produced ever more detailed observations and finer distinctions. In an
interview, Foucault notes that during this same period "society" became an object of
sustained discussion. "What was discovered at that time – and this was one of the great
discoveries of political thought at the end of the eighteenth century – was the idea of
society. That is to say, that government not only has to deal with a territory, with a
domain, and with its own laws and mechanisms of disturbance.” (Foucault 1989, p.261)
In this double displacement of the outlaw by the delinquent and the sovereign by society,
the prison emerged as a site of practices that bound the two new elements together,
practices that Foucault called disciplinary and, together with the army, the school, and the
factory, constituted the “disciplinary society.”

Disciplinary society is composed of a set of institutions that “separates, analyses,
differentiates, carries its procedures of decomposition to the point of necessary and
sufficient single units...Disciplines ‘makes’ individuals; it is the specific technique of
power that regards individuals both as objects and as instruments of its exercise.”
(Foucault 1977, p. 170) Disciplinarity is one pole in the operations of power in
modernity, the other pole is constituted by “regulatory controls” that sought to supervise
the social body, monitoring the health and welfare of populations that made life itself, as
manifested in its biological processes, the cornerstone of political existence (Foucault
1978, 139-142). The outcome of these two modes of power was “normalization,” a
diverse set of procedures that established norms (either statistical or ideal) for populations
and then sought to regulate those individuals who deviated from these norms so that they
would conform to them.

As Foucault refined this formulation in the years after The History of Sexuality,
Volume One, he increasingly folded the disciplinary apparatus that produced individuals
into the bio-political technology that regulated populations. In his lecture
“Governmentality” he revised his position by stating: “…we need to see things not in
terms of the replacement of a society of sovereignty by a disciplinary society and the
subsequent replacement of a disciplinary society by a society of government; in reality

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one has a triangle, sovereignty-discipline-government, which has as its primary target the population and its essential mechanism the apparatuses of security.” (Foucault 1991, p.102) Paul Rabinow, in his book *French Norms: Norms and Forms of the Social Environment*, suggests term welfare as an adequate translation of this concept into Anglo-American discourses (Rabinow 1989, p.10).

What makes Foucault’s perspective on liberalism so useful is that it provides researchers with a means of analyzing the “history of the present” through an examination of the technical means that served to bring the abstract ideals of society to bear on concrete social formations. As Barry, Osborne, and Rose note in their introduction to *Foucault and Practical Reason*: Foucault’s account of liberalism “is not a matter of deconstructing the internal logic or contradictions within liberal political philosophy; rather it is to attend to the relations of the ethos of liberalism and its *techne*; its organization as a practical rationality directed towards certain ends.” (Barry, Osborne, and Rose 1996, p.10, italics in original)

One question that drives this dissertation is whether there has been a significant shift in how contemporary societies are governed. In the wake of the exhausted discourses about “post-modernity” there seems to be little sense in trying to assign some periodization that marks a new epoch. Yet, by following the rise of new practices within agencies of the state and the correlating ethos, we can begin to have some insight into the widely noted “decline” of the welfare state. Just as the prison and factory marked the emergence of the disciplinary society so the reorganization of the child welfare profession, the prison, and parole as well as the development of post-welfare programs like Temporary Aid for Needy Families (TANF) (for example, see Jonathan Simon’s
exemplary book on parole) announce the arrival of what can be called the “management society.” Thomas Dumm uses the term “post-disciplinary society” to refer to the same phenomenon but in keeping with my aversion to epochal periodizations I shall not use this term. Besides, there is still plenty of discipline in contemporary society: Foucault’s triangle, sovereignty-discipline-government, remains in place.

Management Society

What defines this shift to a “management society?” Rose mentioned one prominent feature; the individual is no longer the focus of most state interventions. This is true for the child welfare procedures that I will discuss here. There are three aspects of this: first, a focus on managing members of a network, or rather ensuring that individuals are integrated into networks; second, the management of those who are outside of networks or whose behavior is deemed to make them ineligible for membership in these networks; third, the critical questioning of the value of psychotherapy, with its emphasis on integrating an individual’s personality. The prison remains central to this mode of managing networks. This raises the question of whether the prison remains a disciplinary institution. Here I agree with Dumm’s insight that, by and large, it no longer serves as a site for the inculcation of discipline, if it ever did. Rather, it now “works” by herding large numbers of people who have been effectively severed from any meaningful contact with the labor force. Funds for education have been cut and addiction treatment remains spotty at best; in fact, the only “programs” that have been significantly increased in the last fifteen years have been low-wage contracts with large corporations who use the prisoners to take airplane reservations, to phone bank for solicitors or other menial labor.
This "a-disciplinary" site now functions as a container for those people political elites have declared to be irredeemable.

But the prison also anchors a set of other institutions that engage in what child welfare researcher Duncan Lindsey called "soft policing." Child welfare, TANF, parole, and the growing market for day laborers are all examples of this sort of soft policing institution. For people enmeshed in these institutions, prison is a reminder that the alternative to accepting the often harsh conditions of these institutions is to be deemed unmanageable and sent to prison. Dumm claims that the disciplinary apparatus that created individuals capable of self-management have been displaced and that discipline has become a scarce commodity available exclusively those elites who manage the institutions of contemporary society (Dumm 1996, pp.127-28). While I agree with his core insight, that discipline is now scarce and highly regulated, I disagree with his observation that it is only available to managing elites. It is precisely the opportunity to access some of the scarce discipline that gets many clients to buy into the regimens required by soft policing agencies. Child welfare agencies can offer psychotherapy, parenting classes, access to addiction treatment, and other services that are otherwise unavailable to the urban poor who constitute the bulk of their clientele.

Another feature of management society is the time limits that are placed on clients to complete services. The five-year time limit on TANF recipients as part of the welfare reform legislation passed by Congress and signed by President Clinton in 1996 is perhaps the best-known example. That same year legislation — called the Adoption and Safe Families Act — was passed to encourage adoptions in order to alleviate the nationwide glut of children in foster care. A crucial part of the bill was a provision that gave parents
eighteen months from the time their children were removed by the state to resolve the problems that caused the placement. If, after eighteen months, the child was not able to be returned to the parent, then the state could begin proceedings to terminate parental rights and start the adoption process. ASFA also provided bonuses to states that meet predetermined levels of adoptions to encourage them to place children more quickly, further increasing the pressure on the parents to comply with the demands of the child welfare system. The privatization of services and the increased use of community-based organizations to provide services that I mentioned earlier are also crucial to the operations of the management society.

The question of psychotherapy is a recurrent one in terms of the fieldwork for this dissertation because the OIG has engaged this issue a number of times. Although psychotherapy remains a common service to offer clients, it is fair to say that the OIG has promoted several refinements in its usage. Overall, the OIG has an orientation that is behavioral and task-centered. This has manifested itself in a number of ways: as a matter of assessment, it leads to the collection of data about past behaviors and, as a corollary, a skepticism about psychological assessments; as a matter of treatment, it leads to promoting concrete life skills; as a matter of case management, it leads to setting very specific goals and laying out clearly defined action steps to achieving these goals. All of this will be spelled out in some detail in the dissertation, what is important to note here is that this orientation does not refer back to an individual personality that can be adjusted but rather to non-personal factors.

This points to a theme that will be central to my argument, that the OIG is promoting a model of child welfare services that prioritize assessing and treating risk
factors. I will demonstrate that this brings it into frequent tension with DCFS, which retains a more individualistic orientation that tends to prioritize determining whether a caretaker is dangerous to a child. Robert Castel provides an analysis of this situation in his essay “From Dangerousness to Risk.” Castel contends that in a wide variety of clinical settings, from medicine to mental health and certainly including child welfare, the notion of the individual is being dissolved and replaced by the concept of risk factors. At the level of case management, this transformation results in the decline of the specialist as the point person in treatment while the importance of the administrator becomes central (Castel 1991, p.281). As he writes about the field of medicine, “The site of diagnostic synthesis is no longer that of a concrete relationship with a sick person, but a relationship constituted among the different expert assessments which make up a patient’s dossier. Already here there is the shift from presence to memory, from the gaze to the objective accumulation of facts” (ibid. p.282). What distinguishes dangerousness from risk? Dangerousness, for Castel, has two aspects. First, it is a “quality immanent to the subject.” Second, it is “a mere probability, a quantum of uncertainty” (ibid. p.283). In contrast, “A risk does not arise from the presence of [a] particular precise danger embodied in a concrete individual or group. It is the effect of a combination of abstract factors which render more or less probable the occurrence of undesirable modes of behavior” (ibid. p.287). Instead of tracking a dangerous individual, a set of risk factors are monitored. If a number of these factors are detected, an “automatic alert” is set off (ibid. p.287).

These leads us back to Rose’s insight about advanced liberal societies managing networks and not clients. In this context, networks are the supra-individual corollary to
the sub-individual risk factors (although some risk factors such as living in a poor
eighborhood are also supra-individual, they tend to become risk factors when they
manifest themselves into other risk factors like a criminal record). The casework-as-
administrator is the contact point where the network of potential services encounter the
bundle of risk factors that is the contemporary client in order to produce an individualized
network that the client can claim as her own.

Theorizing Risk

Castel’s argument about the prevalence in risk in re-ordering the management of social
relations is only the first point of entry into the thicket of current social theorizing about
risk. In this section I will review two theories that are particularly prevalent: Mary
Douglas’ cultural theory and Anthony Giddens’ account of reflexive modernity. The
purpose of this review is to ground the cultural analysis of risk and to provide a
framework for understanding how organizations come to understand risk and to devise
means of working with clients.

Douglas on Risk

Over the last twenty years, Mary Douglas has proposed a sweeping critique of modes of
risk analysis that assume the risk is an individual matter. She came to the question of risk
after writing numerous studies of taboo and cosmology among several indigenous
African peoples, most prominently *Purity and Danger* and *Natural Symbols*. Her aim in
these studies was to overcome traditional social scientific beliefs that held that the crucial
difference between modern industrial societies and non-Western indigenous societies had
to do with the scientific rationality of Western societies versus the "primitive" myth-making of tribal societies. In her essay "Risk and Blame" she charts the difficulties that she had in tying her emerging cultural theory together as long as the technocratic optimism of the early post-World War Two era held sway. But as challenges to this worldview developed in the 1960s, it became clear to her that these contested discourses were organized along the same lines as the discussions about taboo had been in the African societies she had studied. With the growing utilization of risk assessment, there was the sense that every misfortune in industrial societies could be attributed to some malfeasance, a tendency that she had observed in Africa. Risk assessment is the contemporary form of attributing blame.

These forms of attributing blame are not random. Douglas posits four "thought styles" that generate specific types of explanation for unfortunate events: hierarchist, enclavist, individualist, and isolate. Note that all of these are types of social formations. Douglas' main insight was that social structures are generative of specific forms of explanation. Why should this be so? Douglas suggests that this is because each social formation produces categories that serve to legitimate itself in the face of the constant uncertainties and ambiguities of the world. The categories that a social formation uses for explanatory purposes becomes the basis for a cosmological worldview.

This is perhaps best illustrated with an example. Consider, as I will have occasion to do later, the death of child. A society that is hierarchical will have a fixed moral order that emphasizes the obligations of each person to the social order, obligations that are determined by the rank of the person in the social order. In this situation, the death is likely to be attributed to actions that breach this moral order, the lifestyle of the parents
may come under scrutiny, for example, in the search to fix blame. Distributing blame this way protects the society and its moral order from criticism. In an enclavist society, where relationships are egalitarian, misfortune such as the death of child is attributed to outside forces, large corporations that pollute the air and water or corrupt and indifferent government bureaucracies that let people suffer needlessly. In an individualist society it is understood that there are risks in life and it is senseless to blame others for misfortunes, individuals are responsible for their own fates. In the case of the death of child, the parents are again likely to be blamed, but for not being strong individuals, not because they violated the dictates of a rigid moral code. In a society of isolates, death is something that is seen to happen in unpredictable ways far beyond the control of people or organizations. Death is sad but since there is nothing that can be done about it, there is no point in blaming anyone, either the parents, or the government, or industrial pollution. Actually, Douglas thinks that an isolate society would hardly deserve the term since it is hard to develop the sustaining institutions that a functioning societies needs, so she often refers to three forms of social organization with isolates considered more of a remainder category.

It is surely the case that Douglas’ conceptualization of social formations is overly universalistic. One aspect of her theory that needs more elaboration is the use of her scheme at various levels of analysis. As far as I can tell, her categories are meant to be used to apply to societies as a whole, organizations and institutions within a particular society, or to individuals. More explanation regarding the differential application of these categories to various levels of analysis would be helpful in determining the full
power of her ideas. But what is enormously useful about her theory is that it provides a way of linking social structures, modes of thought, and concepts of personhood.

Applying this to the concrete material at hand, DCFS and the OIG will be examined in relationship to her conceptualization of, respectively, hierarchical and enclavist social formations. Using these lens for looking at these institutions gives visibility to several patterns. For example, if one considers DCFS as a hierarchical organization that operates under a fixed moral code, then one would it expect it to focus on ensuring that people maintained their place, this includes their own workers doing their own jobs, clients doing what is expected of them, and the assumption that other branches of the child welfare system (judges, lawyers, doctors, and other specialists) perform their jobs. When some misfortune occurs, the first order of business is to see if the paperwork is in order and if procedures were followed. As we shall see later, when children in DCFS care did die, DCFS sought to blame other parts of the system, the poverty that their families lived in, the legal system, and others. If their own caseworkers were to blame, then they blamed the oppressively large caseloads or miscommunication. But all of these rationales protected the system: “the judges decided to return the child home to his parents,” “the psychiatrists failed to tell how severe the mother’s mental illness was,” “poverty is responsible for the death of many children,” “in general our caseworkers do a good job in the face of harsh obstacles.”

But there is a notion of personhood that accompanies this mode of thinking. One of the key arguments that I will make in this dissertation is that DCFS caseworkers take a highly circumscribed view of their jobs and their interactions with their clients. Consider the example of the caseworker going into a home. They have a specific allegation to
investigate about a specific person and that is what they will perform. Their interactions with the client are focused on determining if the client is dangerous for the child. The client is a person the caseworker can judge, asking themselves if they trust the parent. Accompanying this idea of personhood is a set of rights. The caseworkers that I had experience with were often reluctant to do a criminal background check on clients because they felt that infringed on the client’s right to be judged by their present status and not by past circumstances. The caseworkers were also reluctant to examine the family and friends of the client because the client deserves to be judged for who they are, not by the company they keep.

If we then look at the orientation of the OIG, we see an altogether different picture. The OIG is a much smaller organization, with approximately 40 employees (it originally had four when it was formed in 1993). Mary Douglas discounts scale in her book *How Institutions Think* in terms of determining the thought style of an institution, and the fact that the OIG has grown considerably without significantly changing its mode of thinking is some evidence of that proposition, but it also hard to imagine that if it had had 200 employees when it was created that it would have had the same organizational structure. This organizational structure is fairly egalitarian, with charismatic leadership provided by Denise Kane (Douglas observes that enclavist institutions often have charismatic leadership).

How does this affect how it defines problems and its mode of operation? First, the OIG has a much more pronounced tendency to identify risk as a pervasive feature in the lives of DCFS wards. This is demonstrated in their attitudes about parental substance abuse, the criminal backgrounds of the parents and extended family members, the poor
quality of housing and education, and the advanced age of caregivers, among other factors they have critically examined over the last nine years. This is partly because of the fact that it is an organization that investigates situations where something has gone wrong; that is to say that many, if not most of their operations are forensic in nature.

And, as Douglas argues, risk is a key idea for contemporary society because of its usefulness in forensic procedures (Douglas 1992, p.24). Second, the OIG is more likely to blame large systemic failures for overlooking or perpetuating these risk factors rather than local problems caused by an errant employee. These critiques then inspire large-scale proposal for systemic reform, some of which have become common practice (such as reviewing the credentials of new employees to check for fraud) and some of which have not been realized (for instance, reviewing the contracts with private agencies to see if they are structured to reward short-changing services to families). Third, the semi-egalitarian set of workplace relationships encourages the creation of small workgroups that are flexibly designed to the demands of specific projects. This facilitates the rapid diffusion of expertise on a project-by-project basis and it became a model for creating workgroups with child welfare personnel from other organizations in order to address specific problems.

*Giddens on Risk*

Unlike Mary Douglas who, while considering risk a key feature of contemporary society, argues that risk maps onto pre-existing cultural dynamics, Anthony Giddens (along with Ulrich Beck, a theorist with whom Giddens has some strong commonalities) claims that the emergence of risk as the central mode of interpreting the world has fundamentally re-
organized the dynamics of current social relations. For Giddens, the development of large-scale technology with its concomitant large-scale unintended consequences, the re-organization of gender relations, and the pervasive spread of choice into virtually all realms of personal life have displaced traditional structures in society with a need to "colonize the future." This colonization of the future necessitates a careful consideration of the various alternatives and their consequences, hence the centrality of risk in managing contemporary lives and society. Ulrich Beck uses the term "reflexive modernization" to capture the essence of the social processes by which alternative possibilities and unintended side effects are weighed and rationalized in the "post-traditional society."

One might well quibble with the idea that we live in a post-traditional society. Fifty year ago, people struggled to adapt to television, transportation advances that made experiencing many other places beyond one's own community, and the re-organization of international relations in the wake of World War Two. Fifty years prior to that, people were adapting to the car, the telephone, and the increasing dominance of large corporations based in rapidly expanding cities. The stability attributed to the past may be largely illusory. Similarly, one might argue, as Niklas Rose, that societies have always had reflexive institutions (Rose 1996, p. 41). Still, if Giddens overstates the differences between the past and the present, he is undeniably right that there has been a qualitative shift in recent years that have revised accepted notions of the self and its place in society.

He cites three defining elements of modernity: the separation of time and space which allows for the "articulation of social relations across wide spans of time-space"; the rise of "disembedding mechanisms" such as symbolic tokens (i.e. money) and expert
systems; and “institutional reflexivity” which allows for the “regularized use of knowledge about circumstances of social life as a constitutive element in its organization and transformation” (Giddens 1991, p.20). All three aspects work to decontextualize actors by allowing for action at a distance, replacing local practices and beliefs with expert knowledge, and by rationalizing governance by using social scientific data. These driving engines of modernity have led to a reorganization at both the global and personal levels. At the global level, Giddens argues that the “excavation of tradition” has advanced to the point where there is a highly evolved capacity to act from a distance, whether this involves financial, political or cultural transactions. At the personal level, the same undermining of tradition has liberated human beings from the assigned status roles – whether gender, class, race, or age, etc. - that rigidly determined the life course for most people. What to eat, who to marry, what kind of work to pursue – these are now questions for everyone to answer; in modern industrialized societies, they must be answered since even the attempt not to answer them constitutes a statement.

This development has very positive and negative consequences for Giddens. On the one hand, the space for individual autonomy has grown and has allowed women, gays and lesbians, and other people long burdened with oppressive and ill-fitting strictures to lead more enjoyable lives. On the other hand, without normative guidelines the individual can become overwhelmed by the need to negotiate every aspect of their existence and can fall prey to compulsive behavior. For Giddens, compulsivity is inherent in modern society; it is the point where a person’s identity, in the form of a coherent personal biography, confronts its failure to live up to this narrative. Compulsive behavior is what Giddens calls “frozen autonomy.”
What is most useful about Giddens’ theorizing from the point of view of this ethnographic project is the weight given to how abstract systems inform personal life. For instance, I will be discussing how child welfare professionals compel the client to generate information about themselves and their families and how this information is then used to structure services to the client. The best example is the use of the genogram, which is a form that seeks to find out what a client’s actual “social support network” looks like. A genogram has a circle in the center, which represents the client, and this circle is surrounded by various geometric shapes, which represent family members, friends, church, school, or other sources of informal or formal support that the client may have. Having formalized the client’s relationships in this way, the child welfare professional then tries to develop a service plan that accesses the resources listed on the genogram. Not only does the genogram try to rationalize the informal relationships of the client, it is also prescriptive in the sense that it prioritizes certain types of relationships and can often be used to prod a client to connect with a relative who is no longer close to him or her, or a church, or a twelve-step meeting.

Another theme in Giddens’ work that is helpful is his insistence on the countervailing forces at work in modernity. Descriptions of modernity often highlight its corrosive effects on communities and traditional ways of life, leaving isolated groups of dispirited individuals. These accounts capture much of the current reality but they neglect new forms of sociality that not only mitigate these eviscerating trends but present opportunities for novel interactions. The rise of non-governmental organizations that address global inequities by making connections between affluent citizens in advanced industrial societies and the poor and aggrieved populations in underdeveloped nations is
an example of this counterveiling trend. The routine trust that is implicitly involved in transnational commercial interactions is another (the problematization of certain specific types of interactions, e.g. the dispute between the United States and European nations regarding genetically-modified organisms and food safety only underline the degree of trust implicit in the vast majority of transactions).

In terms of the present research project, this means that ethnographic data are not only to be scoured looking for the breakdown of clients and their circumstances into impersonal risk factors and for the rise of a regulatory apparatus determined to keep displaced populations under strict state surveillance, but that the data must be examined for new ways of problematizing contemporary society and generating solutions for these problems. It is a central observation of this dissertation that the professional discourse about ethics in child welfare is a primary mode by which the OIG is posing questions and producing answers. One of the distinctive moves made by the OIG was to take the issues that presented themselves in their investigations and research – questions that presented themselves in terms of organizational crises, lack of resources, problems of information – and to re-work many of them into explicitly ethical questions. Consider an example that will appear in Chapter Four, the legal doctrine of “in loco parentis.” This doctrine was developed in the context of schools and their management of students. Yet the OIG Ethics Panel began to apply this doctrine to the relationship between DCFS and their wards. That the state acts in loco parentis when they take custody of a child had already been well established. But it had been established primarily in the context of allowing the state to authorize medical treatment and had not expanded much beyond this application. However, over the last several years the OIG Ethics Panel has considered a
number of cases that have made the doctrine of in loco parentis a guiding figure for how
the child welfare professional should relate to the children who are wards of the state. On
the one hand, information technologies that prioritize impersonal risk factors. On the
other hand, a perspective on the wards that seeks to take on the comprehensive
responsibilities of the parent as the measure of professional success. To grasp the
internal dynamics of these two trends as mutually interdependent and reinforcing is the
heart of this research project.

Child Abuse and Professional Ethics

The methodological questions in ethnographically portraying ethics are difficult and
subtle. There are several common mistakes that immediately present themselves. The
first is to assume that ethics is merely the application of abstract and normative principles
to concrete situations. This leads to a strong analytical bias toward the consideration of
privileged texts by privileged actors and away from the social relations in which any
ethical deliberation is necessarily embedded. The second mistake is the inverse of the
first, that ethics is merely a surface phenomenon that reflects deeper processes. Marxist
analyses of philosophical systems as justifications for the core reality of class relations is
the classic example of this. The task then is to situate ethical reflection in social relations
but to avoid making them mere epiphenomena of these relations. Ethical reflection needs
to be seen as capable of introducing real difference into its social context but this capacity
is not derived from some presupposed normative position. Ethics assumes its importance
as a social phenomenon because of its capacity to mediate between semi-autonomous
social processes that impose divergent demands upon social actors. Ethics is “the
considered form that freedom takes” and refers to a space for human action where the need to make choices presents itself. Furthermore, ethics is not merely a set of interdictions that are to be obeyed but a means of problematizing one’s life as a way of constituting it. As Foucault writes, “For a rule of conduct is one thing; the conduct that may be measured by this rule is another. But another thing still is the manner in which one ought to ‘conduct oneself’ – that is, the manner in which one ought to form oneself as an ethical subject acting in reference to the prescriptive elements that make up the code” (Foucault 1990, p.26).

How then does one construct an ethnographic account of ethics? Here I return to Foucault and the work on ethics that consumed the final years of his life. He proposed four categories to apply to ethics: ethical substance; mode of subjectivation; ethical work; and telos. For Foucault, the ethical substance is “the way that the individual has to constitute this or that part of himself as the prime material of his moral conduct” (ibid). There is great variability in the content of ethical substances. Foucault shows how sexuality has been ethically problematized by various societies throughout Western history. Environmentalists make the relationship of the self to the Earth and its ecosystems their core ethical substance. I will demonstrate that OIG makes the relationship of the self as a child welfare professional to the client as the ethical substance, what I will call critical empathy. The idea of professionalism is at the core of their attempt to devise a coherent set of ethics. This in itself is nothing new - professions have been devising formal ethical strictures for over a century – but I will describe in some detail how this project of professionalism posed some unique questions, most
importantly how to define a client in a situation where there are several people (caregivers, children, family members) which potentially divergent interests.

The second category Foucault uses for analyzing ethics is the mode of subjectivation, "the way in which the individual establishes his relation to the rule and recognizes himself as obliged to put it into practice" (ibid. p.27). The mode of subjectivation refers to the degree of formality of the processes that regulate the subject’s relationship to the rule, the intensity of these processes, and the extent that this relationship is a totalizing one.

Closely related to the mode of subjectivation is Foucault’s third category, ethical work, namely those things that one actually does to actualize the ethical ideals. The ethical work performed by the OIG and advocated for DCFS as a whole is the identification of the best interests of the client(s). This phrase is, of course, a variation of the expression that was widely used in the 1990s, “the best interests of the child.” While this aspect is central, I will discuss in Chapter Five the difficulties in determining exactly who is the client in the professional-client relationship, particularly since most of the caseworker’s interactions is with a parent or other adult caregiver to the child.

Finally, there is the telos that all of this ethical work is aimed at achieving, as Foucault notes, “an action is not only moral in itself, in its singularity; it is also moral in its circumstantial integration and by virtue of the place it occupies in a pattern of conduct” (Foucault 1990, pp.27-28). The contemporary expression for the telos within the child welfare profession is the phrase “in the best interests of the child.” Like many broad and abstract ideals, this concept is the site of contentious debates within the child welfare profession between those who claim that the interests of the child are usually the
interests of the family (and thus focus their efforts of family preservation) and those who claim that children are too often kept in abusive homes out of deference to family ties (and thus favor expedited termination of parental rights in many cases). But provisionally it can be said that desired end for almost all cases in the child welfare system is the reconstitution of family relationships, even if this means that the child is placed with a relative other than the parent.

The ethics project of the OIG is more than just the formalization of procedures to follow and strictures to obey. Its importance is in the way that it binds the child welfare profession to an ethos and it finds its meaning in constituting the child welfare as a professional, that is, as an ethical subject, in an emerging institutional matrix that characterizes the welfare state in the contemporary United States. The conclusion will bring these themes together and discuss the implications of the OIG’s project in a wider context.
Chapter Two
CRISIS, REFORM, AND THE DEVELOPMENT OF THE CHILD WELFARE PROFESSION IN ILLINOIS

The history of welfare, in Illinois as with the United States more generally, is an evolving set of problematizations embedded among several enduring values. Briefly stated, these problematizations were: prior to 1820, reconciling the ideals of political and personal freedom with the harsh realities of economic neediness and dependency; in the mid-nineteenth century, integrating immigrants into a rapidly growing society; at the turn of the twentieth century, developing an urban society; in the mid-twentieth century, handling the dislocations caused by economic depression and Second World War; and from the 1960s on, adjusting to the emergence of a neo-liberal global economy. All of these issues directly impacted the relationship of the state to children in need. Prior to the mid-nineteenth century it would inaccurate to refer to child welfare per se; children were served by the same general institutions that assisted adults in need, primarily the poorhouse (also known as the almshouse). The development of the network of orphanages, which began in earnest in the mid-nineteenth century, represented the first attempt to serve children as children. The turn of the twentieth century saw the creation of juvenile courts to process “delinquents” and the development of the social work profession that made the welfare of children one of its central foci. In the mid-twentieth century, child welfare professionals began to address emotional and behavioral problems
emphasis on child abuse and neglect and the establishment of a large system of substitute care. These issues have been framed by a set of values that have remained surprisingly constant: the autonomy of the individual and the family; the limited role of the state; and the preference for community solutions.

In this chapter I will provide a thumbnail sketch of this history as it pertains to the child welfare system in Illinois, culminating in a set of snapshots about DCFS and the political and social environment in which it worked in the early 1990s, the years immediately preceding the creation of the OIG. One initiative that I will describe in some detail is the Illinois Family First project which began in 1989 and which slowly withered away in the mid-1990s leaving vestigial traces that remain even today. I will also discuss the increased legal liability that child welfare workers were exposed to, in large part because of the effective use of class action lawsuits by advocacy groups. These lawsuits resulted in a number of consent decrees that committed DCFS to a number of extensive reforms.

**Historical Overview**

In the introduction to her book *Poor Relations: The Children of the State in Illinois, 1818-1990* Joan Gittens reviews the many fluctuations in the enduring debates about how the state should intervene in the lives of the children in need. In the history she outlines there are parsimonious state legislators and crusading reformers, committed social work professionals and indifferent patronage hacks, and a public that lurches from complaining about high taxes to outrage over the appalling condition in which children who are wards of the state are sometimes forced to live. The interactions of these characters have tended
to produce cyclical patterns of sweeping reforms and apathy that extends back to the eighteenth century when Illinois was still a territory.

The legal system of the United States did adopt a tenet of English civil law, the doctrine of *parens patriae.* This concept, which translated means “parent of the fatherland,” held that the sovereign has the authority to assume responsibility for each individual who is unable to care for him- or herself. This doctrine meant that the state could intervene on behalf of the mentally ill and children, which in practice meant orphans. In the 1790s Illinois created an “orphans court” to process the estates of children whose parents had died (Gittens 1994, p.15). Those children whose deceased parents had no estate were left to informal networks for support or were apprenticed out by the “overseer of the poor” (ibid, p. 16). In the years following Illinois’ statehood, apprenticeship remained a common fate for orphans and one that had very few safeguards.

The Apprenticeship Law of 1826 offered some minimal standards that masters had to meet such as giving apprentices a basic education, two outfits of decent clothes, and a Bible (ibid). More importantly for my purpose here, this law expanded the authority of the overseer of the poor so that it included children whose caregivers were deemed to be inadequate, whether through alcohol, sheer poverty, or “bad character” (ibid.). This marked Illinois’ formal entry into the enterprise of evaluating parenting in order to safeguard the well-being of children. Still, it appears to be the case that children whose parents were paupers were more likely to end up in almshouses along with their parents.
But by mid-century, efforts to improve the lot of poor children were driven by the dynamics of the emergence of Chicago as a large city. Gittens cites census data that show the population of Chicago grew from 4,470 people in 1840 to 298,977 in 1870, and 1,698,575 in 1900 (about seventy-seven new residents a day). Many of these residents were immigrants and most of them were poor. The rapid growth overwhelmed the infrastructure of the new city leading to overcrowding and unsanitary conditions that helped to spawn waves of disease that claimed the lives of adults and children alike. By the 1850s, there was public concern about “street children” and the havoc they were creating. There was a concerted effort to develop orphanages and half-orphanages (for children who lost one parent). Most of these institutions were run by such religious organizations as Catholic Charities and Lutheran Social Services. These sectarian agencies typically were designed to serve families and children of the same religion and were run by a volunteer staff of women from affluent families (Cmiel 1995, pp.40-41).

In the 1850s, the almshouses that housed many poor women and children also came under closer inspection for their “very offensive” conditions (Gittens, p. 21). Reformers began to object that almshouses were inappropriate places for children, not only because of the unsanitary conditions but also because they were places where criminals and criminal activity, like prostitution, flourished. Gittens claims that over the next half-century, the conditions of almshouses gradually improved but reformers continued to object to the presence of children in them (Gittens, p.21).

The only two public institutions that directly cared for children in need in Illinois in the nineteenth century were the Soldiers’ Orphans Home and the Chicago Reform School. The Chicago Reform School was created in 1855 as a response to the growing
population of “delinquent” boys. The young men in the school were referred by such public officials as Poor Law officers and policemen. This referral was often made before the child had been convicted of an infraction in an effort to prevent further delinquency. The Chicago Reform School had a carefully worked out schedule of educational lessons, workshops, devotional exercises, meals, and leisure and was considered by reformers to be a model institution (Gittens, pp.92-3). However, the father of one of the boys sued for his release on the grounds that his son had not been convicted of a crime and therefore the state had no reason to incarcerate him. This case went all the way to the Supreme Court which, in 1870, ruled in favor of the boy’s family. As a result, the child was immediately released. This decision, coupled with the great Chicago fire of 1871, which damaged the facility, led to the closing of the school and the end of Illinois’ first attempt at preventing delinquency. Subsequent laws were written with the Supreme Court’s decision in mind and by the 1880s, boarding schools returned as a popular option for dealing with delinquents (Gittens, pp.103-4).

The Illinois Soldiers’ Orphans home was founded in 1865 in Normal in the wake of the Civil War. Though it was originally designed to serve only those children whose father was a deceased Civil War veteran from Illinois although in the 1870s, its mission was extended to cover the children of all Civil War veterans. In the nineteenth century the Soldiers’ Orphans Home served mostly half-orphans whose mothers were unable to feed them in the wake of their father’s death. The Home was a constant target for criticism by reformers who complained about the care provided by a staff that was hired more for their political connections than for any concern or knowledge about children. In spite of the steady stream of complaints and the occasional scandal, the Soldiers’ Orphans
Home continued until it was incorporated into the enlarged child welfare system that was developed in the wake of the New Deal.

In the 1890s a new figure appeared in the child welfare field: the professional social worker. Most famously exemplified by Jane Addams, these largely female professionals were increasingly trained in administrative matters and psychology. The upper middle-class women who had often served as front-line staff in previous decades were now increasingly relegated to the Board of Directors. The main institutions in child welfare continued to be orphanages but industrial schools and reformatories, which increasingly functioned as forms of incarceration for youth who were either delinquent or dependent. A particularly egregious example was the Geneva Reformatory, which incarcerated pregnant African American girls solely because there was no maternity home for them (Golden 1997, p.132).

With the growing valorization of children and the passage of child labor laws, there was a perceived need for institutions that separated the legal processes of juveniles from those of adults, as well as for more institutions to house them (Golden, p.131). This resulted in the creation of the Cook County Juvenile Court in 1899, which was the first juvenile court in the nation. The Court has jurisdiction over both delinquent and dependent children. Working in concert with the Juvenile Court was the newly created Department of Visitation of Children, which was responsible for keeping in contact with children placed by the Court in foster homes and institutions (ibid., p.132). In 1917, the Department was folded into a new statewide agency, the Department of Public Welfare (Gittens, pp.48-49). A subsequent public scandal involving “baby farms” brought to light the often dreadful conditions of many boarding homes and led to the Department of
Visitation assuming the responsibility for licensing and inspecting all boarding homes in 1919. In the early 1920s, it was renamed the Child Welfare Division and it retained the mandate for inspection and licensing until DCFS was created in the 1960s. However, the state’s involvement in child welfare remained weak and the Illinois child welfare system continued to be organized at the county level with a strong guiding hand provided by private agencies.

The Creation of DCFS

As noted above, the child welfare system in the mid-twentieth century was fragmented: a small public system that operated at the county level and a set of semi-coordinated private agencies. In addition, many services were provided by state mental health agencies, welfare programs, and philanthropic organizations. This proved to be fertile ground for receiving Kempe’s observations about battered children and the increasingly vocal claims of a small but well-coordinated group of child advocates. Furthermore, the U. S. Congress had changed the regulations regarding Aid For Dependent Children program (AFDC is the federal program of cash grants that was often conflated in the public’s mind with “welfare” prior to its termination in 1996). In 1961, Congress allowed AFDC payments to be used for children in the foster care system (Cmiel1995, p. 153). This injected a substantial set of federal monies into the child welfare system, which served to underscore how fragmented the system was. In 1963, the Illinois General Assembly voted to create the Illinois Department of Children and Family Services to address the growing concerns about child abuse and the fragmented state of the current system. Gittens notes that assigning DCFS’ responsibilities was a carefully
negotiated process. DCFS inherited the task of licensing private agencies from previous state agencies and was given expanded authority to oversee their operations. Private agencies retained the jobs that they traditionally performed, especially running group homes, adoption, and other direct services. However, there were many gaps in the services provided by private agencies (most notably, underserving African American children in poor neighborhoods) and DCFS stepped in to provide these services. DCFS’ responsibilities increased even more in when the Illinois General Assembly passed the Child Abuse Reporting of 1965. This law established the Hotline that allowed people to report allegations of abuse or neglect and it mandated that doctors do so. With this law, DCFS also became responsible for investigating families to determine whether these reports were founded or unfounded. Even with the diverse set of organizations with overlapping jurisdictions, some observers refer to the 1960s as a “Golden Age” for DCFS (Gittens, p.62). The number of children in state care hovered around five thousand for most of the 1960s and then began to increase gradually in the 1970s.

Over the course of the 1970s and 1980s, there was mounting criticism of DCFS, mostly within the child advocacy community. One particularly stinging report was issued in 1979 by the Better Government Association. By 1979, DCFS had already had ten Directors (including two Acting Directors) (BGA 1979, p.ii). The BGA documented a number of problems including the failure to find adoptive homes for youth who had been cleared for adoption, failure to pay foster parents in a timely fashion, the unwillingness to terminate employment for incompetent workers, inefficient data processing of crucial paperwork, high rates of staff turnover which often resulted in fragmented service provision, and an organizational instability caused by frequent
turnover of leadership. Furthermore, the BGA found that the training of caseworkers was essentially non-existent. New DCFS workers were given a two-week orientation that outlined some of the operations of the Department. The report notes that “the orientation did not provide for a clear understanding of what services a DCFS worker can provide or how services are to be provided. And information on what other relevant agencies such as the Department of Public Aid can provide in the way of services to families was lacking. All the of the training they received was ‘on the job.'” (ibid., p.12).

But the report was most damning in its criticism of DCFS’ inability to do permanency planning. The BGA claimed that “workers were extraordinarily ill-equipped to do permanent planning for families and children. Moreover, during the on-the-job training there was no expectation that permanent planning was important for caseworkers [to do]” (ibid., p.12). There are two aspects of this problem that merit our attention here. The first is that DCFS had divided the investigative function from the provision of services. When an allegation (then and now) is made, DCFS sends out a worker from Child Protective Services to investigate, the CPS worker makes a determination that the allegation is founded or unfounded (that is, either substantiated or unsubstantiated), and, if founded, refers the case to the local office for further services. If the decision to remove a child is made, the State’s Attorney’s Office has to file a petition in court to legally sanction such an action (in practice, the courts rarely overrule the CPS decision). This division between the child protection function and the service provision function has long been a source of criticism by child advocates. The BGA argued that this division allowed “families to fall through the cracks and children to drift in foster care” because of the disconnection between the two divisions (ibid., p.12). Others advocates have claimed
that this division of labor puts child protective workers in a situation to perform a task that would be better performed by trained law enforcement professionals (Lindsay 1994, p.79). More importantly, critics claim that combining the investigative function with the service provision function creates suspicion among the clients that the main task of DCFS is surveillance and undermines the caseworker’s ability to provide services (Roberts 2002, p.274-275). These are complaints that many DCFS workers have even today. At one training session sponsored by the OIG in the late 1990’s, a senior administrator for DCFS in Cook County stated that DCFS considered itself a provider of services for children and their families although they could not abandon the investigatory role because it provided important protection for children at risk.

The second aspect of note is the concern with “foster care drift,” which refers to the frequent languishing of state wards in long term foster care with no plans to either return them to their biological families. Throughout the 1970s, child welfare advocates pressed for legislative action to address this problem. At the end of the Carter Administration, these advocates succeeded in passing the Adoption Assistance and Child Welfare Act of 1980 (better known as Public Law 96-272). The central provision of this law was a requirement that all state child welfare agencies have plans for a permanent placement for all of their wards and to hold hearings every six months to update these plans and present them to a juvenile court judge for approval. Foster care drift was thought to be a big reason for the massive increase in the number of children in foster care both in Illinois and nationally. In fiscal year 1965 there were 7,399 children in substitute care in Illinois: 5,131 in foster care, 585 in relative foster care, and 1,683 in institutions and group homes (Goerge and Smith 1990, p.2). In FY 1980 this number had
almost doubled to 14,389: 8,643 in foster care, 3,027 in relative foster care, and 2,719 in institutions and group homes. As Barbara Nelson noted, Illinois was the only state in the nation that allocated additional funds for their child welfare system when it passed its first child abuse laws in the mid-1960s (Nelson, p. 80). Even so, an increase of this magnitude had not been expected when DCFS was created.

Another process that is not mentioned in the BGA but which, in retrospect, seems to be a crucial variable in understanding the problems faced by DCFS in the twenty years between the early 1970s and the early 1990s was the deprofessionalization of the public system. In the 1960s the caseworkers and supervisors who worked for DCFS and for many of the private agencies had a strong sense of themselves as professional social workers. The supervisors were required to have Master of Social Work degrees from an accredited school and the caseworkers were encouraged to pursue further educational opportunities. These requirements were revised in the early 1970s under the initiative of then-Director Jerome Miller. Miller’s emphasis was on deinstitutionalization and getting wards placed in community-based settings. Miller’s effort to deinstitutionalize the child welfare system was a logical progression of the ideals of the Great Society programs that sought to place power in the hands of previously disenfranchised groups as well as related efforts in the mental health field in the late 1960s. The need for professional credentials was minimized and a wave of caseworkers were hired without the formal credentials of their predecessors. One example of this was that Miller encouraged clergy to become caseworkers. Furthermore, a set of new grassroots community-based private organizations were created to provide care for youth. These agencies tended to have more relaxed educational requirements for their workers. Some of the older, more
established private agencies sought to keep the pretense of high standards but even here there was a trend toward less-credentialed caseworkers. Although the period of active deinstitutionalization was relatively brief – Miller served as Director from February 1973 until August 1974 – the effects of this effort were felt for a long time. Many of the grassroots agencies exist even now; more importantly, many of the workers hired by DCFS were grandfathered into the system and because of seniority rules and many of them became supervisors. I will document in later chapters how re-professionalization became a central theme for reformers in the 1990s.

*The Rise of Family Preservation*

Some commentators have claimed that child welfare in America is caught between two values that often conflict: family preservation and “the best interests of the child” (Schuerman 1996; Lindsey 1994; Waldfogel 1998). While both values have co-existed since at least the 1870s, they have each dominated alternating historical periods. In the 1870s and 1880s the Reverend Charles Loring Brace and his efforts to place poor urban children in small farms throughout the Midwest was the most prominent attempt at “child-saving.” Brace believed that the urban conditions combined with poverty were a breeding ground for immorality and that life with industrious farmers would allow children to become honest men and women. While many of these children were orphans, Brace and his colleagues also broke up thousands of families, becoming a quasi-legal agency with considerable authority over poor families in New York City. Such an approach produced vehement criticism, both from people appalled at the cavalier treatment of poor families and from the small towns in the Midwest that felt like they
were a dumping ground for the problems of big cities. These criticisms eventually led to the phasing out of this effort in the 1920s.

As Vivian Zelisker has cogently argued, the period between 1870 and 1910 saw a significant social re-evaluation of the worth of children. Children, according to the middle-class reformers of the time, were “emotionally priceless” and should not be valued for their capacity to provide income and labor for the family. Child labor laws were passed, compulsory education became the norm (at least through eighth grade), and chores became the nominal labor contribution of children in most families. This re-evaluation of children was codified into child welfare policy by the first White House Conference on Children in 1909. This conference is seen by contemporary child welfare scholars and advocates as a watershed event that heralded greater federal involvement in the care and protection of vulnerable children. Although little of concrete value was accomplished by the conference it did provide the momentum that led to the creation of the Children’s Bureau, a federal agency that began collecting statistics on child well-being throughout the country and advocating for adequate children’s programs. Perhaps equally important, the Conference proclaimed that the preservation of families was the best way of ensuring the well-being of children. As Michael Katz has noted, this was a remarkable sea change for advocates who only twenty years before were happily sending children halfway across the country to live with complete strangers looking for cheap labor. He further argues that an important corollary of this doctrine of family preservation was that the government needed to support poor families where the risks to children’s well-being was the greatest. And in fact, the next sixty years witnessed the establishment of a formal welfare system, most clearly demonstrated by the creation of
Aid to Dependent Children in the mid-1930s, that was largely justified by the need to buttress the economic situation of poor families, especially those where there was no father.

The history of the welfare system in the United States in the twentieth century is fascinating and complicated. For my purposes here, it is sufficient to note that family preservation was the dominant value for close to sixty years. The most important shift in the child welfare profession was the rapid decline in the number of orphans due to medical advances in treating infectious diseases. According to Duncan Lindsey there were 38 million children in the United States in 1920 and 750,000 orphans. In 1962, the number of children had increased to 66 million but there were only 2,000 orphans (Lindsey 1994, 27). In spite of the steep decline in the number of orphans, the number of children in foster care jumped from 73,000 in 1923 to 177,000 in 1962 (ibid.). In the period after World War II, neglect became the single largest reason for a child to be placed in foster care. It should be noted that the foster care system was still almost exclusively run by private agencies who acquired many of their cases through a mix of informal means and an uncoordinated set of government agencies.

With the increased public awareness of child abuse in the 1960s every state passed laws creating state agencies (or, in several states, reinforcing county agencies) and mandating that doctors report cases where they suspect abuse; the number of foster children began to significantly increase. At this time the child welfare system again began to seek the removal of children from parents suspected of abuse as a primary strategy to promote the well-being of children. As states responded to Kempe and other activists in addressing “the battered child syndrome” there was little sense that they were
confronting a large social problem. Barbara Nelson observes that one of the positive factors in persuading legislators to fight child abuse was the belief that this could be done with a minimal amount of money and resources (Nelson, p.76). However, the number of children in substitute care rose throughout the late 1960s and early 1970s, passing 250,000 and peaking at 302,000 in 1980. In the early 1970s, numerous programs were devised by clinicians, researchers, and advocates who were concerned that too many children were entering substitute care unnecessarily. Family preservation re-emerged not just as a doctrine but as a full-fledged philosophy and a set of techniques (Berry, p.71). The most prominent of these pilot projects was Homebuilders™, which was developed by the Behavioral Science Institute in Tacoma, Washington. The core idea of this program is that caseworkers would work with families very intensively (often twenty hours a week or more) for a limited period of time (usually six weeks) and then close the case. Homebuilders places a high priority on working with the families as “colleagues,” letting the family determine the main problems to be addressed, and provides concrete services (such as housing assistance and food).

As demonstration projects fleshed out the details of what family preservation services entailed, the important theoretical justification came from psychologists. In 1973, Joseph Goldstein, Anna Freud, and Albert Solnit published their influential book Beyond the Best Interests of Children (Goldstein, Freud, and Solnit 1973). At the heart of their theory is the notion of the “psychological parent.” Building on previous work in attachment theory, they argued that children who did not have a strong attachment with a primary caregiver were much more likely to have psychological deficits and to have difficulties as adults. In their view, the caregiver did not have to be a biological parent but
it did have to be someone who filled the same function, hence the phrase psychological parent. Goldstein, Freud, and Solnit drew out the implications of this finding for child welfare. They strongly argued that the state should be nonintrusive with regards to families, intervening only in the most serious circumstances including the death or disappearance of the parent or serious bodily injury. Sexual abuse is a less certain ground for removal of a child from home if it does not result in physical injury, even if it causes suffering, because “we do not know enough to be sure that state intervention can provide something less detrimental” (GFS 1979, p. 122). They explicitly reject emotional harm as a cause for state intervention because the term is poorly defined and diagnosis is difficult.

In addition to the notion of the psychological parent — and closely linked to it — are the concepts of the continuity of relationships, referring to the importance of a stable relationship with a primary caregiver, and the child’s sense of time, which refers to the patterns of childhood development that do not wait for adult caregivers to become ready to parent. The concept of the child’s sense of time was a primary justification for the sharp reduction in the amount of time that it takes to terminate the rights of a parent in the Adoption and Safe Families Act of 1996, the most important piece of federal child welfare legislation of the 1990s. All of these ideas continue to have great currency in contemporary debates in the field although in some perhaps unexpected ways. For instance, the principle of the continuity of relationships has provided support for the greater reliance on relatives as substitute caregivers since they usually already have a strong positive relationship with the child.
With a set of highly developed practice techniques and a coherent philosophy, family preservation became the hottest trend in child welfare over the course of the late 1970s and the 1980s. Almost every state in the nation developed a family preservation project, although such projects usually remained small in proportion to the total child welfare population. In spite of the rapid adoption of some of the practices and concepts of family preservation, there remained some skeptics who felt too many children were being left in high-risk homes. Illinois became a central battleground in the pitched battle between family preservation and its critics during the early 1990s.

*Illinois Family First and the Battle over Family Preservation*

The passage of P.L. 96-272 was widely seen to have three main effects on child welfare in the 1980s. First, as noted above, it promoted the regular, formal review of all child welfare cases in every state at six-month intervals. These hearings, known as administrative case reviews (universally known as ACRs), were supposed to examine the process of the case toward permanency for the child and to adjust the plans as needed. Second, PL 96-272 provided federal adoption subsidies to states in order to encourage them to increase the number of adoptions. Third, the law referred to "reasonable efforts" to keep families together rather than bringing the child into substitute care. This language was vague and invited various interpretations but it was widely — and correctly— viewed as a federal endorsement of the principles of the family preservation movement. PL- 96-272 also created fiscal incentives to reduce the amount of time that children spend in foster care in the form of caps on federal assistance to states for substitute care. However, the Reagan administration was lax about enforcing these caps
during the 1980s and they did not have a significant effect on the child welfare policy of the states (Wexler, p.219).

The law seemed to induce some changes in the child welfare policy of the states for a few years in the 1980s. The number of children in foster care dropped from a high of 302,000 in 1980 to a low of 262,000 in 1982 (Waldfogel 1998, p. 70). There was a mild increase over the next four years (to 280,000) that indicated that there was still some effect of the legislation even if it was diminishing. Some family preservation advocates blame the Reagan administration for failing to follow through on the spending caps for foster care, which they believe would have encouraged states to reduce the number of children in the system even further (Wexler, P.219).

In the late 1980s Illinois moved to develop a family preservation program. In 1987, the Illinois General Assembly passed the Illinois Family Preservation Act that authorized and funded the Illinois Family First Initiative. This Initiative consisted of two separate programs: the Illinois Family Preservation Program and the Illinois Family Reunification Program. Because the Family Preservation Program was much larger and more significant in redirecting the efforts of the child welfare system, I will confine myself to discussing it.\footnote{In the interest of full disclosure, I should say that I worked for the Chapin Hall Center for Children in 1992-93 on the evaluation of the Family Reunification Program.} DCFS, then headed by Gordon Johnson, decided to let private agencies handle this program and sent out a Request for Proposals in the summer of 1988. The model for family preservation services was largely derived from the one developed and implemented by Maryland in the mid-1980s but it was partly based on an early demonstration project in Chicago. The private agencies also had some leeway for devising family preservation services that fit their specific strengths and capacities. In
accordance with the principles of the family preservation movement the RFP stressed that agencies were expected to have a family-centered model that built upon family strengths. Emphasis was placed upon increasing the family’s access to services that respond to their immediate and long-term problems by providing caseworkers who would be available twenty-four hours a day. The services were to begin within twenty-four hours of referral and were designed to be as intensive as necessary. The services were to be limited to three months, which is longer than the Homebuilders model recommends, although ultimately many cases remained open longer.

One feature of the Illinois Family Preservation Program that ultimately had an enduring impact on the family preservation movement was that the General Assembly built into the legislation a requirement that the program should be evaluated using an experimental model that had a randomized control group. This would prove to be the most rigorous evaluation of any family preservation program and would significantly revise the debate over family preservation, although in ways that continue to be controversial, as I will discuss later.

By the autumn, they had received bids from a large number from private agencies and the first cases were assigned in December 1988. Over the next four years, the Family Preservation Program served over 6,500 families through 60 different sub-contractors (Schuerman et al p.54). The goal of the legislation that created the Illinois Family First Program was to have family preservation services “available to virtually all families in which an allegation of abuse or neglect has been indicated” by January 1, 1993 (Schuerman et al 1992, p. 8). Instead the winter of 1993 found the IFPP embroiled in a series of heated controversies that led to a shift in emphasis away from family
preservation. There were several factors that were responsible for the changing fortunes of family preservation. First, by 1991 the preliminary results of the Chapin Hall evaluation were starting to show that the IFPP did not have a significant effect in reducing the number of placements (interview with John Schuerman). Second, there were the deaths of six children who had been kept at home through the IFPP. This drew the attention of the Chicago media, including nationally known authors Bob Greene and Mike Royko. Third, DCFS was receiving criticism- and lawsuits -- from Patrick T. Murphy, the Cook County Public Guardian.

The Public Guardian is a public official appointed by the Presiding Judge of the Cook County Courts and the primary responsibility of this position is to represent the interests of older persons who can no longer manage their own affairs, and of children. Murphy has held this position since the late 1970s (in fact, he largely created the job) and has used his office to sue a wide variety of state agencies for failure to serve his clients. In the 1970s he wrote a book about child welfare that advocated that states develop family preservation programs because substitute care was unable to provide adequate services to children. However, in the intervening years, largely it seems because of the rise of crack cocaine as the drug of choice for the urban poor, he reconsidered his position and became a harsh and vocal critic of family preservation. Murphy is a brilliant self-promoter and affects the persona of a “regular blue-collar guy” who uses common sense to rise above the ideological blinders of conservatives and liberals alike as well as the stupidities of state bureaucrats. Needless to say, he has acquired many detractors.

In his 1997 book *Wasted*, in a chapter tellingly called “Preserving Families, Killing Children,” Murphy wrote, “Them rationale behind these programs is that most
abusive parents are as much a victim as their child – though not by much larger and stronger person. The parents are victimized by poverty, racism, unemployment, discrimination, domestic violence, sexism, and half a dozen other isms” (Murphy 1997, p.62). And later in the chapter, Murphy returns to the same theme: “The child welfare system has failed children because it refuses to distinguish between parents who are ill-equipped to raise their children adequately without help, and parents who are too immature or thuggish to raise children even with help. To the system, all parents are victims, irrespective of their crimes or potential for reform. And the parent, not the child is the client” (pp.73-74). His attack continues: “Guilt and responsibility, pillars of the criminal justice system, are alien concepts in the juvenile justice arena…The parent’s abusive acts become irrelevant once the Juvenile Court determines that a child has been abused. Instead the courts and the child welfare bureaucracy are responsible for providing services to the parent(s) (ibid. p.76). And finally, “Family preservation services have been stupidly lavished on irresponsible and cowardly people who take advantage of a child’s vulnerability to harm him or her, then cower behind their poverty to justify their actions…Under family preservation, irresponsible behavior is rewarded; responsible behavior is thus denigrated” (ibid. p.81). I quote Murphy at length for several reasons. First, because of his standing to sue DCFS he was the driving force in bringing lawsuits that challenged the IFPP. Second, his public position also allowed him to drive the media coverage of the family preservation cases. Third, he became a lightening rod for criticism by those who support family preservation. Finally, he articulated the position that temporarily became the dominant one after the death of Joseph Wallace.
The media, especially the area’s largest newspaper, the *Chicago Tribune*, played a large role in framing the public’s understanding of the problems at DCFS. One of the first manifestations was columnist Bob Greene’s advocacy on behalf of a girl known as “Sara.” She was a six-year old girl who had entered the foster care system at birth because of the drug abuse problems of her parents. For six years she lived with a foster mother who, by all accounts took excellent care of Sara. Her birth parents, having seemingly resolved their most pressing problems, successfully petitioned the courts to return her to their home. Greene, as would become his pattern, wrote column after column decrying the decision stating that it would ruin her life. Mike Royko, echoing Murphy’s criticisms, wrote numerous columns about “abuses” of the family preservation program, especially one case in which a mother was to be flown at taxpayer expense to Florida to visit her children, who were in foster care there.

The *Tribune’s* coverage of child welfare issues reached a turning point in October 1992 with its reports about the shooting death of Dantrell Davis. Davis was a young African American child walking to school with his mother in October 1992 when he was shot dead. The police who investigated the case assume that Davis was killed by an errant bullet fired by a gang member. At the time of the shooting, there were a series of gun battles between rival gangs who were fighting for control of the drug trade at Cabrini-Green, the Chicago public housing project where Davis and his family lived. The context of violent gang warfare and the powerful symbolism of a child shot dead while walking to school holding his mother’s hand garnered a great deal of media coverage. Much of this coverage focused on the broader question of society’s obligation to do more to protect its youth. The *Tribune* made a decision to write a feature story on
every child killed by a violent act for the entire year of 1993. This decision was
eventually to result in significant changes at DCFS, as I will explain in the next chapter.

The media also played a role in politicizing the research findings of the Family
First evaluation that was conducted by Chapin Hall. In early 1992 one of the
investigators gave an informal off-the-record presentation of some of the preliminary
findings that began strongly to suggest that the IFPP was not preventing the placement of
children into the foster care system. A reporter was there in another capacity and
promptly wrote a story that made the front page of the Chicago Sun-Times. This story,
and those that followed it, reinforced the attacks that were already being made by
Murphy and others and contributed to a growing sense that the child welfare system was
unable to protect the children in its care. The researchers felt that their work had been
distorted and sought to respond to the press accounts. However they were discouraged
by DCFS management, who felt that this would focus more negative publicity on the
agency.

The advocates for family preservation did not take all of this criticism silently.
Bruce Boyer, the supervising attorney for the Children and Family Justice Center of
Northwestern Law School, a prominent child advocacy organization in Chicago,
continued to talk about services to keep families together. In a 1997 interview with
Renny Golden he discussed the difficulties of promoting family preservation in the
hostile environment of the 1990s.

"When Patrick Murphy wants to go after family preservation
programs...his job is a very simple one. All he has to do is trot out a
couple of his stand-by cases where horrible things have been done to
children and say, 'If you don't listen to me, then you're going to kill
children...We need to get tough with families who aren't taking care of
their kids.' [Family preservation advocates] like myself face a much more
difficult task in trying to tell the public what the world of child welfare is really about...Child savers have an assumption, which is unspoken, that the interests of parents and children are often fundamentally at odds with each other...In family preservation, to my mind, there’s a commonality of interests. There may be some divergence of interests when parents fall down on the job, but when you’re trying to figure out what’s right for a child, it’s not so different from what’s right for a family...If you believe in family preservation as something more than a platitude, then you say we need to do a comprehensive assessment of what’s wrong with this family, we need to invest the time, energy, services to support that family so that the family is not broken up. If you don’t really believe in family preservation, then there’s a reluctance to press DCFS, or any child welfare agency to do its job and make available the assessments and services that would really make a difference to the family.” (quoted in Golden 1997, p.153).

A more vociferous defense came from Richard Wexler, a professor in communications at Pennsylvania State University –Beaver campus. In his book *Wounded Innocents: The Real Victims of the War Against Child Abuse*, he takes a three-pronged approach to defending family preservation. First, he attacks the structure of the IFPP. He points out that the IFPP allowed workers to have many more cases than the two cases the Homebuilders model allows (the median number of cases for a IFPP worker was five), thus undercutting the very intensive nature of the family preservation services (Wexler, p.301). The workers did not spend a great deal of time in the home helping the family out with household tasks; many of those responsibilities were performed by homemakers. There were inadequate referrals to follow-up services in the community once family preservation services were completed. The private agencies were permitted to lower the hiring standards from those recommended by Homebuilders. Finally, Wexler claims that DCFS did not target the services to those children at “imminent risk of placement.” “As a result, Family First did no better than conventional services at preventing placement, because so few children in either group were at risk” (ibid. p.302).
While it is not my intention to get into a point-by-point discussion of Wexler’s arguments, I will say that there have been excellent discussions of some of the technical issues involved in conceptualizing the appropriate target population for family preservation services (see Schuerman, Rzepnicki, Littell 1994 pp. 233-238).

Furthermore, it should be noted that there was considerable investment in the family preservation model from both the management and the IFPP caseworkers and its failure to achieve its stated goals should not be easily dismissed by charges of institutional bad faith (interview with John Schuerman). For many in DCFS, the opportunity to provide family preservation services was precisely the reason they entered the child welfare field in the first place and many of the same workers felt considerable pride when they successfully worked with a family preservation case (1992 FF evaluation, p.iii).

Wexler then goes on to criticize traditional substitute care services for being more dangerous than the families from whom the children are removed. Citing numerous horror stories of children who were killed or raped in foster care and studies suggesting that thousands of other foster children are mistreated, he states that this must be weighted against what he believes are often minor or inaccurate allegations made against the family of origin. Even more than that, he claims that foster care “cannot work even in theory” for most of the children in the system (Wexler, p.167). He estimates that, nationally, only a quarter to a third of the children in foster care ought to be removed from their families because the risk of abuse is too high. The core problems with foster care are that it is too traumatic to remove a child from a familiar environment and place him or her with strangers and that many foster homes are as unsafe as the homes from which the children are taken.
The third aspect of Wexler's defense of family preservation was a blistering personal attack on Patrick Murphy's character. In particular, he criticizes Murphy for grandstanding for the media, providing reporters access and information that can sometimes be difficult to come by in a system that prioritizes the confidentiality of its clients. He also gives useful sound bytes to reporters working on deadline. Patrick Murphy is, for Wexler, "Mr. Goodquote; the man-of-a-thousand-sound-bytes" (Wexler p.305). Wexler also claims that Murphy advocates muddled policies and that his views are fickle, citing quotations in various media outlets that simultaneously advocate for keeping children home whenever possible while removing family preservation programs. As I will demonstrate in the next chapter, these sharp confrontations over family preservation persisted as DCFS continued to flounder.

DCFS and Legal Liability

DCFS' problems in the media and the legislature were paralleled in the legal arena. Child welfare advocates in Illinois began filing class action lawsuits to address perceived deficiencies in DCFS' services in the 1970s (Mesey 2000, p.48). Many of these lawsuits resulted in consent decrees in which DCFS promised to redress specific failures. The first of these consent decrees was signed in January 1977 in the case of Burgos vs. DCFS. This case initially started with two Spanish-speaking parents from Puerto Rico who were living in Chicago when their children were removed from their home for relatively minor allegations of neglect (for instance, they kept chickens in their living room). DCFS placed the children in non-Spanish-speaking homes and assigned caseworkers who also were not fluent in Spanish. The suit alleged that because of these circumstances, the
children became estranged from their parents and that this made a return home less likely. In the consent decree, DCFS promised to recruit more Spanish-speaking foster parents and caseworkers.

DCFS had great difficulty meeting the requirements of the consent decree and was threatened with contempt of court for at least ten years. In the years after the Burgos decree, DCFS entered into many other consent decrees and had similar difficulties in complying with most of them. Susan G. Mezey writes in her case study of the B. H. consent decree Pitiful Plaintiffs: “These cases showed that although state officials were aware of the department’s violations, they seemed unconcerned about bringing the agency into compliance with the law. Citing financial difficulties and shortcomings in personnel, they contended DCFS was simply unable to satisfy the requirements of the consent decrees.” (Mezey 2000, p.53). Regardless of the sincerity of the DCFS management, it is clear that these consent decrees had little substantive impact on the services provided for children and families in the child welfare system. It should be noted that the phenomenon of consent decrees as a tool for advocates to initiate reform was not confined to Illinois: by the mid-1990s almost half of the states had at least one consent decree with seemingly similar lack of success in transforming the behavior of child welfare organizations.

However, these lawsuits did have an important impact in establishing precedent for the accountability of state child welfare organizations for protecting constitutional rights and for following federal and state laws. Prior to the 1970s there had been very little legal liability for the states regarding their treatment of people who were in their care, such as prisoners, involuntarily committed mentally disabled individuals, or
children in substitute care. This changed rapidly starting with a 1976 Supreme Court decision in a case regarding the rights of prisoners to adequate health care during their incarceration using the Eighth Amendment protections against cruel and unusual punishment as the justification (Estelle vs. Gamble, cited in Mezey p.66). In 1982, the Supreme Court ruled that state mental health institutions not only had an obligation to provide a safe environment but a positive duty to train “mentally retarded” in order to ensure their welfare based on Fourteenth Amendment requirements of due process (Youngberg vs. Romero, cited in Mezey, p.67).

These cases set important precedents that informed court decisions regarding the legal liability of child welfare systems for harm done to children in their care. The key case in this regard was Doe vs. New York City Department of Social Services. In this case, a young girl was left in a foster home where she was repeatedly sexually abused over a period of six years. Her biological parents sued the city and the private agency that directly supervised the case, claiming that they had failed to act to protect the girl even after they had suspicions of sexual abuse. A lower court had ruled in favor of the defendants. However, an appellate court reversed this decision because the jury had received erroneous instructions regarding the distinction between negligence and indifference. The appellate court laid down two cardinal principles for determining legal liability in such cases. First, “government inaction ‘must have been a substantial factor leading to the denial of constitutionally protected liberty or property interest.’” Second, “the officials in charge of the agency being sued must have displayed a mental state of ‘deliberate indifference’” (Doe vs. New York City Department of Social Services as cited in Mezey p. 69). Other circuit courts issued decisions on related cases about when the
state has legal liability when children are harmed. Two cases from South Carolina raised
the issue of whether the state was liable in cases where they had investigated allegations
of abuse and taken some minor efforts to address such situations without officially taking
custody. In their decision, the judges of the Fourth Circuit stated that custody need not be
the only possible criterion for assessing legal liability. Obligations can arise “in
situations where either the victim or assailant is in custody, where the state explicitly
states a desire to offer protection to an individual or a group of individuals, or where the
state knows about a victim’s special circumstances” (Mezey, p. 71). The ambiguity of
this statement was compounded by the differing opinions offered by other circuit courts
throughout the country.

The Supreme Court stepped into the breach in 1987 with a ruling designed to
resolve the differences between the various circuit courts. The case, DeShaney v.
Winnebago County Department of Social Services, involved a five-year-old boy who
suffered severe brain damage after repeated abuse by his father even though the state had
investigated numerous allegations of abuse. In its ruling, the Supreme Court affirmed
lower court opinions that claimed that the state did not have liability for children who
were in the custody of their parents. However, the opinion, written by Chief Justice
William Rehnquist, seemed to implicitly accept “the prevailing view among the lower
federal courts that children in state custody have a constitutional right to be safe” (ibid. p.
80). During the 1960s, 1970s, and 1980s national organizations like the Legal Aid
Foundation and the National Committee for the Prevention of Child Abuse were created
along with local organizations such Northwestern University’s Children and Family
Justice Center and Loyola University’s Childlaw Center. Combined with established
organizations like the American Civil Liberties Union (ACLU), there were considerable resources that were able to take emerging precedents and turn them into tools for forcing DCFS to improve its performance by means of lawsuits.

The B.H Consent Decree

As noted earlier, DCFS had been subject to a number of consent decrees throughout the 1970s and 1980s with results that were universally seen as unsatisfactory. In 1988, after three years of internal investigation, the ACLU filed a class action lawsuit in federal court on behalf of ten children who were wards of DCFS and in foster care although the class had more than 10,000 foster children. Specifically, the suit alleged that DCFS was “violating the due process and equal protection clauses of the Fourteenth Amendment as well as sections of P.L. 96-272, the Illinois Abused and Neglected Child Reporting Act, and the Illinois Juvenile Court Act” (Mezey, p.63). The children named in the suit had allegedly suffered from caseworker neglect and had been allowed to drift from foster home to foster home without a plan either to return home or become adopted. There was considerable legal jockeying for almost a year to certify the class of plaintiffs and their standing to press constitutional claims against the state. By May of 1989, the judge had ruled against DCFS’ motion to dismiss the lawsuit setting the stage for a potentially protracted legal dispute (ibid. p.91). At this point, the judge hoped that the parties would negotiate a settlement. This process was initially resisted by DCFS. According to Mezey, the leadership was concerned that “a settlement might create an image of being too accommodating to the plaintiffs and surrendering too easily to their demands” (ibid. p.92). When Gordon Johnson, the Director of DCFS left the agency in the summer of
1990 he was replaced by Jess MacDonald, who served as Acting Director for over five months until a new governor was sworn in on January 1st 1991. MacDonald was a supporter of negotiating a settlement and serious talks began (ibid. p.93). After protracting discussions, a settlement was finally reached, signed by Governor Jim Edgar and approved by the court on December 20, 1991.

The settlement imposed a series of far-reaching reforms of most phases of DCFS operations. The most publicized item in the agreement was the commitment to reduce the caseloads of workers. At the time the consent decree was signed, many caseworkers had more than fifty cases. By July 1, 1994, caseworkers serving intact families were to have no more than twenty cases; caseworkers serving children in foster care were to have no more than thirty cases. Other items in the consent decree included a requirement to have a case plan for each ward within thirty days; creating handbooks for parents explaining their legal rights as well as key DCFS procedures; improved procedures for assessing families; better procedures for placing children in adoptive homes; as well as services for health care and education. The court appointed a retired judge to monitor the implementation of the consent decree.

Almost none of the deadlines for implementing the various aspects of the consent decree were met. Instead, the problems of DCFS and the children in their care would continue to get worse for the next several years prompting talk that the B.H. consent decree was a failure. One consequence of the decree was that it spurred the General Assembly to appropriate more money for DCFS. Although spending had been increasing steadily for several years prior to the consent decree, expenditures for DCFS increased by
more than twenty percent a year for the first three years after it was implemented so that by fiscal year 1995, DCFS was spending more than a billion dollars a year.

*Risk, Liability, and Reform*

By 1993 DCFS had become a large and expensive bureaucracy with approximately 3,500 employees and a budget of almost a billion dollars a year. In spite of the resources that were devoted to child welfare, DCFS was mired in a deepening crisis that brought it under attack by a coalition of lawyers, child welfare advocates, and the media. As I will demonstrate in the next chapter, this troubled situation disintegrated even further in 1993. In the overview provided above, several themes emerge. First, there is the strong reluctance of the state to intervene in the lives of families, which is periodically challenged by concerns about the safety of children in certain family situations. This tends to shift in long cycles with the post-Civil War era and the 1960s and 1970s representing moments of increased public willingness to remove children from their families. This reluctance stems from the primary moral value that many people in the United States place on the autonomy of families and individuals. However, this value has a fundamental ambivalence at its core, which is played out in the vehement disagreements about the wisdom of family preservation services. Mary Douglas has demonstrated how institutions embody key cultural values and how they organizing principles inform the type of observations they make and how they attribute blame, a theme I will explore in the next chapter.

Second, there is a perennial discourse about the inadequacy of state services and the resources devoted to them. While those involved in the child welfare system and
advocacy can agree that not enough money is earmarked for services, they bitterly
disagree about the types of services and the goals they should pursue, as I have
demonstrated in the debate about family preservation. What is important for my
argument is not the validity of the various points raised by those on both sides of the
issue, but rather the function of the totality of the discourse in legitimating the knowledge
that is produced in this new construct, “the family at risk.” It seems that the relationships
between reformers and the child welfare system parallels those between reformers and
the prison. Regarding prison reform, Foucault wrote:

Prison ‘reform’ is virtually contemporary with the prison itself: it constitutes, as it were, its programme. From the outset, the prison was
caught up in a series of accompanying mechanisms, whose purpose was
apparently to correct it, but which seem to form part of its very functioning, so closely have they been bound up with its existence
throughout its long history... The prison should not be seen as an inert institution, shaken at intervals by reform movements. The theory of the
prison was its constant set of operational instructions rather than its incidental criticism – one of the conditions of its functioning. The prison
has always formed part of an active field in which projects, improvements, experiments, theoretical statements, personal evidence and investigations
have proliferated. The prison institution has always been a focus of concern and debate. (Foucault 1995, pp. 234-35)

This observation applies to the child welfare system as well. For the cultural
anthropologist, it is important to observe the discourse in its totality and inquire about its
function for the culture as a whole. It is my thesis, following Foucault’s insight, that the
conflicting arguments of participants do not work against each other so much as with
each other to produce ever finer distinctions about a still recent invention – the abused
child. This process of developing knowledge about this subject has provided
legitimization for an expanded set of governmental institutions that are primarily
disciplinary in function.
A third theme that emerged in this chapter is that of liability and risk. It is easy enough to observe that the creation of agencies like the ACLU and the Legal Aid Foundation and other organizations that have the resources to advocate in court for the rights of children has increased the state’s legal liability for its treatment of state wards. However, it is even more important to observe that liability rests on the assumption that the state could have and should have known better. The very production of knowledge that legitimizes state intervention in family life also serves to undermine the certainty with which it acts. Consider the array of diagnoses that can be applied to children in the care of the state — depression, post-traumatic stress disorder, attachment disorder, etc. — and the corresponding services for them. These diagnoses may be controversial with experts offering differing opinions and suggesting various courses of action. The same applies to assessing the competence of the parents and their psychological profile. The legal liability of the state correlates with the development of knowledge about the relevant topics must be seen as an irreducible element of the functioning of the state in this age of “reflexive modernization.”
Chapter Three

THE DEATH OF JOSEPH WALLACE AND THE CREATION OF THE OIG

In this chapter I will examine the crisis that befell the Illinois child welfare system in April, 1993 with the death of Joseph Wallace, a three-year old boy who had been in and out of the foster care system for most of his life but who had been returned to his mother in February of that year. This tragedy was widely covered by the local media and the case remained on the front pages of the Chicago Tribune for months as people tried to make sense of this seemingly avoidable death. The legal system, child welfare advocates like Patrick Murphy, and DCFS all had some culpability but each tried to place as much of the blame on the other. The Wallace case represented a nadir in public support for DCFS and its capacity to resolve its own difficulties. In order to deflect some of the political blame for this incident the Governor and the Illinois General Assembly created an independent watchdog agency that would be authorized to investigate allegations of malfeasance and misfeasance within DCFS and the private agencies with which it had contracts. This agency, the Office of the Inspector General of the Illinois Department of Children, began operation in June of 1993 and immediately initiated an investigation of the Wallace case. I will examine how the OIG proceeded in the first year of its existence and how it came to define its mandate.

The Death of Joseph Wallace

The court hearing on February 16th, 1993 in the case of Amanda Wallace, who was seeking to have her two children, Joseph and Joshua, returned to her custody was in many
ways a routine one. At the hearing, the DCFS caseworker, the Public Guardian’s Office, the Public Defender (representing Ms. Wallace), and the State’s Attorney’s Office (what is often referred to in other jurisdictions as the District Attorney) all stated to Judge Allen Goldberg that they agreed on returning Joseph and Joshua home because of the mother’s compliance with services and her progress in getting her life in order. This was all routine in the sense that dozens of these hearings take place every week in the Cook County Juvenile Court.

At 2 am, Monday April 19th, the Chicago police received a phone call from Amanda Wallace stating that she had killed her child. When the police arrived at her apartment, they found Joseph hanging from an electrical cord, dead. They took Ms. Wallace into custody and placed Joseph’s brother Joshua in the care of relatives. At 9am, she was arraigned on charges of first-degree murder. The next day the Tribune ran a front-page above-the-fold article with a headline that stated the matter succinctly: “In the end, everyone failed Joseph.” According to police, Ms. Wallace “stood Joseph on a chair, strung an electrical cord around his neck. She then stuffed a sock in his mouth and taped it with medical tape. She then said goodbye ...[Joseph] said goodbye back, waved, and she pulled the chair out from under him.” (Bob Greene, May 17, 1993). At this point, the accusations began to fly.

Patrick Murphy was the first to step up and accuse the Juvenile Court for returning Joseph home. In the article in the Tribune, he said “he had personally handled Joseph’s case the first time it went to court.” The article continues, “Murphy said he argued, unsuccessfully, to keep Joseph in a Park Ridge foster home and away from his mother. But on June 26, 1990, Juvenile Court Judge Walter Williams disagreed with
Murphy and sent Joseph back to his mother.” At the February 16th, 1993 hearing that returned Joseph and Joshua Wallace home for the last time, the Public Guardian’s office had supported the reunification but Murphy stated that this was because the DCFS caseworker had failed to include foster parent’s concerns about abuse during Ms. Wallace’s visits with her children. He claimed that if his office had known of these concerns, he would have opposed the return of the children to Ms. Wallace.

Murphy argued that the problem with DCFS that led to the death of Wallace and harm to other DCFS wards was that state legislation explicitly favored the rights of parents over “the best interest of the child.” More than a month prior to Joseph’s death, the Public Guardian’s Office, working with State Representative Thomas Dart, had drafted and introduced legislation that “would change state law to say that the best interests of children must come first at all stages of Juvenile Court proceedings” (Rob Karwath, Chicago Tribune, April 25, 1993, p.1). The Tribune adopted the same analysis in their editorials and articles. “What made the child welfare system return Joseph, just as it has returned other DCFS wards who have ended up injured or dead? Why does the agency seem biased toward the rights of the birth parents over the best interests of the children? In part, the answer lies in what Illinois and federal laws have determined to be a priority in child-abuse cases. For more than a decade, the law has said that courts should try to reunify families torn by abuse and neglect ‘whenever possible.’” (ibid.) In short order, Republican Governor James Edgar and Democrats in the General Assembly were both proposing their own versions of similar legislation and by the end of the year, a compromise bill was passed that repeatedly stressed “the best interest of the child.”
Judge Williams, who was no longer hearing abuse and neglect cases because of a previous controversial decision, also became a focal point for criticism. Tribune columnist and best-selling author Bob Greene, in particular, hammered Judge Williams repeatedly over the next few months. Greene cited a ruling to return Joseph to Ms. Wallace made by Judge Williams in June of 1990 as the turning point in the case. At that hearing, Williams had a report from a psychiatrist that stated unequivocally that Amanda Wallace was a threat to Joseph. Discussing a return of Joseph to Ms. Wallace the psychiatrist wrote: "[The mother] is well-intentioned, but might kill her baby. [The mother] is incapable of caring for Joseph or any other baby...[she] should never have custody of this baby or any other baby" (Greene, April 25th, 1993). Williams ruling was the first of three such determinations by Juvenile Court judges, but Greene contended that it was Williams decision that set the tone for the entire case. Greene wrote, "In Juvenile Court, it is the first judge in a case who determines the course of a child’s well-being. Judge Williams, had he possessed even the dimmest sense of justice or of mercy, could have saved Joseph Wallace’s life. Instead, he sent that little boy toward his death" (Greene, April 25th, 1993). Greene’s columns were so relentless that the Tribune felt obligated to run a story giving Judge Williams a chance to defend himself. Williams claimed in that story that he had always put the interests of the child first, and pointed out that some child welfare professionals had found him to be a fair judge.

Of course, DCFS itself was intensely criticized. As noted above, Murphy accused the caseworker of withholding crucial information from the court. DCFS Director Sterling “Mac” Ryder sought to diffuse the criticism. “We can’t approach this stuff with a lynch-mob mentality...When these tragic cases happen, people are asking who to
blame...Our entire state responds to this, but [these cases] are so much more complex than just to point the finger at one person and say ‘it’s your fault,’ ...The system failed Joseph,” he said. The union for the caseworker denied any wrongdoing on her part, but the caseworker pled the Fifth Amendment at a court hearing held days after Joseph’s death. The spate of criticism that had been directed at the Family First program was still fresh and, while Family First was not directly implicated in the death of Joseph Wallace, the program became an immediate casualty of the public furor. Although Family Preservation services continue to exist in DCFS to this day, the program has been stripped of most of its characteristic features and is minor part of the overall child welfare system.

The Creation of the Office of the Inspector General

Governor Edgar came in for some criticism as well. Although he was a popular politician who would eventually be re-elected in 1994 in a landslide, his leadership on child welfare issues was considered suspect. His first appointment for DCFS director was Sue Suter, a Republican politician who had lost a 1990 race for a minor statewide post and had no experience in child welfare. When budget cuts in 1992 required her to lay off DCFS employees, she resigned instead. Edgar let Sterling serve as interim Director for many months, essentially leaving the Department in limbo, before finally appointing him to the position. Finally, The Tribune and others criticized the governor for being silent as DCFS experienced one crisis after another. Edgar introduced a bill that was similar to the one Representative Dart had introduced over a month before, although its emphasis on “the best interest of the child” was considered to be weaker than Dart’s (Rick Pearson,
May 7th, 1993). Another difference is that Edgar's bill called for the creation of the Office of the Inspector General. Actually, in order to get the OIG up and running, Edgar issued an Executive Order creating the OIG while the legislation was being worked out. Edgar’s bill modeled the proposed Inspector General position on one that already existed in the Illinois Department of Mental Health. The previous year, Edgar had been criticized for shortcomings in the state’s mental health facilities. Although the Inspector General’s Office for the Illinois Department of Mental Health had existed since 1987, after reports of charges of patient neglect within the mental health system, it was regarded as a “toothless tiger” (Rob Karwath and Rick Pearson, May 5, 1993). In response, Edgar had appointed a more aggressive Inspector General and had given her the power to propose systematic reforms. This Inspector General proceeded to conduct surprise midnight inspections that caught workers in one of the state’s mental health facilities sleeping as well as other aggressive investigations.

Edgar’s proposal was accepted by Democrats in the General Assembly who then proceeded to “[complain] that the whistleblower position could be muted by top agency officials” (ibid.). In order to address these concerns, the OIG was given a great deal of independence from the DCFS bureaucracy. Although the Inspector General was to report to the Director of DCFS, she also reported directly to the Governor, and she also filed an Annual Report to the General Assembly. The Inspector General was given broad subpoena powers in cases involving DCFS wards, including any agencies with contracts with DCFS, as well as the capacity to suggest systematic reforms and to implement pilot projects.
After quickly searching around for someone to fill this position, one candidate quickly became the favorite for the post. Denise Kane, who was forty-seven, was a social worker who had worked in various parts of the child welfare system for over twenty years. She had previously been a youth probation officer, a caseworker, a social worker with the Public Guardian’s office, and the associate director of the Citizen’s Committee of the Cook County Juvenile Court, which provides oversight over the Juvenile Court. In addition, she and her husband Jim had been foster parents for many years, providing a home for twelve DCFS wards over the years, as well as raising three children of their own. Finally, she had returned to the School of Social Service Administration at The University of Chicago to get her doctorate. In early May, just over two weeks after Joseph’s death, Edgar announced her appointment. A reporter for the Tribune depicted Ms. Kane as straight out of “Central Casting...perfect for the lead supporting role in the state’s ongoing child welfare drama” (Thomas Hardy, May 9, 1993, p.4). At the press conference announcing her appointment, Ms. Kane deflected attention from herself, saying “I don’t like headlines. I’ll be honest. I hate this right now. I always work behind the scenes...I’m not very good at the press” (ibid.). She added, “I would not have taken this job two years ago. I wouldn’t work with the state. I thought it was a loser.” (ibid.) However, the efforts to implement the B.H. consent decree and the additional state funds for the child welfare system convinced her that it might be possible to make a difference.

There was a good deal of skepticism about the capacity of a watchdog agency to bring real reform to DCFS. The Tribune reporter covering the press conference wrote, “Even if the Kane cameo is a boffo success, the clock is running on her 15 minutes of fame. She is not destined for stardom. She is not a politician. Frankly, she could care

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less about being either.” (ibid.). Public Guardian Patrick Murphy, Ms. Kane’s former boss, did not like the way the job was structured, at least as he perceived it. “The problem with the position is that it reports to (the DCFS director), who has every reason to sweep it under the rug... The Governor is going to bring in one social worker who has only the authority that the director gives her, and they’re going to turn the place around? It’s absurd.” (Rob Karwath, May 7, 1993). As noted earlier, the OIG was structured to ensure that the Inspector General would have direct access to the Governor and to the General Assembly, precisely to address this concern.

The job itself was largely unstructured and its mandate, other than investigating egregious cases like the Wallace case, somewhat unclear. Its staff was small; in addition to Ms. Kane, there was a lawyer with extensive child welfare experience, an experienced investigator, and an administrator. The office would be structured by the decisive actions of the first year of its operation.

Some Preliminary Thoughts on the OIG

The week before she officially took office on June 1st, Ms. Kane gave an interview with The Daily Times, a paper in the semi-rural north-central part of Illinois. The interview demonstrates that Ms. Kane already had a clear vision for what she wanted to accomplish as Inspector General. When asked what her top priority would be, Ms. Kane replied

What I want to do is look at triaging cases when they first come in. Under the Adoption Act, there are certain grounds where you can look at cases and you say “You can go (parental rights) termination right away. Some are simple: a face wound; a battering of a child who is in a hospital.” When cases come in, they go through what is called screening with the State’s Attorney’s Office. So a child protection worker goes out and does the investigation... But they are coming before the court with allegations. It is an allegations-based system. All that is decided at that point is
whether they are going to prosecute the case. So you have all these cases coming that you are going to prosecute. I think you also have to do a secondary review at that time and say “OK, out of all these [cases], what percentage of these cases...are severe? These are the ones we should immediately proceed to trial for the termination of rights. Know that from the get-go. Then you are going to be dealing with these cases in a different fashion. (Greg Rivara, May 28, 1993).

These statements address the concern of people like Patrick Murphy, who complained that DCFS was wasting considerable resources trying to reunite families when “there are no families there.” But it also reflects Ms. Kane’s strong belief in rigorous assessments of cases at the point of entry into the system. What Ms. Kane had already problematized was the relationship of expertise to case management:

If the Department can understand what it does not know and be honest with itself about it, then we can better those cases [that need to be triaged]. Especially the mental health aspect. I want a design—almost like pulling the universities and hospitals in—so that you can have (a system) also like rounds. You need clinical knowledge on those cases. It could be a contractual relationship. We could present cases we question and get some interdisciplinary answers. I’m not talking about a committee, but specific recommendations. (ibid.)

The type of arrangement that she discusses here is a key figure that would inform a number of important OIG initiatives, including some I will discuss later, such as the Parenting Assessment Team, the Ethics Panel, and the never-developed Child Welfare Academy. Another item she mentions in the interview is her desire for a Code of Conduct that would spell out the behaviors expected of child welfare professionals.

I want a code of conduct. And I think the unions will go along with it. That’s not something that should take up to five months to get through a committee...I am supposed to make sure...the checks and balance system works...is there malfeasance? Are people doing funny things with the contract? Is a worker doing something unethical? If you structurally build in an agreement about what behavior is acceptable, my job will be easier. Actually, I did talk to a caseworker who was sleeping with the person,
who was over 18, that they were supposed to be helping—this was not DCFS, it was a private agency. And they said, ‘Well, she was over 18.’ Give me a break. (ibid.)

This case was to be important in developing the Code of Ethics, as I will discuss in a later chapter. With this understanding of her job and this set of specific problems, Ms. Kane took office in June 1993. But first there was the Wallace case to investigate.

*The Wallace Investigation*

The death of Joseph Wallace is almost certainly the most investigated child welfare case in Illinois history. Investigations were undertaken by the Cook County State’s Attorney’s Office, a special committee appointed by the Chief Judge of the Cook County Circuit Court, the Cook County Public Guardian’s Office, the Children and Family Justice Center of the Northwestern University Legal Clinic, the Illinois State Police, and the newly formed OIG. The first investigation to be made public was, of course, the Public Guardian’s. Patrick Murphy held a press conference on April 29th, holding Joseph’s surviving brother Joshua in his arms, in which he took some of the blame for Joseph’s death but placed most of it on the DCFS caseworker. Murphy also criticized the caseworker for being biased against one set of Joseph’s previous foster parents because they shared information about alleged abuse that occurred during visits between Joseph and his mother. This highlights one aspect of the media coverage of Joseph’s death; namely, that he had two separate sets of foster parents who had opposed his return home because of the risk of harm and that both of these foster families were very public in their condemnation of the way they were treated by DCFS and the legal system.
Prior to appointing Ms. Kane, Governor Edgar directed the Illinois State Police to investigate. Once the OIG was established there was communication and cooperation between the two agencies. The report of the State Police was released in late July and presented evidence that three DCFS employees failed to perform their required duties and recommended that they be fired, which Governor Edgar did. In addition to the caseworker who had worked with the Wallace family, her supervisor, and a senior administrative case reviewer with nineteen years experience were also fired. A fourth employee subsequently resigned. The union for the workers filed an appeal which dragged on into 1994 but which was ultimately unsuccessful. A private agency that had provided services to the Wallace family also lost its contract (Rob Karwath, July 23, 1993).

The Governor formed a “task force of mental health and legal professionals to recommend training for DCFS workers who deal with mentally ill parents” (ibid.). The idea for the task force came from the OIG and represents the first example of how the OIG was going to intervene. The OIG’s preliminary report on the Wallace case focused on the clinical failings of the caseworker and other service providers involved in the case. The inability to address Ms. Wallace’s severe mental illness, and particularly her fire-setting behaviors, was the OIG’s central concern. The OIG report noted that Ms. Wallace had been hospitalized for psychiatric reasons seven times during 1991 and 1992, at least three times for suicide attempts. In November 1992, the last of these hospitalizations occurred. She was hospitalized for five days before she checked herself out against the advice of the medical staff. In December, the DCFS caseworker and her supervisor agreed with Ms. Wallace’s lawyer that she should be given unsupervised visits with
Joseph and Joshua, failing to note the recent hospitalization (OIG, *Report on Case of Amanda Wallace: Phase I*).

In early January 1993 there was an Administrative Care Review to determine the progress being made on the service plan and goals for the case, overseen by the administrative case reviewer who would later be fired. The ACR reaffirmed that return home was a satisfactory goal and “difficulties in the case were explained as caused by Ms. Wallace’s difficulty in adjusting her medications for her somatic medical problems” (ibid., p.6). The OIG noted that at the ACR, Ms. Wallace’s inability to adjust and her need for long-term psychotherapy were not considered. The DCFS caseworker, in concert with a caseworker who dealt with Ms. Wallace’s epilepsy, “contrary to prevailing psychiatric and mental health specialists recommendation—elected not to push the return to counseling, as Ms. Wallace had so many other issues facing her” (ibid., emphasis in the original). The caseworkers explained that they “did not want to overwhelm her by insisting that she go back to counseling...at that time of specific, extreme stress but to have her return to counseling after Amanda Wallace’s life calmed down” (ibid., emphasis in original). The OIG’s assessment of this decision reflected a combination of “common sense” and psychiatric expertise. “This, again, was a decision made despite nearly any reasonable adult’s recognition that it can be especially crucial to seek mental health services when a person is under extreme stress” (ibid.).

A final failing of the caseworker documented in the OIG report was the lack of response to a fire that was set in Ms. Wallace’s apartment on April 13th, 1993. Ms. Wallace claimed that she did not set the fire. The DCFS caseworker and other service providers believed Ms. Wallace’s account, in spite of Ms. Wallace’s long history of
setting fires and threatening to set fires. The caseworker reported that Ms. Wallace was involved in a long-running dispute with her landlord and had previously told a homemaker (someone who comes into the client’s home to provide cleaning services and assist in basic tasks) that she wanted to “burn his building up” (ibid., p.7). The OIG’s report stated, “This arson by itself—given Ms. Wallace’s history of fire-setting and self-immolation—warranted removal of one- and three-year-old children. A reasonable person would have been alarmed for the safety of the children.

*Prevailing social work and child-protection service standards mandate their removal in such a case, under risk of imminent harm*” (ibid., p.10, emphases in original).

As noted above, what distinguished the OIG’s contribution to the Wallace investigation was their recommendation to “develop a system of consultations with experts in the field of mental health in order to produce protocols that can professionally guide caseworkers in the management of services to their high-risk mental health cases” (ibid., p.12). This recommendation, endorsed by the Governor, led to the creation of the Parenting Assessment Teams, which I will discuss in detail in the next section. In keeping with Ms. Kane’s prioritization of triaging severe cases upon entry into the child welfare system another recommendation in their report was that DCFS would “work with the State’s Attorney’s office in developing a screening criterion for cases that are so severe in nature that termination of parental rights should be considered at the outset” (ibid.). Regarding the firings, the OIG noted only that “DCFS is taking the necessary personnel actions at this time,” referring to the moves to terminate the jobs of the three employees directly involved in the final decisions to return Joseph and Joshua to Ms. Wallace and to keep them there in spite of further evidence of risk of imminent harm.
One consequence of the OIG’s participation in the investigation that led to the firing of three DCFS employees was that there was suspicion that the OIG was “out to get” DCFS employees. When the firings were announced, the union claimed that the employees were “scapegoats” for a broken system. The executive director of the union stated that “in the three months since Joseph Wallace was killed, this case had gone from being a terrible tragedy to a stage for political grandstanding.” (Rob Karwath, July 23, 1993). Of course, there is a certain tension built into the relationship between a watchdog agency and those they investigate, a tension essential to the success of both parties when the process works well.

Over the years, the OIG has become a central component of DCFS’ efforts to regulate the performance of their employees. Prior to the existence of the OIG, discipline was primarily in the hands of direct line supervisors. This often made firing incompetent or non-performing workers difficult because severe punishments such as termination could upset the ecology of the local office by angering other caseworkers. In less severe cases, it might not be worth straining working relationships by pressing for sanctions in individual cases. Furthermore, the documentation required to punish a worker could be onerous for an already overwhelmed supervisor. Often, it was easier to transfer a bad employee to another office than to pursue punishment. The existence of the OIG centralized many of these functions, although supervisors continue to handle most punishments in less severe matters.

The last investigation concerning the Wallace case to be made public was issued in late October 1993 by the Comerford Comission, appointed by Chief justice Harry Comerford of the Cook County Circuit Court. The commission was charged with
determining how the judicial system failed to operate to protect Joseph. The commission determined that none of the judges involved in the case were responsible for Joseph's death, although they did recommend a series of extensive reforms for the judicial system. One, make court transcripts available to courts in other counties. This would address situations—like the Wallace case—where crucial information and rulings occur in more than one jurisdiction. For instance, the determinations and evidence that were produced in the Wallace case in Kane County were not shared with judges in Cook County, resulting in decisions made with incomplete information. Two, develop procedures to make sure that "all documents and reports presented in court wind up in the case file" (Cameron McWhirter and Andrew Gottesman, October 28, 1993). Three, combine the Circuit Court's psychiatric institute and its Juvenile Division Clinical Services should be combined so that judges would have access to independent psychological evaluations of parents. In the Wallace case, the only evaluations that entered the record were those of her own doctors and not from independent professionals answering directly to the judge. This parallels the reforms that the OIG initiated within DCFS. Other suggestions including providing more hearing officers to coordinate information for the judges and reassigning probation officers to investigate cases for the judges (ibid.).

The report placed a substantial amount of the blame for Joseph's death on the Public Guardian's Office. Patrick Murphy was blamed for "creating a belligerent attitude...[that] has created an atmosphere in which few cooperate in seeking the best interests of the child" (ibid.). Also, when the Public Guardian's office did oppose returning Joseph home in the June 1990 hearing before Judge Williams, they performed so poorly that the report concluded that "they must accept the lion's share of the blame"
for the resulting court order returning him to Ms. Wallace. Their legal work was deemed bad enough that it undercut any future appeal in the case (Wexler, p. 309). The report also refuted the claim that Murphy’s office did not have enough information in the case to fight against a return home in the pivotal February 1993 hearing and it listed all of the crucial documents that the office had and did not use. Perhaps most damning was their demonstration that—contrary to Murphy’s initial public claims that he had personally beseeched Judge Williams not to return Joseph home—Murphy had never appeared in court to fight against the return. It should be pointed out that the Chief Justice of the Cook County Circuit Court is responsible for appointing the Public Guardian and is, in effect, his supervisor.

This did not prevent Murphy from publicly denouncing the report as the “canard” of “silk-tie lawyers” and deeming some of its recommendations as “absolutely flaky” (Cameron McWhirter and Andrew Gottesman, October 28, 1993). Bob Greene, again focusing only on Judge Williams 1990 decision, also criticized the report, writing:

“He made the correct decision.” That’s what the attorney [quoting one of the attorney’s who wrote the report] said. “He made the correct decision.” Legally speaking, of course. Technically speaking, of course. The sad thing is even the lawyers and judges seem to know this is preposterous and transparent and cynical. Several judges have called our office to say they are upset because they fear the entire judiciary is being branded by this. Privately they say they know Williams was dead wrong to send Joseph back. But they understand Comerford is making himself appear strong, by letting his judges know he is willing to accept the heat for them. Go out to Joseph Wallace’s grave. Explain the politics of the Cook County Circuit Court to him. (Greene, October 31, 1993)

Beneath the accusations being tossed back and forth, something important was playing itself out. First, there was the prioritization of the value of the life of Joseph
Wallace and, by extension, the lives of other children involved with the Illinois child welfare system. Attempts made to point out that cases as extreme as the Wallace case were relatively rare and that the system often worked, even if it did need reforms, failed to register significantly in the media. This was certainly an effect of the steady stream of criticisms that had been made over the previous years but a threshold seems to have been crossed that threatened to de-legitimize not just the child welfare system but the judiciary and other related institutions.

The value that was placed on Joseph's life and the lives of other wards of the state became, even if only temporarily, the primary factor in assessing the worth of these institutions. As their lives became sacred, their was a strong emphasis on placing them outside the typical political calculus that governed, for instance, school funding. Every actor in this drama sought to place himself or herself beyond politics. Judge Comerford sought "real" reform without resorting to name calling, Murphy accused Comerford of whitewashing the role of the courts, the union executive accused Murphy of scapegoating, and Greene demanded that one judge be fired. Ms. Kane also sought to place these concerns outside of the political realm, telling The Daily Times: "I don't' care about the bureaucracy. We'll do our investigation. But the first thing to do is to take care of those kids...It becomes politics. That is the most discouraging thing."

As the institutions of the state were problematized, so were the families that produced children who became wards of the state. As noted in the previous chapter, the history of child welfare in the twentieth century has strongly tended to support the maintenance of families except under extreme conditions. But what was brought into question was how to determine whether there was "really a family there to save." The
rhetoric, even from the OIG, around the Wallace case made it seem as if this could be achieved by “using common sense.” But this was, at best, only part of solution and the OIG, as we have seen, explicitly frames the problem of integrating expertise into the case management process. The first attempt to do this was the development of the Parenting Assessment Team.

The Parenting Assessment Team

Because the Wallace case had so clearly underscored deficiencies in the child welfare system in the way they addressed clients with mental health issues, Ms. Kane believed that it was imperative to develop systematic protocols for assessing these clients. Upon completing the OIG’s investigation of the Wallace case, Ms. Kane assembled a task force of mental health professionals to examine the clinical issues in the case and to make recommendations for improving the child welfare system’s response in mental health cases. The Mental Health Task Force: Special Wallace Case Investigation Team, as it was formally called, was headed by the Chair of the Psychiatry Department at the University of Illinois at Chicago, Dr. Boris Astrachan, and included six other professors in psychiatry and psychology as well as two law professors, a representative of the Cook County Circuit Court, the city of Chicago’s Health Department, a senior social worker from a private agency, and Ms. Kane. The Task Force began meeting in August 1993 and completed their report in May 1994.

The report identified several problems: insufficient data collection; inadequate training of DCFS employees in working with mentally ill parents; poor distribution of crucial mental health information within DCFS and between DCFS and the Illinois
Department of Mental Health and Developmental Disabilities (DMH); and the lack of an independent, rigorous evaluation of parents mental health and their capacity to parent while undergoing treatment for their illness. Their recommendations, most of which were ultimately adopted, addressed each of these areas. The Task Force estimated that in Cook County alone, there were 750 clients who had some history of mental illness, a sizable population that they believed had been underserved by the child welfare profession. Regarding data collection, the first task was to clarify the conditions under which mental health information could be shared. Because of the stigma that is often attached to mental illness, there are strong legal strictures that govern the distribution of a patient’s records. The Task Force, however, underscores that there are certain circumstances that allow a mental health practitioner to inform law enforcement or child welfare professionals if it “necessary to... protect the recipient or other person against a clear, imminent risk of serious physical or mental injury” (“Report of the Mental Health Task Force Special Wallace Case Investigation Team,” in the OIG’s Report to the General Assembly, January, 1995, p.6, emphasis in original). Illinois law also has an exception specifically designed to allow mental health practitioners to share information in cases when they have a “‘reasonable cause to believe’ that a child may be abused or neglected” (ibid. p.7, emphasis in original). Other recommendations dealt with developing protocols for DCFS to obtain, as a matter of course, signed consent forms from clients that would allow them to have access to the client’s mental health records and developing protocols that would require mental health agencies with contracts with DCFS to share pertinent information. The Task Force also developed a prototype for a uniform Data Collection Form for use by DCFS and DMH. The Task Force also adopted
a proposal offered by the OIG to collect criminal background checks through the Law Enforcement Administrative Data Systems (LEADS).

The second set of recommendations dealt with the screening services and the Parenting Assessment Team. The screening services were to be offered at centers, one for each of the four DCFS regions in Cook County (subsequently, DCFS reorganized so that there are now three regions), and ideally these centers would be associated with pre-existing institutions with extensive experience in case evaluations. That Task Force suggested that one of these centers be based at a university so that the assessments could more easily be studied. The referral process was designed as follows: DCFS employees would conduct a risk assessment protocol and collect essential criminal and mental health background information. Those cases in which mental health issues were significant and the DCFS worker could not ascertain the severity of risk would be referred to the screening center. The screening center would conduct a battery of tests and observations. The first stage in this model was a set of screening services for cases with mentally ill parents. This screening had three levels of risk: low risk; potential risk of future abuse or neglect but no immediate threat; and immediate danger to the child. The low risk cases could then be served by regular DCFS services although perhaps with some mechanism for monitoring mental health issues. Those cases where there was deemed to be a potential risk of harm would then be referred to the Parent Assessment Team. Those cases where there was immediate risk of harm required immediate intervention to protect the child.

The screening services never materialized, but the Parenting Assessment Teams (PATs) that they were designed to support were implemented. The PATs were created to
resolve several of the problems identified by the Task Force: incomplete records; assessments that were performed at the request of an interested party; and a lack of standardization of what constitutes a valid assessment. In tackling these issues, the Task Force did not start from scratch. There were two models that directly informed the panel’s recommendations regarding the creation of the PAT. The first model dealt with mentally ill parents and had been developed by a partnership between a local university and a social services agency.

The second model had been developed in the late 1980s to deal with teenage mothers who were wards of the state. This model had been devised as a response to a consent decree (Hill vs. Erickson) that required DCFS to provide better services to wards who were pregnant. Prior to becoming the Inspector General, Ms. Kane had been appointed the monitor for this consent decree and had been intimately involved in its development and implementation. Reflecting Ms. Kane’s training and inclination, the Teen Parenting Program had a strong behavioral bent. Ms. Kane worked with a psychologist who had been trained as an applied behavioral analyst, and they developed a protocol for assessment that featured careful measurements of selected behaviors as the basis for creating effective interventions. However, after a few years the pressure created by the consent decree decreased and DCFS lost interest in the project.

Ms. Kane put people who had extensive experience with both models on the Task Force and resulting suggestions for the PATs reflect a careful blend of both models. One carry-over from the Teen Parenting Project was a behaviorist orientation. In discussing the importance of this, one Task Force member stated:

Why a behavioral approach? One, there are certain things about a behavioral approach that are very appealing in a legal or forensic context.
The information is transparent. It’s clear, when you provide behavioral information, it’s not the gobbledygook of one particular profession, it’s information that’s translatable across all disciplines. So attorneys like behavioral information, they understand it. So when they get it they seem to know what to do with it, in a way that they have a hard time with when you’re giving them scores on standardized test or a personality profile. But it also very practical. It has meaning in terms of problem-solving, that makes it also easy for social workers, case managers, other people who say, “Oh, OK, so that means I need to do X, Y, or Z.” It was the practical nature and the direct, factual descriptive information that you could see people were just so hungry for in these cases....So I think the practical focus and the interactional focus that we had, made sense to the population, allowed them to use the information, and it also has credibility. They can say, “I can see those things too, now that you mention it.” Whereas, if you’re talking about things they don’t understand or have to simply take your word for, then it’s really hard for them to know how much faith to put in. (Personal interview with a confidential source)

One effect of the behaviorist orientation on the recommendations of the Task force and in the implementation of the actual Parenting Assessment Team was a strong emphasis on careful observations of the parent-child interactions. Each assessment should minimally have two observation sessions, one in a clinical setting and one in a home. In an observation, the clinicians look for specific types of behavior: for instance, the frequency of eye contact between parent and child or a parent touching and holding a child.

One obstacle that the Task Force and, later, the PAT had to deal with was the paucity of accurate measures of parenting ability. Traditional psychological assessments tended to address only the parent’s mental health or cognitive ability (e.g. IQ), that is to say that they assess a state. The PAT was designed to address a more specific question: what is the parenting capacity of the client who has a mental illness? As two of the PAT participants noted in a research proposal written in 1994, “There is a paucity of
systematic data about the effect of schizophrenia on parenting.” (Miller and Jacobsen, “Research Proposal: Parenting Assessment for Mentally Ill Mothers, 1994, p.7). A focus on the specific behaviors of, for instance, a mother with schizophrenia or depression, can help provide a useful guide in determining parenting capacity. As Miller and Jacobsen wrote:

Recent studies of predicting behavior (such as violence, or risk for child abuse and neglect) have emphasized that past behaviors are the most reliable predictors of subsequent behaviors. For this reason, it is likely that specific behaviors related to mental illness (e.g. suicide attempts, violence) or lack of specific normal behaviors (e.g. failure to change behavior during pregnancy to protect fetal well-being) will be more powerful predictors of parenting risk than will diagnostic categories alone. An important corollary is that help-seeking behaviors, such as adherence to recommended treatment regimens, may greatly influence risk. Lack of insight, most notably denial of the existence of the mental illness or of the need for treatment, or denial of parenting problems, may also pose additional risk. None of these posited risk factors have been systematically studied previously. (Miller and Jacobsen, op. cit., pp.7-8)

Another obstacle that the PAT faced as it prepared to implement the model was that there was little agreement about how to define minimal parenting standards. The question that the PAT was designed to answer is a legal one; does the parent have enough capabilities in order to be entrusted with the care of his or her child? One person active in the development of the model was careful to point out in an interview that psychologists are no more capable of predicting future behavior than anyone else and that the role of the PAT is only to provide data to the judge who then has to weight that information against other data. One problem in completing even that task is that most of the standard parenting assessments are designed to measure the parenting abilities of people without mental health issues. What the PAT needed were assessments that had been normed for populations of mentally ill people. What the PAT did was to break this
problem down to its component parts: knowledge of child care and development; stress of parenting; social support; ability to read and respond to child’s cues; active psychiatric symptoms; active drug addiction; and childhood trauma that influences current parenting. For each of these functional component parts they used specific assessments such as the Parenting Stress Index and the Social Support Inventory that allowed for a more exact consideration of the strengths and deficits of the parent relative to a similar population.

The staff of the PAT consisted of one part-time psychiatrist, two part-time psychologists, a full-time child development specialist, a team coordinator and a case aide. After the Task Force had finished its report, a proposal was prepared and the PAT began providing assessments in late 1994. Although the original goal had to been to triage cases upon entry into the child welfare, in the first several years of the PAT the referrals were cases that had been in the system for a long time where a decision to terminate was pending. The PAT quickly reached the capacity to handle between six and eight cases a month (Jacobsen et al., p.185).

Here is a case summary (with all identifying information removed) that was written by two of the senior professionals at the PAT and which underscores the difference between the type of evaluation conducted by PAT compared with a traditional psychological assessment:

Ms. A, a 21-year old woman with two previous hospitalizations, was evaluated with regard to her current parenting abilities. Two and a half years prior, the patient’s children (ages 5, 4, and 1) had been removed from her care following a knife fight between Ms. A and the children’s father. A psychological evaluation was requested by a juvenile court hearing officer. This evaluation included a diagnostic interview with Ms. A, a Wechsler Adult Intelligence Scale, Rorschach Inkblot Test, Thematic Apperception Test, Wide Range Achievement Test, House-Tree-Person Test, Three Wishes Test, Draw-a-Person Test, Kinetic Family Drawing, Incomplete Sentences Test, Earliest Memory, Bender-Gestalt, and Most
Unpleasant Concept Test. The evaluator concluded that Ms. A’s reasoning was poor...that she was schizophrenic (because her inkblot responses indicated irrational thinking), that she was denying her illness (because she did not acknowledge having schizophrenia), that she could not tolerate being alone (based on responses on the Incomplete Sentence Test), and that she lacked connection with others and might therefore become suicidal (based on inkblot responses) (Jacobsen et al. 1997, pp.182-83).

The evaluation conducted by the PAT--featuring the record review, the assessment interview, normed tests, observations of parent-child interaction and developmental assessments of her children—reached the opposite conclusion.

This evaluation revealed that Ms. A had had two episodes of psychotic depression. Each had been exacerbated by hypothyroidism, active physical abuse from her boyfriend, and pregnancies. When she received proper treatment for her thyroid disease and left her abusive boyfriend, her symptoms fully remitted and had not recurred for 3 years. She demonstrated excellent understanding of child development. Her children were securely attached to her and were developing normally....She had built a solid support network consisting of family members and a women’s support group. This evaluation found no evidence of child maltreatment risk. (ibid.)

The PAT quickly earned a reputation in the court system for their thorough evaluations; one judge called it the “Cadillac of assessments.” However, in spite of the fact that the OIG made a big push to get DCFS families assessed by the PAT, they encountered some passive resistance from DCFS. For instance, DCFS did not hire a coordinator for the PAT until 1999 and an OIG staffer had to perform this task. An OIG follow-up report from June 1996 found that many DCFS workers and supervisors were not fully cooperating with the PAT and did not understand its function.
While all caseworkers were required to attend the initial interview and are invited to participate in the PAT, a limited number of caseworkers have actively participated in the assessment staffings. Overall, field child welfare workers had no understanding of the purpose, comprehensiveness, and value of the PAT. The field caseworkers demonstrated an inability to integrate PAT recommendations into their client service plans or identify their role in collaboration with other service providers. (OIG, “Report to the Mental Health Task Force: Wallace Case Investigation Team) DCFS caseworkers often did not provide the PAT with adequate records and sometimes they would continue to refer clients to traditional psychological assessments even after the PAT had evaluated the same family. Ultimately, the PAT staff members began attending ACRs in order to ensure that their recommendations made it into the client’s service plan and that the DCFS worker followed up on them. The original plan had been to assess families with a mother and one child. However, given the cases they were referred, this proved impossible and they revised their criteria to include families with two parents and multiple children. This slowed the assessment process considerably.

After several years, the original partnership between a social service agency and the local university dissolved and each of them developed their own PAT. A third PAT was created after that, in keeping with the desire to have one PAT from each of the three DCFS regions in Cook County (North Cook, Central Cook, and South Cook). Although the reputation of the PATs remained intact, the quality of the work began to diverge between the three PATs with the original university partner maintaining the highest level of quality. The PAT has been extensively studied and written up in professional journals and remains one of the clearest examples of how the OIG has impacted the larger field of child welfare.
Chapter Four

THE PRACTICE OF MEDIATION IN CHILD WELFARE: THE ILLINOIS FAMILY CONFERENCE PROGRAM AND THE OLDER CAREGIVERS PROJECT

In the first year of operation, the OIG slowly expanded its staff (there were about ten employees by June 1994) and came to develop of sense of its mission. The Wallace case continued to influence the child welfare system, most crucially in the increased willingness of workers and judges to bring children into the system and the greater reluctance to return children into potentially high-risk homes. This led to an increased number of children in the system, from 33,088 in June 1993 (six weeks after Joseph’s death) to 40,831 in June 1994 (DCFS 2001, p.5). This forced a reexamination of the practices that brought children into the system and a search for new ways of keeping children in their homes. In this chapter I will examine how the OIG nurtured a particular practice, family conferencing, in two separate demonstration projects. The OIG’s use of family conferencing clarifies some of the differences in values between DCFS and OIG.

The Keystone Kids

The Illinois Family Conference Program had its start in yet another horrific child welfare case that attracted national – and even international – media attention. This case, which became universally known as the Keystone Kids case, involved nineteen children who were found living with their four mothers and numerous other adults in a rundown apartment on the West Side of Chicago. Police came across the children while pursuing a
lead that drugs were being dealt from the house. Here is Michael Shapiro’s description of what they found:

There were nineteen children in the apartment. They were crammed, four and five together, on two stained and sheetless mattresses or on the living room floor, near the radiator, huddled under piles of dirty clothes, under a dirty blanket. They slept in their diapers or underwear. One slept on the floor, naked. The children stank of filth...Soiled diapers were shoved in the corner. Excrement and toilet paper clogged the single toilet. The bathroom light was out, and the faucet leaked cold water. There was no hot water. There were no towels, soap, or shampoo, and only a single roll of toilet paper. The kitchen sink was piled with dishes caked with spaghetti sauce. The stove was broken and thick with grease. Its door hung open. Cans of lard and some Kool-Aid sat in the pantry. Dripping water stained the bathroom sink black. Cockroaches ran across the floor and in and out of open boxes of rice and cereal in the pantry. The plaster ceiling was cracked and the green walls were pocked with holes. (Shapiro, p.86).

The police immediately contacted DCFS to take emergency custody of the nineteen children. There were five sisters and one friend of the family who were raising children in the apartment, although only one mother was present at the time. By the time the police were removing the children from the home a veteran free-lance photographer had picked up the story from his police scanner and was videotaping the children. It was these powerful images of the children that helped make this story so compelling to television outlets. In addition to the local stations, the story was picked up by CNN and ABC News, which used the footage on the broadcast 20/20. The New York Times and the Washington Post were among the prominent newspapers that covered the story. Shapiro notes “President Bill Clinton, at a prayer breakfast, held up a clipping from the Post and lamented that this particularly shameful case of parental neglect was happening ‘not in Calcutta but in Chicago’” (Shapiro, p.89). A friend of mine was doing ethnographic fieldwork in India at the time and she related to me that this incident was prominently
covered in India as an example of the extreme gap between the rich and poor in the United States.

The five Melton sisters – Diane (who was in the hospital giving birth to her seventh child the night the children were removed from the apartment), Maxine, May Fay, Denise, and Cassandra – were all charged and convicted with criminal negligence, a misdemeanor. During the court case, it was revealed that between them the five sisters and Denise Melton (the sixth mother in the apartment and the sister of Maxine’s boyfriend) were earning approximately $5,500 a month in ADCF payments. The prosecutor accused the six women of spending the majority of that money on drugs. The sisters quickly became the latest exhibit for conservatives and “New Democrats” like President Clinton regarding the degrading effects of welfare on women, black women in particular, and their families.

There was a counter-argument that claimed that the children were removed solely because their families were poor and black. Aside from one child with cerebral palsy and evidence of cigarette burns (one of Denise Turner’s children) there was no evidence that the children had been overtly abused or underfed, merely that the children and home were unclean and that the children often did not attend school. However, given the evidence presented in court about the drug use by the mothers and their perceived lack of understanding of what the problems were, the mothers were found guilty both in the courtroom and in public opinion. After their conviction, the women were given suspended sentences and DCFS began the task of providing services so that they could eventually reunite with their children. One sister, who was already on probation for a previous conviction, had to serve several months in prison. However, over the next
several years, after failed efforts to stop using drugs and maintain visitation schedules with their children, the sisters, one by one, agreed to have their parental rights terminated. As with the Wallace case, the Keystone Kids case increased the pressure on DCFS caseworkers to remove children from their parents and to keep them in the child welfare system.

The Creation of the Illinois Family Conference Program

When President Clinton expressed his concern that nineteen children could be living in such squalor here in the United States, Illinois Governor Jim Edgar was in Washington D.C. According to Ms. Kane, the Governor took an emergency flight back to Illinois to address the situation (Kane 2001, p.1). From a political point of view this case was a nightmare, a potent reminder of one of the most troubled state agencies at the beginning of an election year. The OIG was ordered to investigate the situation. The Meltons were not unknown to the agency. Diane Melton had previously had her parental rights terminated on three of her older children. Several calls had been placed to DCFS alleging that there were problems in the house on Keystone Avenue. A child protection worker went out several times to investigate these allegations but had not been allowed into the home. Rather than calling the police to gain entry into the home, the worker found the allegations unsubstantiated.

All of this was duly documented by the OIG. What really seemed to catch Ms. Kane’s attention was an aspect of the case that was missed by the reporters and commentators on the case, namely that a paternal grandparent had tried to inform DCFS about the situation but was ignored (this person was almost certainly the source of the
allegations that had not been investigated). Ms. Kane observed that Governor Edgar expressed "his belief in an African proverb, 'It takes a village to raise a child'" (Kane 2001, p.2). In keeping with this emphasis, Ms. Kane began thinking about how to reach out to the extended family and friends and to the local community. The resources were there but the child welfare system was not taking advantage of them. As she wrote in her dissertation about the IFCP, "there was a void in providing extended family members an arena and process for making decisions about child protection issues" (Kane 2001, p.2). Ms. Kane, a voracious reader of the professional social work literature, came across a model being pioneered in New Zealand. This model featured "the mandated involvement of family group members (significant blood and non-blood 'kin' are included as family members) in child protection decision making" as well as the use of a family coordinator to "convene, coordinate, and facilitate a family group decision-making process" (ibid. p. 4). The New Zealand project was initiated after the Maori people complained that the government was intruding on their prerogatives as indigenous people to address their own problems. By bringing tribal leaders and extended family members into the decision-making process, the New Zealand government hoped to protect children at risk while respecting the indigenous culture of the Maori.

When the IFCP was first being developed, it was hoped that the services would be strongly community focused. Lisa Frohmann, an anthropologist at the University of Illinois at Chicago, wrote a report to the OIG that documented the attempts to reconnect DCFS with local communities through the IFCP (Frohmann 1996). She wrote:

Instead of being part of the community, DCFS workers are perceived as outside control agents, who remove children from their families, monitor family life, and inhibit family reunification. The FCM [family conference model] attempts to alter this antagonistic relationship through the training
of DCFS staff and program participation. Training will provide an alternative framework for DCP workers to view the community and the families they serve. Program participation should enable workers to make more informed and coordinated decisions about the possible avenues of assistance to children in the community, and provide a newfound respect for community organizations and their abilities to assist families in changing their lives. (Frohmann, pp.16-17)

These goals for transforming DCFS through the IFCP proved to be overly optimistic. The process of turning the model into an actual program took much longer than anticipated and the program was greatly scaled down. In order to develop the program, Ms. Kane brought together researchers from New Zealand, SSA faculty and staff, child advocates, and “policy experts in the U.S. and Canada who [had] been involved in similar programs elsewhere” (ibid, p.20). The OIG contracted with an organization, Resource Alliance Inc. (RAI), which provided considerable administrative support for the IFCP for the first three years. Judy Hogan (from RAI) was the Project Director, handling the budget and the training for the community mediators, and did much of the negotiating with DCFS about the implementation of the program. Lisa January (also with RAI) served as the liaison to the community and as a mediation trainer, and took the lead in assembling the Family Conference Training Manual (Frohmann, p.20). SSA Professor Elsie Pinkston had a contract to consult with the project and she hired a veteran community organizer to assist her. The Center for Conflict Resolution, affiliated with Loyola University of Chicago, organized the training of community mediators. The OIG also set up a consulting contract with a social work professor in New Zealand who had worked on the evaluation of the family conference program there.
Originally, the IFCP was going to be based in two hospitals and three community organizations in Illinois (ibid. p.22). The plan to use hospitals as a site for family conferences stemmed from the OIG’s investigation of the Wallace case. The lack of coordination of services and the lack of input from extended family members in that case in dealing with Amanda Wallace’s mental illness was seen as an important causal factor in the death of Joseph Wallace. Furthermore, hospitals could be found in most neighborhoods, even very poor ones, and they often had considerable resources.

However, after receiving an initial encouraging response from two Chicago hospitals, the team developing the IFCP decided to hold off on this part of the project because of major restructurings that both hospitals were currently undergoing (ibid. p.23).

There were considerable difficulties in finding suitable community organizations to participate in the IFCP. Ms. Kane initially wanted to base the IFCP in three community-based organizations: one apiece in the West and South Sides of Chicago, where hundreds of DCFS families were located, and one downstate. Furthermore, she wanted organizations with track records of commitment to child safety and strong grassroots support (ibid. p.24). Several organizations were considered. One organization was devoting its resources to its own program that was similar to the IFCP and did not have the resources to simultaneously support the IFCP. Another organization based on the South Side was deemed to lack the necessary resources to support the IFCP (ibid. p. 26).

The OIG contacted the Lawndale Christian Community Center (LCCC) in early February 1994 just days after the Melton children had been removed from their home. LCCC was part of a series of separate but closely connected non-profit organizations operating in the Lawndale neighborhood which included the Lawndale Christian Health
Center, which ran a health center that provided care to 40,000 – 50,000 people annually, and the Lawndale Christian Development Center, a housing program which helped people build their own homes, and numerous other education and economic development projects (ibid. p.27). Leadership at the LCCC was interested in the proposed IFCP, particularly its heavy emphasis on community participation.

One aspect of the project that was especially intriguing to LCCC was the proactive nature of the project, although one administrator I interviewed stated that LCHC and were officially wards of the state and that it was inappropriate to divert resources from these children to other children who were not officially in the system. When LCCC was finally given the contract in June 1995, it was agreed that DCFS would refer intact family cases with an “A” or “B” sequence (an “A” sequence is the family’s first contact with DCFS—even if it is only an allegation and investigation—a “B” sequence is the second and so forth) and where the level of risk was not considered to be severe. This was designed to allow LCCC to become involved in cases before a child had to be removed. LCDC still felt the project wasn’t proactive enough. Rather than waiting for a family to reach a crisis point that brought them into the system, the initial IFCP proposal envisioned that half of the cases would be referred, not through DCFS, but through “community-identified” sources including families that LCCC was already serving in other capacities (ibid. p.28). This aspect of the program was the source of controversy within the upper management of DCFS. They pointed out that they lacked the resources to care for all of the children who

Ms. Kane also sought an agency in downstate Illinois to see how the IFCP might work with a different population of children and families. Almost immediately, the
Champaign-Urbana region of the state stood out as a possible site for a second agency because it had an unusually high rate of indicated reports of abuse or neglect and a high rate of removing children from their families. On more than one occasion, Ms. Kane called Champaign “the town without pity,” a reference to the perceived lack of empathy by local DCFS administrators and judges for the plight of poor families. One agency, The Best Interest of Children (BIOC), emerged as the most likely prospective site for the IFCP. BIOC was created in the late 1980s by a number of community activists with social services experience who were concerned about the way the child welfare system was responding to problems in the community. BIOC secured the second IFCP contract in 1995.

From the start, the relationship between the local DCFS office and BIOC was strained. Much of this stems from BIOC’s roots in community activism and their criticisms of the child welfare system. Also, in spite of the fact that the Executive Director was an experienced civil servant, BIOC was a new organization without deep ties to DCFS. The local DCFS was leery of BIOC’s ability to prioritize the safety of the child over the rights of the family. This erupted into open conflict a number of times during the course of the IFCP. Ms. Kane had to intervene, as she also did in Chicago, in order to compel the local DCFS office to make referrals to BIOC.

As the OIG developed this model in order to launch a demonstration project, they made several significant changes. First, they introduced a task-centered approach. This refers to a specific form of social work practice that seeks to break down the client’s problems into a set of smaller problems that can more readily be addressed by a family that may already be overwhelmed. The task-centered approach was developed in the
1970s by William Reid and Laura Epstein (who were then both social work professors at SSA). This approach was explicitly designed to “tighten up treatment, remove excess baggage, improve it realistically, and make it fit within a lean and cost-conscious modern world that [is] no longer capable of being easily swayed by romantic ideas of human perfectibility” (Epstein 1992, p.2). Instead of seeking to address all of the client’s problems through psychotherapy, task-centered social work seeks to reduce “the impact of a problem or a set of closely related problems” (Epstein, p.3). The first steps in such an approach are defining a problem and identifying a goal. After that a series of small steps are outlined and the client and the practitioner make a contract specifying what each of them are committed to do (Epstein, p.51). The contract is designed to give the client the sense that this is his or her plan, to give him or her a sense of ownership.

A second difference between the New Zealand model and the one developed by the OIG was the amount of follow-up. In the New Zealand model there was one family conference to develop a service plan and then the plan was implemented with the family coordinator responsible for ensuring that tasks were completed. The IFCP was built around the assumption that there would need to be multiple conferences over the course of the case. An initial conference would outline the problems to resolve and introduce the specific family and friends who would figure in providing assistance to the family. Follow-up conferences would track the progress of the family and help resolve new problems that emerged in the course of services and perhaps bring new people into the family’s support network.

It was important to Ms. Kane that service plans acknowledged the contributions of family members and friends so that reciprocal relationships were developed or
restored. This was crucial in situations where drug addiction or other chronic problems had weakened relationships within a family. Consider a woman who was referred to the IFCP because there were allegations of neglect stemming from her drug habit, a common example of the type of problems that the IFCP saw. It may be the case that her relationship with her own mother was strained because of frequent stealing to support her habit. The grandmother might still become involved with the IFCP because of her concern for her grandchild but she might remain leery of her daughter. It was Ms. Kane’s hope that if, for example, the service plan called for the grandmother to provide transportation to the mother, then the service plan should also include a provision that the mother help the grandmother with grocery shopping or some other household task that would restore trust between the two of them.

A final difference was the use of mediation. In New Zealand the facilitator is a social worker with obligations to report to supervisors and the courts. Ms. Kane believed that such a framework would inhibit some of the frank discussion that might be necessary for a family to address the pressing issues before them. In the United States’ legal system, mediation has a high degree of protection from court oversight; only the agreement that is produced is entered into court records. An important aspect of this mediation was that it was to be carried out by members of the community, not by professional social workers. This was designed to address the concerns that many communities, poor and heavily African American, had about DCFS’ treatment of the families in their communities.
Implementing the IFCP

In this section, I will discuss the experience of the Chicago site of the IFCP. Although the Champaign site, BIOC, merits discussion as well, limitation in spaces and resources demanded that I focus on one site. I will examine two practices that were essential to operation of the IFCP, mediation and the use of genograms as a way of representing a family’s social network. Furthermore, I will consider some of the organizational transformations that occurred around the IFCP that bound it more closely to the community it serves.

The person who became the driving force in the Chicago IFCP pilot project was Joseph Miller. In the early 1990s, after receiving his MSW from SSA, he was a caseworker for DCFS working with families on the west side of Chicago. After doing this for several years, he was approached by the LCHC about directing their maternal and child healthcare management programs. This position brought him into contact with the IFCP and he supplied clinical supervision, even though the program was run through the LCCC. After approximately six months, Miller became the Executive Director of the LCHC and he had the program officially transferred there and he assumed the full responsibility for running the IFCP. He did this because the first IFCP coordinator also had other obligations at LCCC that demanded more of her time and because his expertise in social work and child welfare could enhance the effectiveness of the program. Mr. Miller then hired a recent graduate of SSA as the IFCPO coordinator and two ministers who were also recovered addicts as case aides, one of whom had been a maintenance man at LCHC prior to being hired.
The first IFCP coordinator was successful in working with families in spite of her lack of formal credentials. Mr. Miller describes her as “very family-centered, which fit right in with the goals of program.” The SSA graduate hired to replace her “struggled…with getting out to the families in a timely fashion.” Her replacement, another MSW, also had difficulties with the extensive family contact required by the program and she left as well. The two case aides were better about working with the families but their lack of training proved to be an issue. Because of the turnover in the coordinator position, the case aides were, in effect, serving as caseworkers and became the primary contact between the clients and the agency.

Initially, the relationship between LCHC and DCFS went fairly well. In fact, there was hardly a relationship at all; referrals would simply be sent over with further communication between the agencies. Mr. Miller noted that “oddly enough, for the first year-and-a-half, we were working only with the OIG… we really didn’t have a connection with DCFS for some time.” This statement underscores the OIG’s commitment to this program and how it was able to serve as a buffer between DCFS and certain agencies who were trying innovative programs. Most of the referrals were sequence A cases that were either “indicated and closed” or “unfounded.” The clients were mostly single mothers between the ages of 19 and 30 with substance abuse problems. Because of the substance abuse problems, all of the clients had problems with stable living arrangements and many of them were cut off from their families. The original intent of the IFCP was help deflect the least serious cases out of the child welfare system by helping the families bring their own resources to bear on the presenting problems. However, this came into tension with LCHC’s mission to serve the Lawndale
community. As Mr. Miller stated, “By and large they were appropriate referrals, but we really didn’t think of them that way because they were community referrals, they were the people who were out there, so we thought of them as a natural fit for us in terms of being accessible to the population. I think it took us some time to get the program to where it would work for the community’s population.”

Getting the program to fit the community involved a number of changes. First, resources for the problems that the clients confronted meant identifying substance abuse treatment centers and halfway houses as well as developing relationships with them and finding other organizations in the community that could provide food and clothing and other urgently needed supplies and services. Secondly, the model itself had to be revised. As Mr. Miller said in an interview:

I think that early on...the New Zealand model was pretty wrong. There were various phases that it went through, but there was no integration of social work or child welfare principles. And so a lot of the early work went into that and with coming up with forms to capture data and thinking about what information needed to be captured. So we started out with a very basic genogram, I taught our staff how to do a very basic genogram to get some family history. We imported some information from DCFS’ family assessments. We incorporated some very basic mental health assessments components. That sort of thing, basic Social Work/Casework 101.

Unlike the New Zealand model, which placed greater emphasis on the capacity of the indigenous institutions to resolve the family issues, the IFCP relied more on the expert knowledge of social work. This posed some training issues for LCHC, which was essentially staffed by paraprofessionals. This was particularly important because in the third year of program, the cases became more severe. Instead of receiving clients new to the child welfare system, Mr. Miller observed that:
For us, a couple of issues became pretty clear and, and on the face of it, had been there. Even though most of the cases we had received were sequence A or unfounded, because of the substance abuse issues, there were family level, community level and individual level dynamics that were pretty intense. And it became clear that our workers were having a hard time wrapping their minds around all of these issues. Helping them with assessment was a big issue, but also keeping them from getting overly involved with the intervention became an issue as well. Because the whole point of family conference was that the family was supposed to make the plan and carry it out and because the cases were so intricate at times, our workers were doing those things themselves, because it was easier to do than trying to work with the families. If there was a need, you took care of the need. It was a pretty direct relationship but it was getting in the way of having the family step up and take care of the situation. So trying to establish that dynamic tension, that balance, of doing enough for the family without it being too little or being too much was a challenge.

Eventually, the referrals were cases that were more severe in nature. This changed the relationship between LCHC and DCFS. Mr. Miller observed

[In] the third year, when we began getting cases that were not Sequence A and that were open and were being serviced by DCFS workers in addition to our own, that I went to the DCFS team that was servicing most of these cases and we developed a relationship with them where we followed the cases and performed the monitoring role. And we set up quite a few protocols to make that relationship work. And that was highly successful...until the supervisor of that team moved on. And then the relationship changed. [A new supervisor was assigned to the DCFS unit we were working with and] he wasn’t familiar with the programs and we weren’t getting referrals from him.

At this point, the OIG again intervened in order to persuade DCFS to refer some cases to LCHC. Ms. Kane spoke with a number of DCFS officials, including Director MacDonald, about providing clients for LCHC. She also intervened to ensure that payments owed to LCHC for services provided were made.

In 1997, the IFCP contract was transferred from LCHC to the I Am Able Family Development Corporation (IAA). IAA had first been established by Mr. Miller in the
early 1990s, while he was a graduate student at SSA. The organization had been dormant through the mid-1990s while Mr. Miller worked for DCFS and LCHC. But with a stable contract from DCFS, Mr. Miller realized that he could re-establish IAA and then develop other social work services, like psychotherapy, around the IFCP. The hope was that a smaller agency with a more focused mission statement could better serve the families of Lawndale than a larger organization with a primary mission of providing health care services.

This is more than a minor change in the program. I argue that this reflects an important characteristic about how the child welfare field is being revised. As noted in the first chapter, for much of the twentieth century the child welfare profession centered on large orphanages and group homes. These tended to be large, totalizing (in Goffman’s sense, see Asylums) institutions. As the child welfare field was reorganized around the concept of child abuse in the 1960s and 1970s, many of these large organizations began providing foster care for abused children or treatments for more severely disturbed children than they had previously. Of course, many smaller organizations developed as well but they tended to mimic the services of the larger agencies or serve specialized populations. My point is that services were provided within an enclosed setting with a hierarchical relationship between a caseworker and a client.

I believe that the IFCP provides a small demonstration of a broader trend within child welfare, the emergence of networks as an important mode of distributing resources and structuring relationships. In his book The Rise of the Network Society, Manuel Castells discusses the attributes of a network. “A network is a set of interconnected nodes...Networks are open structures, able to expand without limits, integrating new
nodes as long as they are able to communicate within the same network (Castells 1996, p.470). The reestablishment of IAA represents precisely this type of network expansion.

In the first chapter I discussed how the child welfare field initially developed in the nineteenth century along sectarian lines to serve the needs of religious communities. In the early twentieth century there was a professionalization of the field even as it retained most of the organizational structures of the previous era (Cmeil’s *A Home of Another Kind* provides an excellent discussion of this process through the history of one organization). In the 1960s, with the creation of DCFS, one can begin to talk about a child welfare system. What needs to be specified here is how this system opens up the possibility for the development of a network (keeping in mind that I am considering only one network among potentially many more).

The minimum threshold conditions for the creation of a network are the existence of possible nodes, a shared set of issues and codes, and a catalytic event that brings these nodes into communication. Since I have already discussed the characteristics of the OIG and the catalytic events that spurred the creation of the IFCP, I will briefly discuss how the LCCC, IAA, and SSA fit into this network. My argument is that the agencies discussed here, plus SSA, came together in a new way around the IFCP. The LCCC was a community development corporation (CDC) that was created in 1978 in the wake of the civil rights movement of the 1960s. The first CDC was created in Bedford-Stuyvesant neighborhood of New York City under the sponsorship of Senator Robert Kennedy in 1966. As the Great Society programs, with their emphasis on “maximum feasible participation” by community members, of the 1960s lost political momentum during the Nixon administration, many activists created CDCs to respond to the conditions of
poverty still prevalent in many urban communities, often with a focus on housing issues (Nicholas Lemann has a good discussion of the political developments surrounding CDCs in *The Promised Land*). CDCs established connections with local politicians, large government bureaucracies with money to give out (like the Department of Housing and Urban Development), and with foundations. By the early 1990s, CDCs like LCCC had the institutional resources to be able to expand into the field of child welfare and throughout the United States foundations have been encouraging CDCs and other community-based organizations to do so. As I have shown, LCCC then was able to serve as a launching pad for IAA.

SSA is an equally important node in this network for two reasons. First, it is the training ground for most of the agents within this network. Ms. Kane, Mr. Miller, DCFS Jess MacDonald, as well as two of the family coordinators hired by Mr. Miller were all SSA graduates, which provided a shared set of reference points. In the late 1990s, Mr. Miller and Ms. Kane were both were working on their Ph.D.s at SSA while continuing to work full-time. Second, the OIG had a contract with SSA that provided numerous resources for supporting the IFCP (my own work on the IFCP evaluation was funded through a contract at SSA). In addition to the formal resources, the informal resources were important as well, including the rooms that were made available for meetings and the ability to consult quickly with a member of the SSA faculty who might be able to answer a question. As Castells notes, information is the central commodity of a network, so it is hardly surprising that an educational institution would figure so prominently. But information, along with its accompanying technology and practices, is not a passive element in the operation of networks. The form and content of information is a major
structuring element of networks and in the next section, I consider the role of the practices of collecting genograms and of holding mediations in the operation of the IFCP.

*Genograms and Mediation*

As the OIG forged ahead in the creation of the IFCP, it was clear that the central value was working with extended family members to ensure the safety and welfare of children at risk of harm. While this was not a novel idea, prior to the 1990s it often was not encouraged. There are numerous reasons why this was the case. Extended families were often considered to be part of the problem, “bad influences” that the caseworker had to work to overcome in dealing with the client. It also requires a lot of time and energy to identify and contact family members, two elements that caseworkers rarely had enough of in the first place. Furthermore, there were often severed or acrimonious relationships with family members that could make engaging with them stressful rather for the client (Berry 1997, p.74).

In the 1990s this perspective changed dramatically throughout much of the child welfare field and the extended family came to be seen as a valued resource. The reasons for this are not entirely clear. Certainly the press of rapidly increasing caseloads and the limited resources of state agencies made identifying informal familial resources attractive to administrators. The conservative political climate, with its emphasis on “family values,” may have encouraged this trend as well. Social work had numerous theoretical models that could incorporate this turn to the extended family members, including social ecology and family systems theory. IAA used family systems theory to try to get his workers to conceptualize the problems facing the family.
I think one of the biggest challenges is that a lot of social work is done dyadically. You have a person who is referred and you work predominantly with that person around getting services in place to ensure the safety of their child or children. We’re asking them to work within the family system. And that was a much bigger challenge so we began early on employing family systems theory as a way of conceptualizing what was going on with the family. We did a lot of case review, and in fact we still do. But with [the Family Consultants], there was a time when did almost daily review and if not daily then weekly. They would talk about what they had seen while they were out there and I would lend them a conceptual framework from family systems about how to think about the cases. That’s how the social assessments were written and how they were able to maintain a balance in their relationship with the family members without being sucked all the way into this family faction or another. And they actually did a very good job of following the consults I gave them and keeping themselves from getting triangled, which should have happened in almost every case, but rarely happened.

Family systems theory was developed in the mid-1950s by a psychiatrist, Dr. Murray Bowen. The theory, as its name implies, claims that families are not just a collection of individuals but a “functional whole” and “that problems and symptoms reflect a system’s adaptation to its total context at a given moment in time” (McGoldrick & Gerson, pp.4-5). Family systems theory represented a move away from the psychoanalytical theories that then held sway in the psychiatric and social work professions, which focused on the continuing impact of childhood traumas on the adult patient’s psyche. In order to represent these family dynamics, Dr. Bowen created the genogram. A “genogram is a format for drawing a family tree that records information about family members and their relationships over at least three generations…and provides a quick gestalt of complex family patterns and a rich source of hypotheses about how a clinical problem may be connected to the family context…genograms are appealing to clinicians because they are tangible and graphic representations of a family” (ibid. p.1).
Because of their commitment to working with extended families, IAA workers had to negotiate these family dynamics and, as Mr. Miller indicated above, there was the risk of becoming entangled in one family faction against the other. Completing the genogram with the client became a way of informing the worker about significant people in the lives of the family. But completing the genogram also help to create resources for the families because the worker could ask if a relative or friend was available for babysitting or some other task that would be useful to the family. This was a way for the worker to role model problem-solving techniques for the clients. Completing the genogram could also serve to underscore for the client the damage her substance abuse (an issue in almost every case) had caused for the family. When asked if family members where sometimes reluctant to get involved, Mr. Miller replied, “Absolutely, especially the maternal grandmothers. Often the substance-abusing family member was living with family member and there had been some theft to support their habit, or were selling drugs out of the house or were bringing undesirable people into the house. A lot of these people had burned their bridges.”

Another aspect of identifying family resources was to get the father and paternal relatives involved. One of the broader trends in the social services in the United States in the 1990s was the commitment to re-engaging with the fathers of poor children. This was a response to the decades-old pattern of denying welfare benefits to households with fathers or other male providers. This policy led to the policing of welfare recipients homes for evidence of men sleeping over; consequently, many poor urban males stayed away from the households of their children. This policy had long attracted criticism from both liberals (like Daniel Patrick Moynihan) and conservatives (such as Charles Murray)
since the launching of the War on Poverty in the mid-1960s, but the in 1990s numerous federal and state initiatives began to address this concern. These initiatives ranged from the punitive, for example increased court-ordered child support payments, to the supportive, including classes to teach young males how to be better fathers. While fathers were not active in every case, in some instances paternal family members contacted by IAA were able to provide support to the children.

The genogram form that was used in the IFCP also had spaces that were designed to indicate social services that the client could access, including substance abuse treatment providers, food pantries, and housing assistance. The genogram, in effect, sought to depict a seamless web of support for the family that merged extended members and formal services into one network. But if the genogram created a representation of such a network, it was operationalized by another practice, namely, mediation. Mediation sessions were envisioned as the forum in which family members would be informed about possible services and develop a plan that addresses the family’s needs.

It was also hoped that community members would be able to be trained as volunteer mediators because it would help empower the local community and perhaps increase the comfort level for family member. Furthermore, it was thought that by getting a mediator who was not a caseworker already working with the family that the mediator would not be entangled in any of the family factions and could provide an objective point of view. In Champaign, BIOC was able, after many difficulties, to develop a small set of community-based mediators. In Chicago, however, the community-based mediators did not pan out. Mr. Miller gradually became the main mediator for a number of reasons.
But, as I said, a lot of these cases were so involved that it was difficult for a mediator to go in there cold and pick up have something come out that was viable. They were taking a lot of time getting up to speed with what was going on with the family. We also were having a logistical problem in that most of our families wanted to meet during the day and all our mediators were working. We were having a real hard time getting the mediators to the session. So it finally came to the point where I was doing a lot of the sessions myself and running the family meetings.

However, because of the crisis situation many of these families were facing a lot of key decisions had to be made relatively quickly, such as getting a caretaker into substance abuse treatment. The caseworkers, then called Family Consultants were also very good about contacting family members and discussing options with them. Mr. Miller states:

And at one point in the review sessions it became clear that [the Family Consultant] was doing the family mediations before I was doing them. It made sense, he had the family members there – he was doing a lot of his work in the home – and all the family members were there and he was finding out what they wanted to do and he was holding this impromptu family meeting, and then he was setting up this other family meeting for me to do so that we could follow the program. Finally, we just said, “Ed, you’re doing it, let’s just roll with it.”

In addition, as IAA acquired practical experience with the model, Mr. Miller began to make a distinction between “facilitation” and mediation.

Facilitation was when families pretty much had the capability of managing their affect and dealing with their interaction in a way that didn’t create more problems. And therefore, the worker would sit in the room and make sure that things generally flowed but not interfere or interfere as little as possible. But other families were much more conflictual and needed someone to actually mediate them. And therefore we had our worker act as a mediator, or one of our better-trained staff act as a mediator or we even bring in an outside mediator in highly conflictual situations where it was clear that our worker had been triangled or were no longer in a neutral position.
Another lesson from experience was that it often took numerous mediation or facilitation sessions to keep a family moving forward. The family members attending these mediation sessions could change dramatically from session. Often the first mediation session only included two family members, usually the mother and the maternal grandmother. As services progressed, other family members would be engaged in the process and seven or eight people would attend later sessions. Sometimes there would be fights within families that would result in people dropping out of the process. For instance, a sister might agree to care for a child while the mother was in substance abuse treatment but then feel taken advantage of or would become discouraged by a relapse by the mother and decide not to care for the child any longer. IAA tried to adjust to the fluid realities of the families they served while using the agreements produced by the mediation and facilitation sessions as a foundation that could stabilize a troubled situation. The tool for accomplishing this task was the Memorandum of Agreement (MOA).

Originally, the MOA was to be a contract that could be entered into court proceedings if need be to show that the family was working to solve its problems. As noted above, one of the initial impulses behind using mediation was that this process was often recognized by courts without requiring family members to air their disagreements in public. This aspect of the MOA did not turn out to be very relevant to the IFCP. However, the MOAs remained an important document in the provision of services to the family.

The MOA sort of morphed over time. They started out as one thing and became something else and then came back to being the original thing. The idea was that an MOA was supposed to go beyond a traditional child welfare service plan and lay out a very practical agreement among family
members regarding the care and protection of the children. So whereas a
traditional child welfare service plan would have things like “refer the
child to counseling” “refer parents to substance abuse treatment” an MOA
was supposed to say something like “these are the people responsible for
clothing the child, making sure the child got to school or medical
appointments”. So it was supposed to be much more detailed.

In short, the MOAs produced by the mediation/facilitation sessions individualize the
service plans for the family and pass some of the responsibility for the success of the
plans to the extended family members. The function of the genogram, the
mediation/facilitation sessions, and the MOAs is to code a family in such a way that the
family becomes a network. In contrast with traditional casework, which focused on the
mother-child dyad and produces service plans with generic tasks, the casework
undertaken by IAA viewed the client as part of dynamic, fluid system that could be
strengthened by the reciprocal sharing of information that hopefully could service plans
that were more carefully tailored to meet the needs of individual families. By coding the
family as a network, it then becomes a node in the larger network of community
institutions, including social service agencies.

As Giddens has often noted, the type of expertise that is embodied in the
specialized assessments used by the IFCP is an important disembedding mechanism
(Giddens 1991, pp.18-21). The assessments and other social work components of the
IFCP recode the specific problems of the clients into terms already understood by the
profession and then re-embeds the client and her “case” into a local context. The
implication of this is that the “community” is less an organic reality than a complex
construct negotiated among many different agents including residents, government
officials and bureaucrats, and a diverse set of non-governmental organizations. The key
point for my argument is that it is not membership in a community that determines
eligibility for services but membership in a network. The rhetoric of community is not an illusion that hides the operations of power; rather this rhetoric mobilizes and extends the operations of the network.

*Evaluating the IFCP*

By 2000, the last cases served under the IFCP were closed. With the end of the pilot project, the question of whether it was successful was raised. Within the social service field the best method for resolving issues about the success of a program is to have a controlled experimental study with the random assignment of clients, as DCFS did with the Family Preservation Program in the early 1990s. This was not feasible for a number of reasons, including the small size of the pilot project. Unlike the Family Preservation Program, which implemented a program that had been carefully developed over many years in a variety of jurisdictions, the IFCP was being reinvented as it was being implemented, which meant that it is difficult, if not impossible, to have a set of consistent variables over an extended period of time which could be measured. Having said that, let me offer the opinions of Ms. Kane, Director Jess McDonald, and Mr. Miller. Ms. Kane remains a strong believer in the concept of family conferencing, as I discuss in the next section she transferred many of the features of the IFCP to another pilot project concerning older caregivers. In my experience working with Ms. Kane on the IFCP I found that she was frequently frustrated by what she perceived as the lack of commitment by DCFS staff to the project. This lack of commitment manifested itself in a lack of referrals to the IFCP, referrals that were inappropriate to the project, difficulties in getting payments to the IFCP agencies in a timely fashion, and a reluctance to meet with IFCP
agencies to discuss implementation issues. In spite of these difficulties she found four areas where the Family Conference model may positive effects: in obtaining the involvement of family members; in aiding parents’ retention in substance abuse treatment; in assisting families manage medical problems; in cases where there is suspected or actual domestic violence (Kane 2001, p.138).

Mr. McDonald had a much different evaluation of the IFCP, which I quote at length from my interview with him.

Family Conferencing has not been effective at all. If I go to the field and ask they think about it, they do not trust family conferencing. They do not believe they understand the safety risks and that’s been the case. And the program in Champaign has chosen to go political rather than be programmatic and doesn’t have the trust of the staff. The staff are not going to trust anyone in the family conferencing from the Best Interest of Children with mediating a dispute that involves a child’s safety and permanency because they do not believe that they have the child’s safety at heart. So they’re not going to run a risk on the safety issues and trust that organization. So, those things happen… Family conferencing as a concept… Judge Salyers tried to introduce a similar model into the courts, we’re going to use in Best Practice a model, which is…a form of family conferencing. There are many different models to it. The unfortunate thing about the two models we have--and IAA, which is Joe Miller’s operation, is the one I am most impressed with--but we just never could quite make the connection. Still. DCP is concerned there about the quality of the staff that are doing this and their ability to manage the safety issues. Because if you are asking them to mediate the safety risks, they have got to be really good at it. So that’s one concern. That is not an issue with the model; it’s not an issue with the OIG’s role or interest in trying to encourage it.

This is obviously the view from the bureaucracy, but it is still subtle in distinguishing between the actual results, which were in fact mixed, and the model itself.

However, my sense is that there is little commitment within DCFS for any kind mediation model.
IAA continues to service DCFS cases under a new contract, in fact the agency has grown significantly since the end of the IFCP. They offer a range of services, including individual and family counseling. But the Family Conference model, albeit in a much tweaked form, continues to central to how they approach cases. In my interview with Mr. Miller he described an arch that IAA services have traversed. When asked if the Family Conference model continues to inform their casework, he replied:

Absolutely. The model became very clinical for a while, very social work oriented, in the sense that it became pretty much a psychotherapy model. And now we are going back to a more balanced integration of the original model, taking general casework and clinical work and moving it back to other end. We are going back to the old model and re-amplifying some things that got lost.

Two aspects that have been re-amplified have been a proactive community-oriented approach to reaching families before they reach a crisis state and getting the families to take the bulk of responsibility for achieving stability and safety for their children. For example, one set of community relationships that IAA has established has been with the schools in North Lawndale. He has workers go out to schools on a regular basis to find out about children at risk so that an intervention can be initiated to resolve the situation before DCFS has to become involved.

It is not my intention to pronounce success or failure for the IFCP, besides it lies outside my competency to do so. It is my contention that the IFCP is a privileged point of entry for the introduction of a network-based approach to child welfare because of its dual emphasis on involving extended family members and accessing community-based resources. The real test of the importance of the IFCP is to be found in the continuing casework practices at IAA and the implantation of the family conference model in other
contexts. One such setting proved to be the Older Caregiver Project, which was developed by the OIG in 1999-2000. The OIG was able to exert considerably more control over this project than they had with the IFCP. I will discuss how mediation was used as a means of bringing experts together with family members to develop case service plans.

*The Older Caregiver Project*

One of the mandatory roles of the OIG is to investigate the deaths of any DCFS ward or any child where there had been recent DCFS involvement, even if the case was currently closed. The Older Caregiver Project had its start in one such OIG investigation. The case concerned a longtime foster parent who was in her seventies and had seven children in her care. One of these children, an infant, died in its crib one night. As Ms. Kane later observed, the caregiver was so overwhelmed by the demands placed upon her and so relieved that the child was being quiet, the she did not realize that the child was dead until twelve hours after the child’s death, rigor mortis had already set in by the time the ambulance arrived on the scene. A typical investigation might have merely concluded that the caregiver was negligent and responsible for the child’s death, but Ms. Kane went in a different direction with the ensuing OIG investigation. She was concerned that lax DCFS licensing standards were allowing too many children to live with caregivers who cannot meet the demands of foster parenting. But she was also interested in broader issues raised by cases where older caregivers were involved. This was particularly pertinent because the increased use of home of relatives for substitute care meant that
there was a growing number of these cases, many of which were moving toward adoption.

After the initial OIG investigation, Ms. Kane asked DCFS to review all of their cases where the primary caregiver was sixty-five or older and had five or more children in his or her care. The DCFS review indicated that these families were generally safe. Ms. Kane asked to examine DCFS records on these cases. OIG’s examination raised some “red flags” around several issues: the ability of an older caregiver to handle potentially unruly teenagers; the general health of many of the caregivers; and the safety of both the children and the caregiver in the house in the event of a fire or other emergency. Ms. Kane had two realizations early on in this process that later proved pivotal in how the OIG proceeded in this project. The first realization was that there were diverse areas of expertise that had to be accessed over and above expertise of child welfare issues including housing, financial, and medical issues. The second was that this was another realm where family conferencing could be utilized.

The next stage of the project was to pick some of the cases from the DCFS review and to examine them carefully and to begin developing a model that could better serve this population. This posed a practical issue, namely, that OIG involvement was usually interpreted by agencies and caseworkers were under scrutiny and potentially in trouble. Ms. Kane tried to circumvent these concerns by putting together a workgroup that included several mid- to high-level DCFS supervisors with expertise in licensing foster and adoptive homes, a social worker specializing in geriatric issues, a housing specialist, as well as the caseworkers assigned to a family and their supervisors. The workgroup would meet on a monthly basis to discuss the cases and devise a plan for addressing
major concerns. Throughout the month OIG staff (usually myself and an OIG supervisor) would work with the caseworkers assigned to the families to see that workgroup recommendations were carried out. This workgroup began meeting in late 1998 or early 1999. In order to explicate this process I will discuss two of these cases, although any identifying information is changed to protect the confidentiality of the family.

*The Smith Family*

The Smith family consists of Mary, the 68 year-old matriarch of the clan, her nephew William (48 years old) who lived with the family on an occasional basis, six boys ranging from eight to sixteen whom she had already adopted, and another boy (age 6) who was still a ward of the state but who was in the process of being adopted. They lived in the South Side of Chicago in a small house in a comfortably middle-class African American neighborhood. It should be noted that because the older boys were all already adopted, DCFS jurisdiction was restricted to the youngest child, even though it was the hope of the workgroup that any plans that were made would benefit all of the children. When the workgroup first picked this case to examine, there were several steps that were taken immediately. First, all relevant case records were collected and reviewed. Second, criminal histories were obtained for an adult living in the house. Upon completing these first two tasks the home was visited by two OIG workers (including myself) and the geriatric social worker participating in the workgroup.

The review of the case records immediately raised several concerns. The first of these were allegations that a young girl, who had formerly been a foster child in the
home, had been molested by Mr. Smith (who had died several years prior to OIG involvement). These allegations were never proven but the DCFS caseworkers working the family made the decision to place only boys in the home after that. Another concern was that the children were overcrowded in the house. Also there was a concern that the home was overcrowded. DCFS has set standards about the amount of sleeping space per child but these are often ignored if the foster or adoptive parent is a relative or if she is adopting a sibling set. Finally, there was some indication that Mary had health issues.

The review of criminal records raised an even more pressing concern. The initial LEADS check indicated that William had previously been convicted of rape. There is a certain margin for error in LEADS checks because of similar names or the use of social security numbers by multiple people so the OIG obtained the police records. This demonstrated that William was not the person charged and convicted of this crime. Mary had several minor arrests for things like shoplifting and writing bad checks, although these occurred in the 1960s and nothing seems to have resulted from these arrests. The records also indicated that Mrs. Smith had another son who had also adopted two of the siblings.

At this point, I accompanied an OIG supervisor on a home visit to meet with Mrs. Smith. The visit resolved some concerns and raised others. First, it was clear that there was a strong bond between Mrs. Smith and all of the children. Second, William appeared to be a reliable authority figure for the children and someone who provided substantial assistance in keeping the house functioning at a high level. However, it was also apparent that there was in fact significant overcrowding that would have to be addressed. The four youngest children all slept in two bunk beds in a small room. The two oldest
also shared a small room. Furthermore, Mrs. Smith obviously had pressing medical
issues. She was overweight and had badly swollen feet. On the visit, when we went
down to the basement, we observed that she had to lean heavily on the wall to navigate
the stairs. This posed the issue of how she would carry a child out of the house in case of
a fire or some other emergency. Finally, the home visit brought our attention that not
only was she caring for seven boys but that she had an aunt living with her who was in
her nineties and who was severely ill, requiring near constant attention. The visit from
geriatric worker took place within a week and more or less confirmed our observations.
In addition they discussed her health, her feelings about children and her fears about
losing them and the social worker tried to allay these concerns.

Several weeks later, we had another meeting of the workgroup and reported on
both visits to the home. Ms. Kane related to the DCFS caseworker that we were
especially concerned about the overcrowding and the mother’s ability to get the children
out of the house in case of an emergency. The workgroup decided to have Mrs. Smith
undergo a more thorough health examination. And to hold off on finalizing the adoption
until more information was provided and a backup plan for the children was put into
place. At that point it was decided to hold the first family mediation. Our proposed
backup plan was to have William move into the house on a permanent basis and to have
him prepared to take custody of the children if Mrs. Smith died.

After the meeting, the DCFS caseworker came up to Ms. Kane and remarked that
it was ironic that she had discussed what might happen if there was a fire, since there had
been a fire in the house just the day before. Everyone was safe and healthy but there was
significant damage to the house and a large part of it would have to be rebuilt, which
would be covered by the insurance company. It is characteristic of the differences between many DCFS caseworkers and the OIG that the caseworker did not see the workgroup as an appropriate place to discuss this problem, that it was better to keep quiet and mention it to Ms. Kane in a one-on-one setting. Ms. Kane was furious at what she perceived as a breach of professional ethics. In keeping with the non-punitive goals of the workgroup, Ms. Kane did not seek to have the worker punished but she did have him removed from the case and replaced by another caseworker.

One difficulty in obtaining accurate medical information was that the medical form DCFS used was short and uninformative. The joke in the OIG was that if you didn’t have tuberculosis (one of the few conditions the medical form addressed), then DCFS assumed you were healthy enough to be a foster or adoptive parent. The OIG decided to develop a much more rigorous medical form that inquired about a wide range of health issues that could impact parenting and indicate future concerns. Once this form was developed, Ms. Kane worked with DCFS to get this form into common use.

At the mediation, the family developed the backup plan along the lines mentioned above. It was also specified that the house would be rebuilt with more bedrooms for the children and that the aunt would go to live with another relative. However, an obstacle soon developed. William, as a potential adoptive father for the boys, had to undergo the same medical exam as his mother. Unfortunately, it turned out that he had a serious heart condition and he began to receive treatment for this condition. He was, in fact, in worse health than his mother. The joke around the office was that we had saved his life with our intervention (when we informed Mrs. Smith that she healthier than her son, she replied “hell, I could have told you that”).
This turn of events necessitated another mediation to develop a different backup plan. At this point, we looked more carefully at the extended family and identified two potential candidates to assume custody of the children in an emergency, her other son, Jack, and her brother, Steve. They were both present at the next mediation and Jack and his wife agreed to this plan while Steve and William both agreed to provide assistance as needed. After this plan was developed the adoption of the youngest child was finalized.

_The Jones Family_

The Jones family proved to be a more difficult case for the workgroup. While the Smith family had been wary of our involvement at first, they were essentially cooperative once it was clear that we were not seeking to remove the children from Mrs. Smith. The Jones family was secretive and uncooperative throughout our involvement in the case. They also had more severe problems. The review of the records unearthed a psychiatric evaluation of Mrs. Jones that pronounced her “psychotic.” This finding was over-ridden by a supervisor who was trying to facilitate the adoption of the five boys and one girl living in the home, all of them the grandchildren of Mr. and Mrs. Jones (their son was incarcerated). The licensing records indicated that Mr. Jones had never undergone the necessary foster parent training; he had sent his daughter instead with the excuse that he was nearly blind. The criminal background check turned up the fact that Mr. Jones had a restraining order to prevent him from getting near his ex-girlfriend (he was still married to Mrs. Jones). He had spent a night in jail for violating this order.

The visit to their home made it clear that there was significant overcrowding. The teenage girl was sleeping in a cot in the foyer. The children were doing poorly in school.
Furthermore, more investigation showed that Mr. and Mrs. Jones were in deep financial distress. They had taken out a sub-prime home equity loan with an extremely high interest rate and were in danger of losing the home. They were at risk of having their water cut off because they had a huge water bill that they could not pay. It turned out that one of the apartments in the building (the Jones owned a three-flat and rented out two apartments) had a malfunctioning toilet that was constantly running.

Once all of this information was gathered, the workgroup was very leery about keeping the children in the home and letting the adoption go through. However, other options were not apparent. The father of the children was about to released from prison but he had already terminated his rights and was not interested in assuming primary care for the children. There were two adult daughters but one of them lived in southern Illinois and the other one, who lived around the corner from the Jones family, was about to give birth to her third child. It should be said that the caseworker was unfazed by all of these developments, most of which she had not known about prior to the OIG’s involvement. She had developed a rapport with Mrs. Jones and felt that she would make a good placement for the children.

The first mediation session focused mainly on the most pressing issues involving the house. The housing specialist presented the key information and also identified some housing resources for seniors in Chicago. In particular, she underscored the danger of losing the house to the sub-prime lender. In the wake of the mediation, the daughter from Michigan provided some money to pay the water bill. City resources were obtained to make improvements, including fixing the toilet. It was also agreed that the Jones would stop taking tenants and move the children into the extra rooms. Their son, the father of
the children, would move into one of the apartments to assist his parents with the caretaking. The daughter living in Chicago agreed to deal with the schools in improving the school performance of some of the boys. Mrs. Jones underwent another psychiatric evaluation, which stated that she did not have any significant mental health issues. After these issues were addressed, the workgroup allowed the adoption to proceed, although OIG personnel still believe that this was not an optimal placement for the children.

These and other cases helped to tighten up a model for serving older caregivers. The task now was to turn this into a full-fledged pilot project. Unlike the IFCP, it was thought that a small, community-based agency would not be the best venue for such a project. A larger, more traditional agency would be more likely to have expertise and resources to address the complex issues that emerged in these types of cases. An agency was identified and a contract was signed. The Older Caregivers Project formally began in July 2000.

One persistent problem for the OIG in most, if not all, of their pilot projects is that it is difficult to turn them over to other agencies and have them take ownership of the model. In my interview with Director McDonald he noted that this was a common problem because workers often feel like they don’t have enough input on the development of the project. They are giving a model and expected to adapt to it. They may not feel like it addresses the problems that they face as caseworkers. The caseworker who did not know that Mrs. Jones had been labeled psychotic did not think it was a problem because she had a good relationship with her. She might point out that the subsequent proved that she was not to worry about. Ms. Kane might rebut that by saying
that the same investigation that found the psychiatric evaluation buried in the files also identified housing and financial problems that did turn out to be serious.

The agency, which I will call Urban Care, that was awarded the contract for the Older Caregivers Project did not have a child welfare professional on staff but agreed to hire one. Unfortunately, this process took almost six months and the first person they hired did not pan out so that for most of the first year, the project relied on OIG personnel for this expertise (Note: I had already left the OIG by this time). The way the project works is similar to the way the workgroup operated. One crucial difference is that these cases are not picked by the OIG but are instead assigned by a court, often on the advice of the Public Guardian’s Office. The cases remain with the DCFS or private agency caseworker but they are obligated to work with Urban Care. This poses an obstacle in that the caseworkers are under great pressure to complete adoptions as quickly as possible. If it is a private agency that is handling the case, there are strong financial incentives to getting children adopted. Thus anything that prolongs the adoption process, as the Older Caregiver Project often does, imposes a strong financial penalty on the private agency. According to one OIG employee working with the program, this can create some resistance from the caseworker. Although it had been hoped that these interventions could be performed quickly, many of the cases take over a year to complete. Assessing the problems in the older caregivers home, identifying resources and connecting with them, bringing people together for mediation sessions are all processes that take a good deal of time and skill.

Because Urban had only geriatric specialists working on the project for the first few months, there were some misunderstandings with the OIG. One of them concerned
the confidentiality given to the seniors and the information they provided. In geriatric social work such confidentiality is tightly guarded. However, since the cases all involved seniors who were licensed foster or adoptive parents, they were obligated to provide all relevant medical and financial records. Additionally, Urban workers naturally wanted to focus on the senior caregivers more than the issues involving the children. Working through these different understandings took time and even as I write, the OIG has been unable to withdraw from supervising the program. The caseload for the program ranges from fourteen to twenty-two at any given time.

Although there are strong similarities between the IFCP and the Older Caregivers Project, mostly in the centrality of the mediation and MOA to the model, the differences are equally important. The first is that in the Older Caregiver Project, there is a greater emphasis on accessing a wide variety of professional skills including medical, housing, financial issues as well as the expertise in geriatric social work. The second is that the Older Caregiver Project de-emphasizes a community-based response to the issues faced by the families; instead they identify and access resources at the city and state level. This seems driven mostly by the fact that there are a good deal of resources at the city and state level for seniors, especially around housing issues. There are subsidies and services to keep seniors in their own homes as well as a variety of public housing projects that specifically target them.

The role of mediation in the two programs is somewhat different as well. This is mostly because the problems faced by the families are different. As we have seen, almost all of the cases handled by IAA involved substance abuse by the parent. The mediation usually centered on the parent’s recovery and stabilizing their living arrangements. In the
Older Caregiver Project, the mediations often involve bringing family members together to address the diminished capacities of a senior parent or grandparent. This poses the question of raising delicate issues about a person who has always been regarding as the authority figure in a family. Often, the children are uncomfortable saying that their parents have lost some of their strength and independence and need assistance. Many times, as with the Jones family, this reluctance to speak up has exacerbated the problem.

In these cases mediation offers the children and other family members an opportunity to step up and help without a confrontation since the concerns are explained by caseworkers and other experts and a solution is mandated. This often makes it easier for family members to offer assistance and for the matriarch or patriarch to accept such assistance.

The Older Caregivers Project has undeniably helped many of the clients they have served. In my interview with the OIG’s housing specialist, she took great pride in discussing a case where she identified brand new senior housing for a family that had previously been living in a rundown apartment. Although the program is slowly expanding, the client population for this type of service is large and it is an open question whether the OIG will be able to institutionalize this project sufficiently so that it will be able to meet the demand for this service.

It should be noted that this project is without precedent in the child welfare profession. When we searched for other programs that we could learn from in developing this project, there were none. What accounts for the production of this novelty? One could, quite justly, attribute it to the creativity of Ms. Kane and the employees, and this is certainly a necessary precondition. But this creativity could only be mobilized in the collapse of the governing paradigm in child welfare. In the wake of
this collapse, I would claim that a new “diagram of power” that segmented the needs of clients among diverse institutions. The phrase is Foucault’s and it refers to “a mechanism of power reduced to its ideal form: its functioning, abstracted from any obstacle, resistance or friction...[and] detached from any specific use” (Foucault 1995, p. 205). The child welfare profession is far from unique in confronting this diagram; in the conclusion I will consider some of these other realms and their relationship to child welfare and attach this to contemporary notions of personhood. For now it suffices to say that in the child welfare profession in Illinois, this emerging diagram traverses various domains (housing, school, medicine, finances, etc.) and reorganizes the responsibility for the care of children into family networks. In previous chapters, I discussed how some of the OIG’s practices fragmented family and individual problems. In this chapter, I discussed practices that gathered these fragments together in a new way. In the next chapter, I will consider how this diagram consolidates itself in a new configuration. This consolidation occurs in the realm of ethics.

DCFS Reforms

It is necessary at this point to note that DCFS was not merely a passive recipient of reform efforts emanating from the OIG. In fact, DCFS began an extensive reform agenda of its own. In the aftermath of the Keystone case, DCFS Director Sterling Ryder was fired by the Governor and replaced by Jess McDonald. McDonald had begun his career as a DCFS caseworker and, at the time of his appointment, he was the Director of the Department of Mental Health and Developmental Disabilities. He began an aggressive set of reforms that were designed to improve the quality of DCFS services.
First, he began a successful effort to have DCFS accredited by the American Council on Accreditation. This entailed standardizing certain processes and increasing the educational requirements for supervisors, among other things. This process began in 1994 and it proceeded region by region throughout the state and was finally completed in 1999. DCFS is currently being re-accredited. To support the accreditation DCFS has worked with the schools of social work to provide enhanced educational opportunities for supervisors and caseworkers. One consequence of this effort has been to connect more directly the upper management of DCFS with workers in the field, a connection that has often been tenuous given the rapid turnover of upper management throughout much of DCFS' history. Director McDonald has stayed in office for almost nine years (although he expected to leave office soon to allow the new governor the opportunity to appoint his own director), which has created the stability needed to foster this long process. In my interview with Director McDonald, he cited accreditation as his proudest accomplishment.

Second, he privatized many of the tasks formerly performed by DCFS workers under a program called Performance-based Contracting. One goal of this initiative, not yet achieved, is to make DCFS an agency that monitors the performance of private agencies, ensuring that they fulfill their contracts, rather than an agency that provides direct services. Perhaps more importantly, Performance-based Contracting tried to shift the incentives for agencies from keeping children in foster care to getting the children placed in adoptive homes. “Under this system providers received increased fees to purchase specific supports but they had to more than triple permanency rates and cut placement stability in half. The majority of providers were able to meet these goals and
the result was the first significant decrease in substitute care caseloads in Illinois in more than a decade" (DCFS 2001, p.2). The impetus for this program was the American Safe Families Act of 1996, federal legislation that created strong fiscal incentives to achieve permanency for children who are wards of the state, particularly through adoptions. Inspired by this legislation, Illinois went from finalizing less than 1,000 adoptions a year in the early 1990s to completing 5,765 adoptions in 1999 and 4,708 in 2000, becoming the national leader in adoptions (DCFS 2001, p.12).

Third, DCFS created Subsidized Guardianship, which allows relatives to care for a child and be reimbursed without further DCFS intervention. Subsidized Guardianship is considered a permanent placement, meaning that DCFS’ active involvement in a case ceases. Subsidized Guardianship is useful in situations where family members want to care for the child but they do not want to adopt out of respect for their relative. This is considered a secondary option by DCFS, which prefers adoption, but it provides a significant degree of continuity for children who remain in a familiar setting. There are numerous smaller reforms that combined with the above, are credited with reducing the DCFS substitute care caseload from 50,727 in 1997 to 26,605 in 2001.
Chapter Five

THE OIG AND THE CODE OF ETHICS

Chapter Four discussed a set of specific practices that have characterized some of the OIG's initiatives and the institutional context that supported these practices. In short, it attended to the techne aspect of the advanced liberalism that is embodied by the OIG and how it is dispersed in a network with its own logic and momentum. In this chapter I will consider the ethos of this liberalism and its relationship to its practices and institutions. I will examine the creation and implementation of The Code of Ethics for Child Welfare Professionals (which is included as an Appendix) as well as the development of an advisory board that offers opinions on cases where there is an ethical dilemma.

This chapter will be structured around Foucault's ethical four-fold discussed in Chapter One. As I outlined in Chapter One, the four elements of an ethical project identified by Foucault are the ethical substance, the mode of subjectivation, the ethical work, and the telos. The advantage in using this framework is that it allows the ethnographer to disaggregate the ethical project into component parts that are not strictly dependent upon each other so that one can examine the forces that bring them together.

Some Preliminary Remarks on the Code of Ethics

Developing the Code turned out to be far from a straightforward matter. Subtle and tricky questions about the status of the field of child welfare had to be addressed. Additionally, issues involving the capacity of the Code to govern the behavior of
caseworkers had to be considered. But perhaps the most profound question dealt with
getting caseworkers to see themselves as beholden to a specific set of values that inform
not just their job performance but also their general character. Even before formally
taking office it seems that Ms. Kane had a conception that something like a code of ethics
would be needed. "I want a Code of Conduct. And I think the unions will go along with
it," she stated in a passage I quoted in Chapter Three. This proved to be accurate to an
extent, but there were certain difficulties along the way that resulted in the OIG writing
both a code of conduct and a code of ethics.

The charge of the OIG is to investigate complaints of mal- or misfeasance by
DCFS employees or agencies that have contracts with DCFS. Prior to the establishment
of the OIG, the formal sanctioning of DCFS workers seems to have been rare. Discipline
was largely administered by supervisors, who could hold a preliminary hearing to
determine if some malfeasance occurred. If they decided that the matter should be
pursued further, then the case would be sent to DCFS Labor Relations office, which
would then work with the union in reaching a determination. In the aftermath of the
Wallace case, this system seemed inadequate. It can fairly be stated that rationalizing the
disciplinary process has been one of the most enduring accomplishments of the OIG.

Ms. Kane had her chance to begin developing a code of ethics early in her tenure
as Inspector General. One of the first investigations conducted by the OIG concerned a
Child Protection Investigator (a DCFS employee who responds to Hotline calls that make
allegations of abuse or neglect) who was engaged in a sexual relationship with a woman
he had recently investigated. The OIG was able to confirm the basic facts of the case,
that there indeed had been a sexual relationship. But they discovered as they began to
press for disciplinary action that there was no basis for firing this employee. Furthermore, Ms. Kane found that many people within DCFS did not see anything wrong with the worker’s behavior.

Well, we tried to get him fired for that. And what we got from the Regional Administrator of Child Protection in Cook County is [that] there’s nothing in the Code of Conduct that says you can’t [have sexual relations] – she’s over 21; he’s over 21. Well investigations are only ten days [long]. This was like on the twelfth day. And he was giving her the Norman check [which provides money for immediate housing issues]...the question was: did she really think that he wielded authority over her?

The OIG proceeded to examine the State Employee Handbook, which contained no strictures against sexual relations. “So then...we were just saying...‘it’s at least unethical behavior. Well, there’s no ethics either.” The OIG wrote drafts of both a Code of Ethics and a Code of Conduct, which were both completed in six months, in time for their first annual report in January 1994.

The distinction between a code of conduct and a code of ethics proved to be critical. The Code of Conduct is in the State Employee Handbook and is negotiated with the union. Failure to abide by the Code of Conduct can result in sanctions up to and including termination of employment. In negotiations with the union, Ms. Kane learned that the union would not approve a clause that stated that you couldn’t have sex with a client. “They were going to get down to the [argument] that everybody’s over the age of 21. What if it was ten minutes after the case was closed? Officially, she’s a citizen and he’s a citizen.” The OIG spoke with a consultant to DCFS who took the stance that the client had the constitutional right to have sex with the caseworker under the freedom of movement clause. Needless to say, Ms. Kane found such a perspective unpersuasive.
These discussions between the OIG, DCFS senior management, and the unions resulted in a compromise. “So what we did was [to say] ethics are still debatable…you can’t say once a client, [you] can never have sex. It could be true that you’d have to use critical thinking and a lot of introspection, plus ten or fifteen years, and the person was no longer vulnerable…and it wasn’t exploitative…that’s the difficult stuff to put into a rule of conduct – it’s that thinking.” So the resulting Code of Conduct contained a list of rules that employees had to follow and The Code of Ethics was designed to promote critical thinking about ethical issues but without the threat of sanctions. Ultimately, a section was added to the Code stating that, “Child welfare professionals should not engage in sexual activities with current clients” (Code of Ethics, Section 2.05 a., p.10). However, this distinction between a Code of Conduct and a Code of Ethics proved to be a difficult one to make to DCFS employees, particularly in light of the OIG’s investigatory and disciplinary functions. As one OIG ethicist noted:

There was always that confusion about what is the proper relationship between this code of conduct, with which employees are expected to comply as members of this organization, versus the code of ethics. In our minds it was very clear: inasmuch as you are an employee of DCFS you have to comply with these certain sorts of rules as a condition of your employment. But inasmuch as you are a professional, in that your activity is value-driven, you should understand the nature of those values and the implication of those values. And that would hold whether you were a DCFS employee or a supervisor at some private agency. But that was hard for employees to grasp. I think it was always, for them, often times, “this is a good idea but what would we get in trouble for?” So the code of conduct was something that they wanted to know really well and the code of ethics was a good idea.

It took over two years to develop the Code before Director McDonald signed it in late 1995. After the Code took effect, Ms. Kane convened an Ethics Advisory Board to provide her with guidance in implementing it in specific cases. The membership has
changed occasionally over the last seven years, but there are generally eight members of the Board with expertise in different areas who serve three-year terms. Long-time members include a police officer with Chicago Police Department, an urban sociologist, two ethicists (not including the OIG’s ethicist), a child welfare researcher affiliated with the University of Chicago, and the director of private agency. The Board usually meets every two or three months. The OIG will prepare a summary of a current case and ask for the opinions of the board members. Ms. Kane has been uniformly impressed with the quality of the advise she has received and by the ability of the Advisory Board Members to bring new perspectives to issues that can take cases in an entirely different direction, as I will demonstrate later in this chapter.

**Ethical Substance: Critical Empathy**

Ethical Substance: “The way that the individual has to constitute this or that part of himself as the prime material of this moral conduct.” *Michel Foucault*

The OIG ethicist quoted above states that the choice to become a child welfare worker is motivated by certain values. This is important because one of the difficulties in discussing ethics is that many people believe that ethics embody subjective personal values that, like religious beliefs, cannot fruitfully be debated. The OIG countered this idea by stating that the mere fact of choosing to be a child welfare worker binds an individual to a set of core values that can serve as the basis for ethical decision-making. In *Ethical Child Welfare Practice*, a handbook produced to accompany and explicate the *Code* (hereafter referred to as the Ethics Handbook), published by the OIG in 1999, they list a dozen of these values: the protection of children; the preservation of families;
respect for families; respect for persons; client self-determination; individualized intervention; competence; loyalty; diligence; honesty; promise-keeping; and confidentiality (Ethics Handbook, p.6).

Presumably, most child welfare workers would agree with these values.

However, it proved to be difficult to get them to see problems as specifically ethical in nature. As one OIG staff member noted:

[At] one of the very first training's we did, we opened with a little case about whether you should tell a foster child that his biological mother passed away. It was a truth-telling example, and our purpose was to use a case discussion to get a glimpse of the values that underlie truthfulness, respect for self-determination, and also promoting benefit and avoiding harm. And the director of clinical services stood up and said, to my amazement, that this is not an ethical issue at all, it's a clinical issue. You want people to get past the factual elements of it, and to see that everything that they want to say rests on some value assumptions, and in fact in that particular case we started to talk about the case and it wasn't too long before that person made reference to a value, as you would expect. So it was always a problem to make people understand the appropriate relationship between ethics and other sorts of matters.

But if getting child welfare workers to see that many of the problems that they encountered in their work was one difficulty, another was getting them to see their professional values as part of their general character.

By far the main struggle was to point out or emphasize that the values that make up this code should define your character, they should be integrated into your character and it's not something that you suck it up and comply with because that's your job or you're worried about getting fired. That was a significant hurdle because for natural reasons, I mean case workers would look at that and say, what are you talking about? That's my job, when I punch out at five o'clock, that's it. I come back and I do this because you pay me. So it still is difficult to make the case that this isn't just a job for you.
Although Director McDonald signed off on the *Code of Ethics*, the OIG had considerable doubts about the commitment of DCFS management to implementing the *Code*. For instance, when the *Code* first came out, the OIG ethicists were originally given two days to elaborate the principles behind the *Code* and how it could impact the decision-making process in cases that they would encounter. However, after the second year, they were only given four hours to present the same material. In my interview with Director McDonald he had nothing but praise for the *Code* but his remarks did not seem to give it much emphasis in how it could improve DCFS’ services.

By using the phrase critical empathy, I want to call attention to two obligations the OIG believes that child welfare professionals have toward their clients. The first is empathy, the capacity to imagine how their actions impact clients, how people who are facing tremendous difficulties in their own lives feel when given often complicated directives that can have a lasting impact on themselves and their families. But empathy by itself is insufficient, it needs to be disciplined by the capacity for critical thinking. In the last chapter I mentioned that one of the problems faced by Mr. Miller in the IFCP was that his caseworkers were originally getting too involved with the families they worked with and were taking on too many of the tasks for themselves. The empathy that his caseworkers had needed to be disciplined by the knowledge of how family systems worked and how these systems could be undermined by well-intentioned caseworkers becoming over-involved in family dynamics.

I will discuss two cases where the OIG applied critical empathy to identify and resolve problems not seen by DCFS management. As with other cases, identifying information is changed to protect the clients (although I do not know the names of the
people involved or where they lived). The case involves four children who died in a
house fire downstate while in a foster care placement. One of the children, whom I will
call Jack, had only lived in the foster home for a few months. He was in the burn unit at
the local hospital for several weeks before he died. Originally, he had been placed in the
foster home with his older brother, whom I will call Sam, but Sam had been removed
from the home. The night the fire broke out, the older brother had been seen in the
neighborhood, prompting suspicions that he had set the fire. The OIG investigates all
cases where DCFS wards die so they began to look into the matter.

The fire department had undertaken its own investigation and wanted to interview
Sam. DCFS hired a lawyer for Sam because of speculation that he may have set the fire.
The attorney, following standard legal protocol, did not let the fire department interview
Sam. This delayed the fire department’s investigation for close to a year. Ultimately, the
OIG hired an electrical engineer and a mechanical engineer to conduct their own
investigation into the fire because the delay in the investigation by the fire department
caused by attorney’s decision allowed suspicion about Sam to linger. Ms. Kane thought
that it was unfair to Sam to allow this suspicion to hang over his head (it turned out that
the fire was caused by an electrical problem). Furthermore, Sam was not allowed to visit
Jack in the hospital, and missed the opportunity to see him while he was alive. In fact,
none of the children in the hospital saw any of their brothers and sisters before they died.
DCFS helped with the funeral arrangements because, as Ms. Kane said, “that’s what they
know how to do, give concrete resources.” “But God forbid,” she continued, “we should
talk about what is the meaning of life and death, especially when it is a young person like
this, and especially for the family and siblings. . . . I kept thinking that this poor kid [Sam]
thought that if he had remained in the home that he could have woken up and saved those kids."

Another part of this case was that while Jack was dying in the hospital, the Guardian for DCFS refused to support a Do Not Resuscitate order (known as a DNR). Illinois is one of the few states to have a Guardian position. When children become wards of the state, they enter into the custody of the Guardian, who responsibility for making medical decisions for the child, essentially the job of the Guardian is to sign consent forms, except that in this instance the Guardian chose not to do so. The biological family and the Guardian ad Litem (which is a court-appointed position that is not part of DCFS) had talked with the physician in the case, who advocated giving Jack water only, which would provide some comfort as his internal organs failed and he gradually died. The Guardian refused to support this as well. Ms. Kane obtained an opinion for the Ethics Advisory Board. One Board member, which expertise in medical ethics, noted that research indicated that continued feeding of children in this condition exacerbates their pain while not improving their recovery. The OIG’s investigation found that there was “mass confusion...by a misguided, bungling bureaucracy” where various factions were talking past each other. The Guardian’s office became defensive because they felt that they were being cast as “the bad guys” when they were trying to do what they thought was right. But what became clear to Ms. Kane is that the Guardian’s office “had no mechanism for ethical decision-making.” Furthermore, they had what Ms. Kane came to belief was a limited understanding of what the Guardian’s responsibilities are, a point I will return to later in this chapter.
The second case involved a girl, whom I will call Sarah, in foster care who stabbed another foster child. Sarah was put in a group home while she was awaiting prosecution for manslaughter. DCFS immediately obtained an attorney for her. As in the previous case, the attorney instructed Sarah not to discuss the case with anyone. As Ms. Kane noted:

So the kid is going on fifteen now and hasn’t been allowed to talk about this case because she’s under her attorney instructions, which are very simple. But she’s deteriorating. And the defense attorney is going to attack the eleven-year-old girl that was stabbed to death…our problem is our little girl knows the truth. It becomes like a Fellini movie—surrealistic. She’s in an existentialist crisis, because you’re telling her that you have to do this for court. But she’s a baby. And she’s struggling with all this stuff. And she’s not allowed to talk about it to anybody.

Note the ability to imagine the pain that Sarah is going through as she copes with this difficult issue. A member of the Ethics Board mentioned the clergy-exception rule, which protects certain discussions between clergy and parishioner if they are for the purpose of spiritual direction. This rule was created in part to protect Catholic priests from having to divulge in court the contents of church members’ confessions. Not every religion falls into this rule because some religions believe that these issues are between the person and God with no special providence given to the clergy to intervene. This girl belonged to a mainline Protestant church that did believe in the clergy-exemption so the OIG found a minister willing to counsel her. However, the girl’s caseworker did not follow through on getting the girl to meet with the minister, believing that she was better able to counsel the girl herself. This infuriated Ms. Kane, in part because the caseworker’s notes can be brought before the court, undermining the whole purpose of the counseling.
Mode of Subjectivation: Professionalization

Mode of Subjectivation:...the way in which the individual establishes his relation to the rule and recognizes himself as obliged to put it into practice. *Michel Foucault*

I’m a codes person. Professional codes are central to the professions and if you don’t have a code then you don’t have a profession. *Michael Davis*, ethicist and member of the Child Welfare Ethics Advisory Board

One question that was raised by the OIG’s considerations prior to writing *The Code of Ethics* was “what is the status of the child welfare field?” More specifically, is child welfare a profession? In “The Moral Foundations of Child Welfare” Arlene Gruber and Ellen Mulaney claimed that the answer is that it is not. “Child welfare is not a profession but a system or field of practice. However, because of the professional nature of the child welfare worker/client relationship, the responsibilities are those of professionals; therefore, child welfare workers are professionals.” In challenging the professional status of the child welfare worker they mean that there is no one set of practices and discourses that dictate the child welfare worker’s tasks and responsibilities. It is too multi-disciplinary, in some sense, to have the professional status that adheres to any one discipline. The child welfare field draws from developmental psychology, social work, applied behavioral analysis, sociology, and other disciplines. However, the key phrase in the above quotation is “professional nature of the child welfare worker/client relationship.” I asked one of the authors of this paper to elaborate on this concept.

No, they’re not recognized as a profession *per se* the way doctors, lawyers, and social workers are. But if you look at the work they do, the discretion they have, and the power they have, it is similar...it’s kind of a fiduciary situation that you get set up in... And this was actually Denise’s concept, that people in this field should view themselves as professionals
and behave in that way. It’s complicated by the fact that a lot of caseworkers – or most caseworkers – belong to the union. And the union encourages you to think as a nine-to-five employee. So that was the mindset of a lot of people in the field – not surprisingly. Not their fault either. But Denise wanted to set up kind of a countervailing force to inspire them to think of themselves in a more professional way.

At the heart of this relationship is the concept of fiduciary duty, the obligation the worker has to make professional decisions in a trustworthy manner to the best of his or her abilities, a concept I will return to later in the chapter.

As they developed *The Code of Ethics*, the ethicists at the OIG also elaborated a sophisticated account of the crisis in ethics in the child welfare profession. The crux of this account is that at one time, roughly from the turn of the century when social work first identified itself as a profession through the end of the 1960s, workers in the field of child welfare were overwhelmingly professionals. That is to say, they had been explicitly trained in social work and were familiar with their professional obligations. As they wrote in an article, “Because their formal education introduced them to the ethics and underlying values of social work, DCFS’s staff viewed themselves as professionals and had the understanding of responsibilities to client and society that the term professional implies” (Leever, Mulaney, and DeCiani, 1998, p. 9). But, this account continues, deprofessionalization began in the mid-1960s with the crush of social dislocations producing a large demand for workers. Ms. Kane elaborates on this process:

Because there was such a demand for workers, the Department began relaxing its requirements. And they were having paraprofessionals or casework aides also providing direct service to clients. Then they began massively transferring cases to private agencies, they started getting Ma and Pop private agencies… what the Department wanted to say was community-based, which was a nice euphemism for we don’t care who opens up [an agency]. [The] demand for services was higher than the supply of social workers or supply of legitimate agencies…So they let any
fly-by-night person hang up a shingle and say “we’re an agency.”...So the Department really wasn’t looking at the quote professionalism. They were just doing superficial licensing check.

Professionalism, in this view, has at least two components: the educational and the ethical. Part of what the OIG ethicists called the “reprofessionalization” of child welfare is promoted through more rigorous educational standards. As they write, “For example, DCFS now requires all its supervisors to have a Master’s degree in either social work or a related field of social service” (p.9). This is one of the requirements of the consent decree that was entered in 1991 and, as I noted in the last chapter, Director McDonald has raised the educational standards even higher during his tenure. One of the first large-scale projects the OIG undertook was a systematic review of the educational credentials of employees and contractors in order to weed out those people who had fabricated their educational achievements. With this component slowly coming in place, the OIG turned its attention to writing and implementing *The Code of Ethics*.

*Devising a Code of Ethics*

*The Code of Ethics* went through at least three distinct drafts before finally being accepted by the Director of DCFS in late 1995 and implemented in early 1996. The first was written in the autumn of 1993 by a University of Chicago professor in the School of Social Service Administration, Elsie Pinkston, an SSA employee, and a research assistant. The research assistant collected a number of codes of ethics from other professions, while Professor Pinkston and the SSA employee proceeded to condense them into one code. The two codes that this draft cites as direct influences are the *Code of Ethics* of the National Association of Social Workers and the American Bar
Association’s Model Code of Professional Responsibility. Although this draft was in many respects quite serviceable, there was a sense that something more was needed. Professor Pinkston stated that the version she produced was too “draconian.” My sense is that as the OIG began to accumulate some experience with these investigations, Ms. Kane came to think that the child welfare profession had some unique features that demanded full consideration. Thus this first draft, cobbled together from other professions, may have been “too generic.”

In early 1994, Ms. Kane started to bring people with formal ethics experience onto the OIG staff. The first person hired (although she has remained a volunteer) was an attorney who had served on the Illinois State Board of Ethics. This attorney then helped with the hiring of a social worker who had master’s degree in ethics. They decided that it would be best to write the Code with a wide variety of people in the profession. “We decided that to have credibility for something like this – maximum credibility – it would be best to bring together a cross-section of people, both in the field and in philosophy, to write the Code in the first place. So the final version of the Code was a result of a collaboration of about fifteen people over maybe fifteen months…We met several times and really argued out all the different principles.”

This working out of the specific principles appropriate to the field of child welfare is an event of some importance. The National Association of Social Workers has had a Code of Ethics for decades. This Code was binding only to members of the NASW, although some private agencies prior to the establishment of the OIG did adopt this Code for themselves. This Code was not considered helpful by the OIG’s office because it was focused on the relationship between a therapist and their clients, a relationship that is.
characterized by its contractual nature. One OIG ethicist stated that “if you read the NASW Code, it is really geared to the client-therapist type of relationship, where both parties are freely engaged and able to leave if they want...the other complicating factor that’s different is that you’re dealing with a family system usually-not just an individual client.”

It was clear that the child is the primary concern but if DCFS was working with a mother in an attempt to keep a child at home, what was her status as a client. OIG’s ethicist, Professor Martin Leever, elaborates on the dilemma created by this situation.

Is the child the client, or is the parent the client because they’re both receiving services? I guess the answer was, well they’re both clients but the parent is a client only because the child is a client. The child is the primary concern. We would sometimes say, just as an easy was to convey the concept even though it’s slightly inaccurate, that, “the child is the primary client and the parent is the secondary client.” We felt uncomfortable with that because it seems like the parents isn’t really a client and that’s not quite true, they are fully a client. That was kind of the first way in which that problem was raised. That problem kept recurring, especially when you want to figure out where your strongest obligations lie.

This problem proved to be resistant to any formula that could be placed in the Code and continues to be worked out on a case-by-case basis. The crucial difference is that now there are years of experience that can be brought to bear on these questions.

A final draft of the Code was completed in 1995, signed by Director McDonald at the end of the year, and became official DCFS policy in 1996. It outlines eleven areas where child welfare employees in Illinois have important ethical obligations: general responsibilities (including sections on anti-discrimination and anti-sexual harassment); responsibilities to clients (including sections on the responsibility to promote client self-determination, respect for confidentiality, and informed consent); responsibilities to
colleagues (essentially, to be fair, honest, and cooperative); responsibilities to the courts ("testify honestly" and "treat all parties to the case with respect, honesty, fairness, and cooperation"); responsibilities to foster parents; responsibilities in supervision; responsibilities in administration; responsibilities in research; responsibilities to the child welfare field; responsibilities to society; and ethical decision-making.

On the face of it, The Code of Ethics for Child Welfare Professionals can seem almost banal in its stricture and requirements. However, it might also be the case that this aspect of the Code is enhanced because my informants (and myself for that matter) are all familiar with the child welfare profession, its problems, and its vocabulary.

Interviewer: You said earlier that a code of ethics should reflect a sort of consensus...but one of the things that strike a lot of observers is how little consensus there is in the realm of child welfare.

Informant: Usually when people say that they make a long list of things in which there are disagreements. But usually when you put it in a code...[and] you go down the list, they say, "yeah, yeah, yeah, but so what?" It's a long list! And the codes of ethics are generally like that because they are a list of things that are arguable, because if everyone agrees out there, then they look like a list of platitudes. But if you show them to someone outside of your field, they will be very surprised at some of the things on the list because it is not common sense, it's the common sense of the organization.

Consider this sentence from the Code: "Child welfare workers who leave the field continue to have the responsibility of considering the potential for exploitation and harm in relationships with former clients" (p.11). It may not be readily apparent to those outside of the profession why this stricture is in place, yet this sentence reflects the hard-won wisdom of the organization because it could very well be the case that someone who knows he or she is leaving their job in the near future would use his or her position to
curry favor with a client by offering inappropriate services with the hopes of establishing an intimate relationship at some later date.

**Ethical Work: Problematizing the Professional Relationship**

Ethical Work: [What] one performs on oneself, not only in order to bring one’s conduct into compliance with a given rule, but to attempt to transform oneself into the ethical subject of one’s behavior. (Foucault 1990, p.27)

Having claimed the status of a profession for the field of child welfare, the nature of the relationship between the child welfare worker and the client needed to be examined carefully. Two concepts that were useful in problematizing this relationship were fiduciary duty and *in loco parentis* (Latin for “in the place of the parent”). The Ethics Handbook defines a fiduciary relationship as “the relationship that exists between a professional and a client that is dependent on the client’s trust in the professional” (Ethics Handbook, p.7). The professional has a duty in a fiduciary relationship to merit the trust and not to violate it.

There is very little in the NASW Code of Ethics about the concept of fiduciary duty. It did not really address involuntary clients or clients, such as children, who do not have full self-determination. As Martin Leever, former ethicist at the OIG, noted:

If you look at the typical child welfare client, that client doesn’t have the sort of wherewithal and the full range of autonomy that normal people have. First, they’re a party to the relationship involuntarily. Secondly, they can’t – unless you boil it down to some very rudimentary level – they can’t understand the limits of confidentiality...So there’s a higher responsibility on the professional [to behave ethically]...the fiduciary concept becomes much more important because you’re being trusted to act professionally and make judgments for this client and that client doesn’t have the proper understanding to determine whether you are doing it properly or not.
The question “who is really the client?” was discussed by Arlene Gruber and Ellen Mulaney in “The Moral Foundations of Child Welfare Practice.” This carefully thought-out essay uses a “natural law” framework to categorize the professional relationships and obligations of the child welfare worker. In the opening section of the paper, they write: “Both federal and state constitutions protect inherent individual rights such as liberty, privacy, and due process of law, which must be respected in any intervention into family life. U.S. Supreme Court decisions have acknowledged that these constitutional provisions are themselves grounded in natural law. The societal goals and natural law principles forming the foundation for child welfare law are normative and make the field of child welfare a moral discipline.”

This was not the only attempt made by the OIG to ground ethical principles in objective norms. In 1999, the OIG contracted with noted moral philosopher Alan Gewirth to write a paper on confidentiality using the deontological schema he developed in his masterpiece *Reason and Morality* with it hierarchy of goods. The paper proved useful from the OIG’s in stimulating a high level discussion but it has not, as yet, assumed an authoritative position in ethical decision-making. One ethicist from the Ethics Advisory Board questioned the importance of moral philosophy in professional ethics.

My view of moral theories is that there are various ways to fall. You can fall flat on your face, you can fall with your legs first, head first, but whatever you do it’s according to the law of gravity. And, knowing the law of gravity doesn’t make much difference in how you fall. And moral theories are in some ways like laws of gravity. They allow you to represent and understand a process, and you can look at it more clearly, so you can study falls, but when it comes to learning how to fall, mostly it’s a matter of necessity and experience. So codes are not going to be written by getting the moral theory and printing out rules. They’re going to be learned by seeing, they begin with common sense, and ordinary rules.
One of the professions that proved most helpful in thinking about this concept of fiduciary duty proved to be engineering. Ms. Kane found one of the most helpful ways of explaining fiduciary duty to social workers was by analogy with the field of engineering. In an interview with me she described a meeting with DCFS personnel where they discussed a set of six hundred high-risk children in DCFS care. Of these children, thirty died while in DCFS care.

And this one guy kind says “well, that’s pretty good. Hey, look, we were right 570 times.” And I said, “if an airline says to me that of the last six hundred flights that took off, only thirty crashed, and I was putting my children on that plane, I’d turn around and drive them.” So they’ll understand the engineering because that allows them to step back and think about it. Whereas if you say as a social worker, this kid is at risk, they’re all like, “yeah”...because the whole field is risk...so they kind of become callous because how do you think about [the risk of violence to children]...well, you can’t. That means you have to stop your everyday chaos and do an analysis of evidence-based practice and [ask], “what are we doing with our physically abused kids?”

One of the trickiest questions that had to be worked out, that necessitates continuous resolution, is the question of how to manage the fiduciary duty to the child as a client and to the caregiver as a client. It’s a difficult question because the reality of most of the child welfare cases is that the caseworker spends a lot of time working with the caregiver on their problems, usually substance abuse, but often extreme poverty or a mental health issue. In that situation, the progress of the case is often measured in terms of the progress of the caregiver. A large part of the public outcry in the Joseph Wallace case stemmed from the sense that the caseworkers cared more about the mother than about the child. One of the advantages of the natural law perspective is that it provided one way of framing discussion of these issues. As one OIG staff member observed:
...And this analysis helped us think about the question of who was the client, and articulate it, because it makes it easier to say, if your rights as a parent are qualified, you have a right to be a parent only so long as you...raise your child in an appropriate way. Then that helps you sort out your responsibilities in the Code because the child has certain absolute rights. The parent’s rights are qualified, depending on what the parent does. And that would help workers...in individual situations figure out what to do. The classic situation is the worker who gets focused on the parent’s recovery process and loses sight of what’s happening to the child, or what the time lapse is doing to the child.

But there is a fine line that needs to be negotiated carefully. As Gruber and Mulaney wrote in *The Moral Foundation of Child Welfare*:

> It can be argued that, in the child welfare system, a fiduciary relationship can only exist with the child and not with the reported parent because the child’s interests are of primary importance; therefore, any talk of a relationship based on trust, respect for the client (parent) and her values, and her right to self-determined problem-solving is misleading. It is true that all interventions are made with the focus on the moral rights of the child to have basic needs met. However, there is no conflict of loyalties if the nature of the relationship and of the child’s and parent’s rights is understood by the professional and by the parent from the outset. The parent has the right as a client to receive the services necessary to help her meet minimum parenting standards (to help her meet her child’s right to have his basic needs met). A parent who is a mandated client and who is expected to be working to attain a good (basic needs) for someone else (her child) often at the expense of some of her own interests, is also entitled to positive self-determination.

By beginning to articulate some framework, both institutional and theoretical, for thinking about these issues, the OIG has helped to create space for raising new questions and dilemmas. Let me cite one hypothetical example that demonstrates some of the real issues that emerge in actual casework. Suppose there is a mother who is alleged to have neglected her child. The father is no longer involved with the mother but retains an active role in the child’s life. The case is made more difficult because the mother has a mental illness that may require placing the child into substitute care. If there is an
indicated report against the mother, it could indicate the father and make it much more difficult for the child to live with either parent. The mother has a mental illness that is preventing progress in the case. The father could make different plans for the child if he knew this but the caseworker can’t relay any information about this because of the confidential status of the mental health information. The concept of fiduciary duty does not give an automatic clear answer to these tricky issues but it has served as a useful starting point for discussions with caseworkers and supervisors.

Another idea that Ms. Kane found useful was in loco parentis. The case of Sarah brought this concept into focus for the OIG. In that case, DCFS thought that it was discharging its duties to the child by hiring an attorney for Sarah. DCFS had a “hands-off” policy toward Sarah’s case because they were concerned about conflicts of interest stemming from their possible liability in placing the other foster child in a dangerous situation. But when Ms. Kane brought this case to the Ethics Board, a different set of issues arose.

And [a Board Member] said the guardian has to act like a parent. And a parent takes care of the kid’s cognitive, moral, psychological and physical development. An attorney will say my client is the kid. But there is a twist on the client relationship with attorneys, and that is does your client have the ability to give direction to the attorney? Because the attorney is supposed to follow the direction of the client. But if it’s a kid, the kid doesn’t have the capability of giving directions...that’s why you need a parent – to come in and work with the kid and the attorney...Is the attorney’s client DCFS? Or is the attorney’s client this kid?

And the guardian’s supposed to be separate...the guardian should intervene and say I want a speedy trial. My argument with the guardian was that this child has been dragged down for thirteen months. That’s not fair to this kid. And the guardian should have turned around with the attorney and say speed it up. The kid is just going to do what the attorney tells her to do...And what the Department was doing was just handing
them over to defense attorneys and bowing out, because they thought that showed that they didn’t have any conflict.

The Guardian was resistant to thinking of her role as enhancing the child’s development, which was seen as clinical issue. She appeared before the Board and had extensive conversations with Ms. Kane but remained skeptical of the OIG’s claims that she should move to resolve Sarah’s legal situation by getting the lawyer to move quickly so that Sarah could begin to process the trauma caused by this incident. What is important for my purpose is that the OIG found a new rubric for problematizing the professional relationship, one that stemmed directly from referring to the Code. As one Ethics Board member stated:

Well, one of the nice things is that this case was one where the code was very helpful. It said that the child came first, and all you had to do was decide that “the welfare of the child” meant its general welfare, and the legal rights were a sub-category of that. The next question was who was to decide that, and there was somebody in the DCFS who was the designated guardian who no one had thought to ask about…because that office existed for the purpose of signing consent forms. And this is one case where if you think though the logic of it and you look to the institution and by golly, there was the office. And the description of the office in print was what it should be, and no one had thought of it that way.

But the same Board member cautioned against using a doctrine like in loco parentis when referring to DCFS.

Whenever you run across a Latin term, people quoting Latin in the beginning of the twenty-first century, you know they don’t know what they’re saying. That’s my experience with lawyers, whenever they switch to Latin phrases that means there’s unclarity in the concept and they hope that the Romans had figured it out. And in local parentis we don’t understand because we don’t know, first, the rights of parents are up for grabs, and then when you stand in place of the parent you’re not just a parent.
For instance, a parent have the right to move a family, switch religions, or use certain types of corporal punishment (as long as its not abusive!) even if this were disadvantageous to the child because that is how family relationships and obligations are understood. But if DCFS were to do these things, there would be considerable protest by many people. Even though the issues under discussion are fluid and mostly unresolved, having these ideas to think through troublesome situations helps to give shape to the discourse and the institutions that support them.

**Telos: Embedding a “Child at Risk” in a Network of Support**

“An action is not only moral in itself, in its singularity; it is also moral in its circumstantial integration and by virtue of the place it occupies in a pattern of conduct. (Foucault 1990, p.28)

If we push beyond the educational considerations, what the OIG ethics team and Ms. Kane argue for is the emergence of genuine critical thinking within the field. As I indicated earlier, *The Code of Ethics* serves less as a binding set of strictures and more as a means of introducing complex moral reasoning into case planning and servicing. But in order for this critical thinking, which is the heart of the process of professionalization for the OIG, to be effective *The Code of Ethics* is simply not enough. Thus the *Code* has been textually supplemented by the Ethics Handbook (and a second handbook is nearing completion as I write), institutionally supplemented by a set of trainings and by the creation of the OIG Ethics Advisory Board.

In the previous chapter I discussed the networking logic at work in the OIG projects and its inherently expansive character. The “child at risk” is the figure this network is built around and it has the capacity to create new professional subjectivities
within the field of child welfare and new institutional configurations that link up with organizations outside of the child welfare system. The OIG’s response to the cases of Sam and Jack demonstrate this. In thinking through this case and how to prevent future cases where family members are not brought to the hospital to seeing a dying child, the OIG came up with the idea of working with hospital chaplains because they are there in the hospital and have training working with families in times of suffering. DCFS was resistant to this because of fears about the separation of church and state. To get around this resistance, the OIG worked with a local ethics institute to initiate a discussion. The first event was held in November 2001 at SSA and it brought hospital chaplains together with child welfare professionals to begin a dialogue. Ms. Kane expressed the hope that this discussion would help child welfare workers develop a more “holistic” approach to the child by “bringing body and soul together.” When I interviewed her right after the event, her frustration at DCFS’ inability to deal with the spiritual needs of the children and the family.

But we were not looking at what the meaning of death was going to be for the brothers and sisters. ‘So what is the existential meaning of your brother’s death and you are not even at their bedside?’ You are going to be at the funeral because we can arrange for that, but we won’t talk to you about dying, we won’t talk to you about your faith, we won’t talk to you about your beliefs and how your family made sense out of these things before you came into the system. Because no one knows how to have these discussions. Afterwards, we are going to send them to grief and mourning therapy. But that is so ludicrous...we are going to send them to therapy but we aren’t going to bring them the hospital to see their dying sibling or child.

What is of interest is that both the child at risk as an object of knowledge and the child welfare system are problematized in a way that produces further opportunities for reform. One of the OIG’s greatest hopes is that The Code of Ethics can serve as a means of
restructuring the organizational arrangements of the child welfare profession. *The Code of Ethics* has a section on the ethical requirements of organizations addressed to administrators who should “enhance organizational capacity for open communication, creativity, efficiency, and dedication” (*Code*, p.15). Even more ambitiously, *The Code* calls on administrators to “subordinate institutional loyalties to the public good” (*Code*, p.15). As the OIG accrued experience in applying ethical standards to child welfare practice, their interest in organizational ethics became more ardent, so much so that the second ethics handbook will deal with administrative ethical issues. As the OIG has refined its understanding of the child at risk, the need for institutional structures that can support that child becomes clearer.

**Conclusion**

Reflexivity could mean methodologically searching for a normative scale that could be cast in operationalizable terms; work in many areas of bioethics is involved in constituting such a practice. Another direction...cast reflexivity as an experiential and experimental “problem,” one not amenable to the kind of bureaucratic requirements many bioethicists faced, one not directly “useful.” (Paul Rabinow, “American Moderns: On Science and Scientists” in *Essays on the Anthropology of Reason*, p.170)

Making day-to-day decisions...I think that’s why we were saying that you have to have an evidence-based practice. [If] you have a minority population [in child welfare] who are poor...if you’re going to offer them services, you have to offer them services that are going to be effective. Denise Kane

In professional circles, it is becoming fashionable to speak of ‘integrity.’...The popularity of this term is likely connected to a renewed interest among ethicists in what is often referred to as the “virtue tradition” which dates back to 300 BC and continued through the Middle Ages. It placed great emphasis on cultivating and maintaining a certain type of
character rather than focusing on the rightness or wrongness of particular
types of conduct. (Leever and Mulaney, “What is Integrity?” in Social
Work Networker, February 1999, p.8).

There are many striking things about the ethics projects that the OIG has initiated in the
last seven years; as an anthropologist I am particularly interested in how new
organizational forms achieve their own coherence through the production of new
discourses and practices and how these then proceed to reorganize the field from which
they originated. However, I want to conclude by noting a tension within the OIG’s mode
of operation. As the above quotations attest, there is, on the one hand, a deep desire for
rigorous research – research that is normed for specific populations, that will make the
decisions that caseworkers have to make much easier. On the other hand, there is this
quest for internal motivation that is both inspired by and revitalizes the organizational
environment in which it operates. This aspect of the ethics project seeks to transcend the
rote application of pre-established decision trees and organizational models and to
connect with a deeply humanistic tradition. As Ms. Kane observed, “actually, I don’t
think there should be a BSW [Bachelor’s in Social Work]. I think if you have a
philosophy degree or an English degree, maybe you’re more humanistic and you could be
a professional and treat people with respect.”

What lurks within this tension are the shifting boundaries of the state, the
personal, the organizational, the public, and the spiritual. There is the diminishing role of
the state in providing a disciplinary apparatus for the populations it governs. This is
evidenced in part by the decline or elimination of many of the social welfare institutions
of the postwar United States, like AFDC payments. It is further demonstrated by the
privatization of many governmental functions; in the period since the OIG was created in
1993 the percentage of cases being handled by private agencies has increased from approximately 30 percent to approximately 70 percent. Another theme that appears in the OIG’s ethics projects is the boundary of the personal and spiritual. Thus the OIG’s ethics projects present emerging, semi-articulated figures for both the administrator and the administered in the contemporary United States. I will elaborate on these themes in the next chapter.
Conclusion

THE DISTRIBUTION OF THE SPIRITUAL IN THE AGE OF NETWORKS

We can see among us examples of institutions that are functioning well, that give the individuals within them a purpose and an identity, not through molding them into conformity but through challenging them to become active, innovative, responsible, and thus happy person because they understand what they are doing and why it is important. Technological development and affluence, which are related to our deepest problems, can also, if used rightly, enlarge the possibilities for our fulfillment in work and as citizens, for democratic participation and committed family lives, even for the space to develop genuine spirituality. (Robert Bellah et al., The Good Society, p.50)

As of the summer of 2002, DCFS is considered a huge success story, primarily because of the large number of adoptions and subsidized guardianships that have helped to reduce the number of state wards from approximately 55,000 to 24,000 in the space of five years. Director Jess McDonald has won numerous awards for his stewardship of the once denigrated agency. Of course, problems persist but on a seemingly more manageable scale.

What were the achievements of the OIG during the first eight years of operation? The accomplishments take two forms, administrative and service-related. One, they revamped the process for disciplining caseworkers who failed to perform their jobs in such a way that it is much easier to remove or reprimand an under-performing worker. Two, they initiated a review of worker’s credentials that served to rationalize the hiring process. Three, they started a process for the assessment of parental mental health. Four, they pioneered a collaborative approach to working with parents who give birth to substance-exposed infants. Five, they promoted the use of family conferencing in various types of cases, including those involving older caregivers. Six, they developed the first
Code of Ethics for child welfare professionals. Seven, they created new forms for bringing academic knowledge into the process of case management. I could extend the list further, but I have mentioned enough accomplishments to make my argument.

And the argument is this: the OIG represents a model for a profound shift in the organization of the child welfare profession. In its specific practices, very little of what the OIG does is new. Codes of ethics, mediation, community-based services, rigorous credentialing and disciplinary procedures, refined risk assessment processes, all of these have existed for a long time. Their incorporation into child welfare may be relatively recent but the introduction of these elements need not have been transformative. What is most important about the OIG’s project is the reorganization of child welfare practice in Illinois around the “child at risk” and the corresponding redistribution of the functions of child welfare agencies and the rights and obligations of workers and clients. That many of the OIG’s efforts have only partially and imperfectly penetrated the child welfare field does not detract from the fact that they represent in a condensed, purified form a new model for the child welfare profession. On the basis of the analysis of the differences between DCFS and the OIG, I can both explain the inability of DCFS to incorporate many of the OIG’s innovation and predict as long as the problems facing child welfare of inadequately addressing questions of risk, the types of solutions proposed by the OIG will continue to gain ground within the child welfare profession.

Crisis, Poverty, Child Welfare

In some sense the “crisis” that led to the creation of the OIG is merely one manifestation of a state of being in the contemporary world. In one of his last interviews Foucault was
asked to comment on the problem of old age in contemporary society. The interviewer posed the question in such a way as to suggest that we should be scandalized by how our society places its senior citizens in rest homes but Foucault's response took a different tact. "...[T]he fact that we are scandalized by this sordidness is indicative of a new sensibility, which is itself linked to a new situation....Even if a certain number of individuals are still marginalized, the overall condition of the senior citizen has improved considerably within a few decades. That is why we are so sensitive – and it is an excellent thing – to what is still happening in certain establishments." (Foucault, "The Risks of Security," in Foucault 1994, p. 380). Although the situation of children in the United States is not strictly analogous to senior citizens in France, it is true that, for instance, childhood hunger has declined even for the very poor and educational opportunities have increased since the launch of the Great Society such that our concern for children who remain hungry and undereducated is all the more acute.

It is precisely in this milieu of expanding opportunities for children in general that preventing child abuse became a national priority. There are, however, important countertrends in the condition of children. William Julius Wilson and other sociologists have amply documented how poverty has been transformed by the rise of the service economy, continuing residential segregation, and changes in household structure so that roughly one-fifth of all children are now more isolated from institutions, practices, and attitudes that previously mitigated the worst effects of poverty. It is precisely these children who have been the object of concern for the expanding child welfare field in the last twenty-five years.
The above reference to the Great Society is not an arbitrary one. Giddens and Beck have both noted how the welfare state has underwritten the contemporary processes of “individualization” that are pivotal to the politics of the “post-traditional” society. As Beck writes:

“‘Individualization’ means first, the disembedding and, second, the re-embedding of industrial society ways of life by new ones, in which the individuals must produce, stage and cobble together their biographies themselves...Disembedding and re-embedding (in Giddens’s words) do not occur by chance, nor individually, nor voluntarily, nor through diverse types of historical conditions, but rather all at once and under the general conditions of the welfare state in developed industrial labor society, as they have developed since the 1960s.” (Beck 1994, p.13).

A primary theme of this research project is that conceptualizations of personhood are the cornerstones of cosmologies that that both emanate from particular types of social structures and inform their operations. As I have demonstrated, the creation of the OIG led to a redistribution of organizational structures within the field of child welfare within Illinois. In this final chapter, I will examine the corresponding changes in the cosmologies that results from this redistribution. It is important to restate that these changes, at both the level of the organization and cosmology, are heralded by new practices that then transform the field as their logic plays out in practice. I will also return to the diverse theories that I deployed and consider the degree to which they converge in spite of different assumptions.

*The Child at Risk as the Object of the Child Welfare Profession*

The phrase “child at risk” has been used since at least the 1970s and has steadily gained currency since then. The use of the concept of risk is inherently probabilistic and it is
dependent on forms of knowledge that attempt to predict the odds of certain outcomes in the future. As Ian Hacking discusses in *Rewriting the Soul* child abuse became a pressing social problem in part because of concerns that abused children would grow up to become child abusers themselves. Once child abuse became an object of knowledge in the 1960s, researchers began to investigate the factors (such as family structure, substance abuse, and class) that increased the chances that a child might be abused. The “battered child” gradually came to be known in fine detail with the careful differentiation of various forms of abuse and neglect. As Hacking notes, with the “discovery” of sexual abuse in the 1970s, child abuse acquired the sense of an “ultimate horror.”

At the same time this was happening, the Illinois child welfare field was de-professionalizing, as discussed in Chapter Two. The hope had been to bring grassroots organizations into the field in a meaningful way but this failed to materialize. There are probably numerous reasons for this: the unwillingness of the political establishment to fund grassroots organizations that might then be able to challenge existing power structures; the lack of experience within community-based agencies; and the economic displacements of the late 1970s that both deprived poor communities of crucial resources and required that what limited economic and social capital remained be focused on pressing issues like crime and job creation. What is crucial for my argument is that this represented not just a failed administrative initiative but a failed attempt to redefine the problem of child abuse as a community problem. Child abuse continued, at both the national and local level, to become a psychological problem.

But, importantly, psychological problems were states, in the sense of an enduring disposition that defined a type of person; one was a depressed, anxious or angry person or
an alcoholic or sexually aggressive. These states corresponded with various types of expertise: whether counseling, substance treatment, or specialized treatment for sex offenders. The caseworkers were increasingly required to obtain counseling and psychiatric services for the clients. Often caseworkers would send clients to multiple services to address a variety of specific conditions and quite often the caseworker would do very little to open lines of communication between the various service providers. The Wallace case is a perfect example of this. Amanda Wallace did not lack for treatment of her psychiatric problems; rather, she had many different providers who worked with her at various points during the time her children were in foster care. But these providers were spread out over northern Illinois (because Ms. Wallace moved frequently) and often did not know about previous treatments. Furthermore, the expertise of various professions might reach different conclusions. Ultimately, the professional statement that seemed to hold the most sway in the Administrative Case Review where DCFS decided to allow Joseph and Joshua Wallace to return home was made by a (non-DCFS) caseworker who provided in-home services for Ms. Wallace’s epilepsy. This caseworker informed DCFS that Ms. Wallace was able to provide adequate parenting to her two children (OIG, Report on Case of Amanda Wallace: Phase I, June 15, 1993).

The caseworker-client relationship within DCFS can be characterized as a relationship between two individuals. This relationship is structured by a specific understanding of the individual that guaranteed rights for both parties. For the client, the central right was to privacy. Given the highly personal nature of the information obtained in the course of a child welfare investigation and during the provision of services, such a right is necessary and it has significant protection in legislation and legal
precedent, which is to say that the state ensures these rights. The worker also has rights, for instance, the right to due process and adequate supervision. These rights stem from contracts that the union signs with DCFS. Thus the caseworker-client relationship is surrounded by zones of protection that were designed to preserve the integrity of their interaction. In practice, this often meant that the worker wouldn’t ask about areas of the client’s life (regarding, for example, paramours or the child’s performance at school) and that the worker’s performance would not be questioned as long as a certain minimum was attained. This could sometimes take the form of informal rules of thumb; for instance, there were some workers who believed that heroin addiction did not necessarily mean the quality of parenting was compromised.

The quality of the caseworker-client relationship can determine the course of service provision. One effect of this is that if caseworkers don’t like a client or they don’t get along for any reason, the quality of the services can be compromised. Critics of the child welfare services have a long list of horror stories of caseworkers removing children from home or failing to provide available services that could have alleviated a family’s problems and better ensured the safety of children. But the converse is also true, if the worker likes the caseworker, or perhaps more crucially, if the client is in compliance with the caseworkers requests, certain dangerous aspects of a family’s situation may be ignored and the child remains in a state of danger. To cite the Wallace case again, one of Amanda Wallace’s skills was being in compliance with and friendly to her caseworkers, which seems to have increased the caseworker’s willingness to return her children to her. The point is that caseworkers often believe that the pivotal information is based on their personal interactions with the client. Of course, in many cases a warm relationship
between the caseworker and the client can have a significant therapeutic value and be an important factor in the successful resolution of a case.

The OIG promotes a different model of the caseworker-client relationship, one largely informed by many of their investigations. This model is inherently mistrustful of reading a client in order to understand the level of risk in a family. While it is hoped that a bond of trust develops between the caseworker and the client that relationship is not, in and of itself, to be trusted for providing accurate information about the family. The OIG has devoted considerable resources to developing a set of assessments that provide useful information. One effort that is exemplary in this regard is the LEADS (Law Enforcement Agencies Data System) check, which provides information about criminal background. The OIG helped to establish an agreement with the Illinois State Police to allow DCFS to access the LEADS database. The idea behind this was that this information would be helpful in determining the potential level of risk in a family. Some DCFS workers were resistant to using this system, fearing that clients would be unfairly judged for past actions irrelevant to the current situation of the family. Two years after the agreement was instituted, the OIG learned that DCFS “was restricting the use of LEADS to ‘Priority 1’ allegations” the most serious allegations that result in significant injury to the child (OIG Annual Report, January 1998, pp. 51-52). The OIG worked with DCFS to ensure that the checks were performed in all cases involving violence and substance abuse, which would include the vast majority of cases. A senior OIG employee informed me that ideally the caseworker would ask the parent if he or she had a criminal history and then use the LEADS check as a way of testing the veracity of the parent. Caseworkers refused to do this because it might compromise their relationship with the parent. Other
examples of the OIG’s interest in thorough assessments are the medical assessments for potential caregivers discussed in Chapter Four and the Parenting Assessment Teams discussed in Chapter Three.

These assessments serve to identify risk factors. Robert Castel underscores the importance of the use of risk factors in constructing a client. “A risk does not arise from the presence of [a] particular precise danger embodied in a concrete individual...It is the effect of a combination of abstract factors which render more or less probable the occurrence of undesirable modes of behavior” (Castel 1991, p.287). Instead of tracking a dangerous individual (as, I posit, DCFS is prone to do), the OIG monitors a set of risk factors. The identification of these factors mobilizes a coordinated set of services. Castel notes that in a regime organized under the rubric of risk, the key figure in the provision of services is the administrator. The experience of the OIG certainly bears this out. In initiative after initiative, the OIG has prioritized the coordination of services, developing an array of protocols and practices, such as mediation and case reviews, designed to keep track of the various actors involved in a case. The specialist retains an important role, but the capacities of the specialist are placed within a larger network where information flows more efficiently among the professionals as well as between the professionals and the client and his or her family and friends. What the specialist is to the individual client, the network is to a set of risk factors. Thus the mode of conceptualizing the object of the child welfare profession determines the structure of the services.
DCFS, the OIG, and Contemporary Cosmology

The differences discussed in the preceding section can be discussed using Mary Douglas’ group-grid model to explain some of the differences among DCFS, the OIG, and at least some of the organizations they contract with in the course of providing services. DCFS was shown to be a hierarchical organization, which in Douglas’ theory means that it is both high group and high grid. Its action is constrained by social norms and as an organization, it has a well-developed system of rank that dictates the behavior of each of its employees. The OIG is, on the other hand, more of an enclavist organization. There is still the strong group identity, but the grid is considerably weaker. One of the primary features of this organizational structure is that it allows workers to adapt to different tasks rapidly and to work together in different configurations depending on the task at hand. The small organizations that implemented the Family Conference Program are individualist in nature, both low grid and low group. These organizations exerted pressure on both DCFS and the OIG to place the responsibility for addressing family problems in the local context.

These organizational attributes have corollaries in cosmology. This is most evident when misfortune occurs. The death of a state ward has been the paradigmatic misfortune in child welfare. DCFS responded to the death of Joseph Wallace by claiming that the system worked as well as it could given the crushing burdens placed upon it and that the death was the result of mistakes made by individual workers as well as other people (judges, lawyers, and other advocates). That is to say, they looked for breaches of obligations by individuals rather than systemic malfeasance. The OIG also attributed blame to the workers involved but they went much farther in examining systemic
inadequacies regarding, for instance, the assessment and treatment of mentally ill parents of DCFS wards. Although no agency that might be labeled individualist was involved in the Wallace case, it is likely that they would respond by criticizing the impersonal nature of the state bureaucracy and suggest that empowering local agencies to handle these cases would have better protected Joseph (in fact Richard Wexler makes precisely this argument regarding the Wallace case in his advocacy for family preservation services).

From these observations follows the argument that the creation of the OIG and its growing influence represents a shift in the explanatory force of enclavist cosmologies within the broader public consciousness. That is, the OIG helps to resolve a pressing social problem, namely the lack of legitimacy of hierarchical structures in the face of growing risk, in the forms of increased media scrutiny and legal liability. The central problem is the ability to process information in a field of uncertainty. As long as DCFS was, by and large, deemed legitimate by the public, the media, and the political structure, its inherent tendency to attribute misfortune to the breaches of obligation by specific individuals was adequate. However, this legitimacy was eroded by the lawsuits filed against it and by the public perception, fueled by the media, that DCFS could not cope with the problems they were asked to resolve. Even the seemingly successful reforms that DCFS undertook in the wake of ASFA (discussed in Chapter 4) represent basically an administrative reform – namely changing the financial incentives for private agencies in order to encourage more adoptions - that did not address other core systemic issues.

This “legitimation crisis” came at the end of a long process in which seemingly neutral practices like advocacy, filing lawsuits, and the experimentation with family preservation had in fact reorganized the field by transforming the objects around which
the child welfare bureaucracy was constructed. The children in the child welfare system at the time DCFS was created fell into several categories: for example, severe mental, physical, or emotional impairment; children who had been abandoned; or extreme cases of abuse that had reached the attention of the courts. It was not a system designed to return most children home. The system was established to supplement “natural” institutions, like the family, that had broken down, or conditions like mental incapacitation that were unlikely to change. The children in the system had few advocates and fewer rights and there was a small set of techniques for working with the family problems that brought children into the system.

Over the course of thirty years, this situation changed dramatically. A large body of legislation and court decisions granted a wide array of rights to children and corresponding obligations of the state. The types of problems that the child welfare system were expected to handle shifted to include such things as drug abuse by parents, the sexual abuse of children, and emotional neglect. Advocacy groups, foundations, and academics extensively studied and promoted a wide variety of techniques and strategies for resolving these difficulties. Of equal importance, the function and structures of families in the United States was fundamentally reorganized.

This reorganization of the family had profound social effects that transcended the field of child welfare. As Judith Stacey has argued, there was a deep crisis in the representation of the family that became particularly pressing in the early 1990s (Stacey 1999). One manifestation of this reorganization was the increase of gay and lesbian families (Weston 1991). Along with other transformations such as blended families and single-parent households, this provoked considerable anxiety about what constituted a
family. Stacey demonstrates how a network of semi-academic institutions promoted a return to family values. What is important for my purposes here is that this crisis both exacerbated the immediate problems of the child welfare system and also suggested a means of redressing these problems. The difficulties in representing and understanding the changing family led to the demonization of poor, minority families driving the mistrust that encouraged caseworkers to remove children from their homes throughout the early 1990s. However, the decentering of traditional notions of families opened up the child welfare field to the possibilities of using extended family members to reconstitute homes for children in state care, paving the way for the adoption boom of the late 1990s.

My contention here, based on the empirical evidence presented in earlier chapters, is that the OIG’s organizational structure allowed it to process some of these changes more rapidly than DCFS and helped to facilitate the incorporation of new techniques and ideas into child welfare practice. In Douglas’ terms, the OIG had a more egalitarian structure and hence a more egalitarian worldview that created a space where caseworkers, academics, and other professionals could share information and try new strategies for working with clients. Furthermore, the OIG selected techniques such as family conferencing that encouraged the full-fledged participation of the clients themselves.

The shift in the Illinois child welfare system occasioned by the creation of the OIG is part of a broader redistribution of rights and obligations. The hierarchical structure of DCFS held that the caseworkers had certain rights and obligations to the clients. Consider the incident where the caseworker engaged in sexual relations with the client after closing the case. DCFS defined this as belonging to the private lives of both
the caseworker and the client. The OIG succeeded in redefining the right of the
caseworker to engage in this type of behavior by revising the obligations in the
professional relationship. Consider also the resistance by many of the caseworkers to
using criminal background checks of clients because it might violate the privacy of the
client and their right to be judged by their current situation. The partial implementation
of OIG initiatives can be explained through the incompatability of the organizational
structures of the OIG and DCFS and the corresponding differences in values.

However, these differences between DCFS and the OIG are ultimately
complementary. This can be seen by considering the grid axis of Douglas’ model. This
axis refers the degree to which an agent feels acted upon by the world. What does it
mean to refer to DCFS as high-grid organization and the OIG as a low-grid organization?
For Douglas, a high-grid agent is acted upon by the world and the low-grid agent acts
upon the world. This terms refer less to objective states than to relative positions since
most agents confront a world that both acts upon them and they act upon it. As I
demonstrated in Chapter Two, DCFS was increasingly subject to legislative mandates,
judicial decrees, and a public that expected more and more from the organization
precisely at the moment where certain social conditions drastically worsened for the
populations they worked with most closely. The OIG, on the other hand, while
addressing pressing issues in comprehensive manner, was not subject to the same
pressure precisely because they did not provide front-line services. They could target
their efforts to addressing the most egregious cases, often after DCFS had already borne
the brunt of public outrage. These two factors allowed the OIG to act effectively and
were necessary preconditions for their success.
Child Abuse, Race, and Narratives of the Family

One of the most persistent refrains of critics of child welfare system in the contemporary United States is a coercive form of social regulation that deliberately targets poor people, especially poor people of color. Dorothy Roberts writes:

One hundred years from now, today’s child welfare will surely be condemned as a racist institution—one that compounded the effects of discrimination on Black families by taking children from their parents, allowing them to languish in a damaging foster care system or to be adopted by more privileged people. School children will marvel that so many scholars and politicians defended this devastation of Black families in the name of protecting Black children. The color of America’s child welfare system is the reason Americans have tolerated its destructiveness. (Roberts 2002, pp.ix-x)

These critiques argue that poverty is the main cause for a family’s involvement with the child welfare system and that the system hides this by attributing this involvement to the personal failure of poor parents. Richard Wexler, like Roberts and Golden and other critics in this genre, constructs a homogeneous group of “child savers” who are on a mission to remove children from their families and who dominate the child welfare profession. Comparing the child savers of today with their predecessors a century ago he writes:

Yesterday’s child savers believed neglect was caused by genetically inferior parents who could be redeemed only by religion. Today’s child savers believe that neglect is caused by mentally ill parents who can be redeemed only by ‘counseling.’ Yesterday’s child savers said the problem was in the ‘gemmules.’ Today’s child savers say the problem is “apathy-futility” syndrome.”…What child saving then and child saving now have in common is an unwillingness to face up to the most salient fact about the maltreatment of children…[t]he overwhelming majority of child abuse and neglect cases are clearly, obviously, directly, demonstrably, linked to poverty. (Wexler 1995, pp.46-47)
Yet everyone that I met during my research is perfectly well aware of this. At one training, a Regional Administrator for DCFS clearly stated that most of the families who are involved with DCFS are there because of the problems of urban poverty that increase the visibility of their distress and, further, that DCFS was probably missing comparable abuse in upper-middle class white families. However, this administrator, like other defenders of the beleaguered system, claimed that DCFS still has to investigate the cases that come to their attention and intervene when deemed necessary. So rather than “exposing” the class- and race-inflected nature of the system, I want to ask several other questions. How does this connection between poverty and child maltreatment figure in professional and public discourses? Has anything changed about the nature of poverty that places poor children in greater danger than they were forty years ago? Is Roberts correct when she refers to the child welfare system as “an apartheid institution”? Finally, how does the child welfare system link with other state apparatuses, such as the penal system, TANF, and schools, that address issues related to poverty and race?

For advocates like Wexler and Roberts, the connection between poverty and child maltreatment serves to delegitimize not just the current child welfare profession but also those welfare policies of the federal government for the last several decades that have increased the number of the “truly disadvantaged,” to use William Julius Wilson’s term. Roberts, in particular, develops an agenda that seeks to address these issues. While she, like Wexler, promotes family preservation services as the cornerstone for a just response to child welfare issues, she also has a more far-reaching vision of community-based organizations integrated into a universal social welfare system. In particular, she argues that Black communities need to control the resources that are to be used there. She
writes: "Strengthening Black neighborhood institutions provides bases of power needed to advance Black people’s distinct interests and to ensure that government programs actually benefit Black residents. The white-dominated welfare system has always administered its services in a way that reinforces Black subordination" (Roberts 2002, p.272).

While I find such statements somewhat overblown, I had several opportunities during my tenure at the OIG to see institutional racism in action. Two instances stand out. The first one was one in which the paternal grandparents were caring for six of their grandchildren. As Ms. Kane reviewed the case file she came upon a psychiatric evaluation that labeled the grandmother “psychotic.” Ms. Kane moved quickly to have another evaluation performed to see if this was indeed the case. In the meantime, a psychiatrist friendly to the OIG examined the first evaluation and found that it was steeped in misunderstanding of the grandmother’s religion as well as bias against African-Americans. The second evaluation showed that the grandmother was, in fact, not psychotic, and she and her husband were able to finalize their living arrangements with their grandchildren. The second instance involved the family conference program. Ms. Kane instructed me to collect data concerning the dosage of methadone that IFCP clients were receiving in their substance abuse prevention programs. After comparing the data with the recommended level of dosage, Ms. Kane determined that the substance abuse providers were giving the clients about half of the recommended amount of methadone, and much lower levels than whites in suburban facilities. Other research conducted by SSA professors found that the practice of under-dosing African-American clients was widespread and systematic.
But these instances are quite far from the whole truth and not nearly enough to account for the large percentage of African Americans in the child welfare system. One element that Roberts’ analysis omits is the degree to which the African American families are serviced by African American caseworkers, judges, and other professionals, especially in Cook County. While it is possible that these workers have internalized the racist beliefs of an oppressive system, as some charge that African American police officers often do, my limited experience is that they operate with some sensitivity to the plight of minority populations trapped in urban poverty.

Yet another response to the connection between poverty and child maltreatment is one that the OIG embodies: the establishment of better coordination between relevant governmental agencies, community institutions, and, quite often, foundations and academic institutions that have programs to address these concerns. If, for instance, the availability of housing for older caregivers is an issue, then the child welfare system needs to work with local agencies that are familiar with the government housing programs, as I demonstrated in Chapter 4. Similarly, cases might require cooperation with the welfare system, hospitals and other institutions that service the same populations. Such efforts might be successful in individual cases but not necessarily in transforming the structural conditions that perpetuate poverty.

Aside from accepting the premise that there is a connection between poverty, racism, and child maltreatment – which conservatives and many neo-liberals do not – there exists another crucial commonality, the need to restructure the relationship between the “community,” “the family,” and the “state” – all of which are understood in positivistic terms. There is a structural contradiction here: the development of positivistic
knowledge about the family and the community produce technologies and institutions that can recreate and reorganize these forms, thereby undermining their status as objective elements. Thus Roberts suggests reinforcing the capacity of the "Black community" to support families without outside intervention while Ms. Kane supports building supportive networks that connect institutions within and between communities.

There is a certain amount of compulsiveness in these efforts. Here Giddens’ concept of "post-traditional modernity" is helpful. For Giddens, as expert systems produce more knowledge and more powerful institutions, their unintended side-effects become larger and more unpredictable. This applies to economic and political institutions, with their capacity to pollute large areas and to uproot and dislocate entire populations, but it applies equally to families and individual technologies. The success (albeit limited) of the feminist revolution in revising gender roles within society and especially within the family, as well as the penetration of psychological theories throughout the society, has undermined traditional conceptions of the family and put in its place expert knowledge. But expert knowledge is inherently unstable because it consists of competing theories and continues to produce new theories. Furthermore, for Giddens, it is the hallmark of expert systems to disembed information from local contexts, recode the information in abstract terms, and then to re-embed it once again. We can see this in the way that family mediation, in conjunction with other services, takes pre-existing family relationships and formalizes them using the dictates of expert knowledge, and then recreates a family system. This is not to say that the members of the family are passive receptacles for experts. Quite the contrary, their input is necessary to make the process work. But it does mean that the family becomes more penetrated by,
and organized around, expert knowledge, undermining claims that the family is a
traditional or natural entity. The same can be said about the community. Consider the
church in African American communities. It has long been seen as pivotal institutions
within those communities, important sources of personal support, information, and often
possessing financial and other resources. With the decline of tradition and the rise of
expert systems, the form of the African American church remains but the function
changes. The church becomes the local node for expert knowledge and often expands to
become an economic development agency or a center for counseling services and serves
as an excellent example of this.

But the eclipse of tradition does not merely hold for disadvantaged populations, it
applies to all. What Roberts and similar critics miss is the way that ideas about child
abuse regulate a significant proportion of people in contemporary society. This is easily
demonstrated by perusing the self-help shelves of bookstores, the success of talk shows
like *Oprah Winfrey*, and the emergence of support groups like Survivors of Incest
Anonymous. This is not to say that everyone considers himself or herself a victim of
child abuse. Rather, it suggests that child abuse has become the anchor of a continuum of
experiences that can be deployed in a wide variety of personal narratives. In addition to
actual physical and sexual abuse, there is “emotional incest” (which refers to parental
involvement in a child’s life so intense as to suffocate a child’s personal development),
“emotional abandonment” (which refers to the neglect of a child’s basic emotional
needs), and a host of lesser violations of a child’s developing autonomy. It is not relevant
for my purposes here to judge the scientific validity of these constructs, only their
pervasiveness in our lives. Even people who believe that their own childhoods were
perfectly adequate are likely to use such ideas in assessing other people’s problems. People’s lives are less bound by tradition and determined by status; in their place lies the imperative for each person to produce individualized narratives for his or her life. Combing their childhoods for incidents of malseasance provides rich source material for those seeking to explain the mysterious chronic dissatisfaction they experience in their lives.

The flip side of this is the process of parenting in an age where parental authority has been thoroughly revised. In a society where status was usually destiny, the child was likely to move into professions similar to those of the parents. In this situation, the parent possessed knowledge and practices (such as farming or certain blue-collar skills) that were directly relevant to the child as it grew to adulthood. A good deal of parental authority was derived from this fact; furthermore, if a child did not heed this authority, he or she could lose his or her status in society. Stern punishment by the parent was legitimized by the need to ensure that the transmission of knowledge occurred and quite possibly served the parent’s anxiety about the potential loss of family status. However, punishment was kept in check by the reality that the parents would likely have to depend on the child for support in their old age, although there were certainly instances of horrible injuries and death that were inflicted upon children (see Dizard and Gadlin 1990, especially Chapter Three). As tradition and status lost their primacy, parental authority was undermined because children were less likely to need their parents in order to have access to a profession; formal schooling became more important in this regard. Furthermore, old age pensions and rest homes supplanted children as primary sources of support in retirement.
As children became less valuable economically, they became more important emotionally, as Viviana Zelizer has argued (Zelizer 1994). Giddens has argued that the parent-child relationship has come to approximate what he calls “the pure relationship.” He defines the pure relationship as “a social relation [that] is entered into for its own sake, for what can be derived by each person from a sustained association with another” (Giddens 1992, p. 58). As the parent-child relationship becomes detached from a broader economic and social economic context, it can become a powerful and emotionally satisfying bond for both parties. However, it can also become the site for frustrations and disappointments that are not mediated by other social connections. Ms. Kane has noted that the death investigation that the OIG has conducted demonstrates that the children most at risk of being abused to the point of death are infants, as parents expecting a doll to cuddle confront the relentless needs of newborns without having the social supports to alleviate the extreme stress they experience. Poverty is more dangerous today precisely in the sense that the decline of enduring social networks places greater pressure on fragile relationships based on emotional intimacy in personal narratives that are not well-integrated into the realities of the global economic order.

The reorganization of local communities in a neo-liberal global economy, the rise of feminism, the creation of personal narratives derived from childhood experiences, the revised social and emotional context of parenting all point to need to create identity, a the personal and collective level, in a post-traditional age. Castells argues that self-reflexive projects of identity are now frequently quite removed from the centers of power in a global economy, making these projects unmanageable except for a small group of elites (Castells 1997, p. 11). One aspect of this process of identity production and reproduction
is the need to obtain more relevant information, often collected and organized under the rubric of culture. Thus DCFS solicits expertise about African American culture in order to offer “Black Parenting” classes and continues to hire more Latino caseworkers while the OIG inquires about community and family cultures in order to make services accessible to clients. Roberts criticizes these efforts as attempts to make oppression more palatable to affected populations in the absence of more substantive reforms (Roberts 2002, p.271). Yet her project is similarly dependent on producing useful knowledge on African American culture in order to ensure its viability. I will return to this point later on in this chapter.

There is no doubt that state intervention in situations of alleged abuse have a distinct racial cast and that racism plays a some part in this. My own belief is that it is largely a secondary phenomenon based on continued segregation and the reorientation of regional economies away from the urban core and that racial disparities in the Illinois child welfare system will continue unless segregation (particularly by class) is overcome. Interestingly, integration is not on Robert’s agenda, in part because it would dilute the integrity of the “Black community.” But the above remarks suggest that child abuse is not part of a plot by the state to disenfranchise African Americans but rather that there is a complex intertwining of personal and collective narratives with the operations of the global economy. The values that society enacts through the child welfare system are the same ones that order the lives of many in the middle and upper classes. Furthermore, the dilemmas inherent in trying to mobilize the resources to successfully uphold these values in a coherent personal narrative extends throughout much of contemporary society.
Child Welfare as a Regulatory Institution

But if the child welfare profession in Illinois is not an “apartheid institution” it is worth discussing its role in the regulation of disadvantaged populations and its relationship with other institutions. These institutions include the prison system (including parole), schools, and the welfare system, especially Temporary Aid for Needy Families (TANF). The place of prisons in modern society has been a focus of analysis and debate almost since its inception. As Foucault noted in the quotation cited in Chapter Two, the complaints of reformers have been an integral part of “success” of the prison from the beginning by continually offering programs of reform that legitimated the project of the penitentiary by maintaining the hope that prisons could serve as sites of reformation.

This hope of reforming delinquents constituted the core of the prison as a disciplinary project. However, Thomas Dumm has convincingly argued that prisons no longer serve that function. Since the rightward shift in American politics in the 1980s, prisons have abandoned their disciplinary function and become sites of undifferentiated misery. The number of prisoners has approximately quadrupled in the last twenty years as prison sentences have become longer and parole and early release have become harder to obtain. Prisons have cut back significantly of the resources devoted to education or training in a profession. This leads Dumm to write:

...the prison is coming to operate as a replacement institution for schools (the treatment of juveniles as adults for purposes of criminal trial criminalizes delinquency rather than “delinquentizing” criminality), for mental hospitals (the gradual abandonment of the utility of the insanity plea has led to the execution of people who formerly would be considered criminally insane), for barracks (the option, popular in an earlier era, of entering the military as a judicially recommended way of avoiding trial has disappeared...), and for factories (in a post-industrial society, the discipline of labor is an anachronism), all of which once resembled prisons. (Dumm 1996, p. 125)
What Dumm usefully underscores in this passage is the redistribution of discipline and authority in contemporary society. Discipline has not so much disappeared as it has become a scarce commodity. This is also evident in the parole system. In Jonathan Simon’s fascinating study of parole in modern society, *Poor Discipline*, he traces the development of parole in twentieth century, using California as his focus. In the early part of the twentieth century – lasting through the 1950s – the emphasis was on finding work for parolees; parole agents monitored the social contacts of recent parolees. In the period after the Second World War there was also a growing faith in providing clinical services for parolees, counseling and, especially, substance abuse treatment. These disciplinary practices broke down in the face of the social dislocations of the 1960s, the declining labor market for the urban poor, and the prevalence of drug use. In their place a regime of management practices became predominant. Simon identifies three practices that ground this new regime: classification of parolees and predicting the risk that they will continue to commit crimes; developing extensive offender databases; and drug testing. Parole agents who used to regularly visit parolees are now so weighed down with processing paperwork that such visits have a greatly reduced role. Drug use was once a status offense that would often lead to re-incarceration. It is now so common among ex-offenders that such a policy would today flood the prison system, defeating the very purpose of parole. Instead drug testing has become a way of maintaining regular contact with parolees and of obtaining information about the parolee that can be interpreted outside of a social context. Positive drug tests are now risk factors that indicate that the parolee has resumed criminal activities. Parole has become a system for
surveillance at a distance that seeks to contain parolees in neighborhoods where jobs and many other forms of social connection are greatly diminished. Simon wrote his book immediately before “community policing” became a favored policy in many cities (Chicago has one of the most extensive community policing programs in the country). In many respects, community policing represents an extension of management technologies by getting community residents to observe suspicious activity and to report it to police, supplementing the capacity of police to monitor high-crime neighborhoods.

Schools are another crucial site where discipline has been surpassed by management techniques. Here though, the dynamic is significantly different because of the perceived close connection between schooling and access to economic advancement, not to mention access to the basic institutions of democracy. In Chicago, the 1990s saw a major effort to reform the school system so that the worst schools could become more adequate. The Chicago public school system, like many other urban school systems, is really at least several systems: one for the middle classes that consists of magnet schools and well-equipped schools in middle-class neighborhoods; another one for poor areas of the city; and a set of services for those with learning disabilities. The reform effort consisted of a “get tough” policy regarding social promotion of children who were not performing at grade level, frequent use of standardized tests, and a series of administrative reforms designed to hold the principals and faculty at poor-performing schools accountable through a series of escalating penalties culminating in the “death penalty,” closing the worst schools down. While these efforts are widely considered to be a success, the actual improvement in learning seems to be quite small. But what is striking is the similarities with the parole system. Extensive testing to monitor egregious
performance, intensive administrative actions focused on schools that are deemed to be particularly awful, and a calculated indifference to the weak performance of a significant portion of the students.

The clearest break with the disciplinary practices of the institutions that used to constitute the United States’ welfare system is TANF, which replaced Aid to Families and Dependent Children in 1996, after Congress passed “welfare reform.” TANF was designed to provide only five years of subsidies over the course of any one person’s lifetime (although states have tended to extend this as people have reached these deadlines). TANF does provide some training, but as Lorri Clark demonstrated in her ethnographic research on a TANF program in Chicago, most of this training is devoted to writing resumes, learning interviewing skills, and motivational lectures. Although welfare reform is currently considered a success story, doubts about how the most difficult cases of poverty will fare once benefits are terminated remain. More important for my purposes is the way that TANF seeks to bind the poor more tightly to the labor market and abandons those who cannot find work.

In Illinois, the child welfare profession traverses all of these domains. One of the main strategies of the OIG has been to reach out to professionals from these domains who may be involved with the family. In programs like the IFCP and Intact Family Recovery, the OIG has made regular caseworker contact with the school a high priority. It is important not only to find out about grades, but also to check the attendance record, since this is an indication that the caregiver is following through on basic parenting functions. Furthermore, the OIG considers pre-school to be a crucial link in the service network. One OIG Annual Report stated: “All at risk preschool children, prior to returning home
[from substitute care], must be enrolled either in state preschool or, if available, in an early childhood program such as Zero to Three or Head Start. Attendance at such school programs affords extra protection to these children, enabling school personnel to monitor attendance and safety of the child returning home” (OIG Annual Report, January 1998, p.62). Linkages with the schools also provide other services. For instance, the OIG discovered that children in Chicago who were approaching school age were eligible for free developmental screening through the public school system. They were able to get almost a thousand DCFS wards to participate in this in the first year, providing extensive information about potential learning disabilities for DCFS wards as well as vision and hearing deficits (OIG Annual Report, January 1998, p.43). This type of interaction represents an intensification of the relationship between schools and child welfare professionals.

I noted earlier that one initial OIG effort centered on cooperating with law enforcement in order to obtain criminal background checks. The OIG has also given the state police information for investigations of criminal activity by DCFS personnel. In one Family Conference case, the agency had a client with an outstanding warrant and had to bring the client to the police; she then had to serve a short sentence in prison. There have also been some cases where the OIG contacted parole officers or had contacts with prison officials but these relationships have been less systematic. The OIG has also worked with welfare officials, developing a protocol for switching TANF payments to temporary guardians while the primary caregiver was in substance abuse treatment or otherwise temporarily unable to care for the children.
What is important about this web of relationships is the distribution of discipline. The prison and parole systems have abandoned discipline in order to manage from a distance. Schools focus on managing thresholds of poor performance and providing simulacra of discipline through testing and a curriculum based on rote recitation of phonics and times tables. The welfare system has been dismantled and replaced by even stingier, time-limited subsidies and minimal training programs. Child welfare has become the disciplinary site par excellence for poor populations in the contemporary United States. There are numerous reasons for this. First, the welfare of children has become a key cultural value. Second, it can still be economical to work with clients in the hopes of keeping children out of the system. Third, clients in the child welfare system are largely culled from the same populations that are involved in the welfare, prison, and parole systems.

A fourth reason, closely related to the previous two, is that the child welfare provides a site for managing illegalities that would be too cumbersome to regulate through the law enforcement system. The concept is, of course, derived from Foucault in *Discipline and Punish*. This is the key passage.

...perhaps one should...ask oneself what is served by the failure of the prison; what is the use of these different phenomena that are continually being criticized; the maintenance of delinquency, the encouragement of recidivism, the transformation of the occasional offender into a habitual delinquent, the organization of a closed milieu of delinquency...[O]ne would be forced to suppose that the prison, and no doubt punishment in general, is not intended to eliminate offences, but rather to distinguish them, to distribute them, to use them; that it is not so much that they render docile those who are liable to transgress the law, but that they tend to assimilate the transgression of the laws in a general tactics of subjectivation. Penalty would then appear to be a way of handling illegalities, of laying down the limits of tolerance, of giving free reign to
some, of putting pressure on others, of excluding a particular section, of making another useful, of neutralizing certain individuals and of profiting from others. In short, penalty does not simply ‘check’ illegalities; it ‘differentiates’ them, it provides them with a general ‘economy.’
(Foucault 1995, p.272)

The legal system still partially serves this function of differentiation but, as noted above, its role has become truncated. Laws that mandate fixed sentences or which group all felonies together, such as the “Three strikes and you’re out” laws that proliferated throughout the 1990s, reduced the space for such differentiation. Of course, prosecutors still have leeway about which charges to file or to withhold filing charges based on good behavior, thus retaining some judgment about the varieties of “delinquent” behavior. But the child welfare system has such differentiation as its core mission, determining which families are too risky for children and those where there is less risk.

The clearest example of this is use of illegal drugs in the household being investigated by the child welfare system. If, for instance, a child welfare worker sees drug use in a household, his or her first response is to ask “is the child safe?” A worker would almost never call the police to report a crime, unless perhaps he or she walked into a major drug distribution operation. The worker would try to ascertain the frequency of drug use, whether drug use posed any direct risk to the child through parental inability to provide care while intoxicated, through the presence of gang members in the house, or through the use of money for drugs instead of for food and clothing for the children. Does the caregiver leave the children with safe relatives before s/he goes to get high? Does the caregiver commit crimes, such as theft or prostitution, to support his or her drug use? All of these considerations enter into the calculations that the child welfare professional makes in deciding whether parental drug use is sufficient to open or close a
case, whether the parent should be referred for substance abuse services, or whether other services are needed. An elaborate set of differentiations that serve to connect families to an array of surveillance and disciplinary apparatuses, selecting individuals to discipline in order to manage a threshold of illegality, all legitimated by the level of risk of harm to children.

A significant part of the crisis that faced the child welfare system in Illinois during the early 1990s was a poor economy of authority and knowledge. An early OIG report, discussing cases that involved the death of DCFS wards, stated the matter this way: “The prevalent over-emphasis on Department rules and procedures perpetuates the Department’s isolation and fosters the belief that only Department employees are responsible for the well-being of children in Illinois. A more useful analysis considers whether practices should be changed so that Department employees, working with individuals from other disciplines, would be able to pinpoint situations in which death is a possibility or likelihood” (OIG Annual Report, January 1995, p.8). The management of illegality requires the coordination of the various systems that interact with overlapping subject populations, the refinement of assessment procedures and the development of protocols for facilitating the involvement of these systems. The OIG finds its’ meaning in the development of this network and in reworking its relationship to the populations it governs.

This is not necessarily how the OIG perceives itself. In 1997, Ms. Kane wrote the following passage discussing how she came to view the task of the OIG:

Recognizing that we all can learn from our elders I asked for guidance from a respected retired public servant who had experienced the vicissitudes of service in leading a major public institution. The trouble with asking for help from our elders is that they often do not give simple
answers. Rather, they prod the questioner to think about the right question. The question posed to me was, what do I think the Office of the Inspector General should do to make a difference: Focus on the life of an individual child or focus on the system? I, of course, thought that one would not preclude the other, but in his wisdom he reminded me there is only so much time and hands are few. I would have to set a priority. I chose the life of the child since it was the tragic death of a three year old that created the Office of the Inspector General. He supported this answer. It is DCFS' responsibility to oversee the functioning of the Illinois' Child Welfare System, but the individual child needs more than this broad overview, lest the individual child get lost among the many. The value and the focus of the Office of the Inspector General has to be the individual child. (OIG Annual Report, January 1997, p.i)

This statement is neither inaccurate nor does it undermine my contention that the impact of the OIG had been to help systematize the child welfare profession, place the child welfare in a broader network of services, and recode the problems of families in the language and form of risk so that the service network can mobilize to address them. The resolution of this paradox lies in the role of the OIG in the re-professionalization, or more accurately the re-vocationalization, of the child welfare field.

*The Re-vocationalization of Child Welfare*

I recently revisited the writings of C. S. Lewis and found his discussion of the habits and outlooks of a virtuous person as being particularly relevant to the multi-discipline field of child welfare. To be a just and prudent professional, whether one is a lawyer, legislator, public or private administrator, clinician, or caseworker, requires self-discipline. It also requires a deeper introspection and analysis than are afforded in the limits of pulp language or a strictly market formula. The fiduciary responsibilities that come with the duty to protect children require fortitude and courage in taking prudent and just actions. Lewis tells us prudence is practical common sense, taking the trouble to think out what you are doing and what is likely to come of it. The antithesis of the prudent individual is the intellectual slacker, a foolish person. Justice, he tells us, is more than what goes on in courts of laws. Justice embodies fairness, honesty, give and take, keeping promises and an even-handness. Our children and our families, as well as the professionals who have the
duty to serve them, require an even playing field. Sensationalism and the conceit of self-aggrandizing behavior does not justly serve. If we are to live up to our duties to our children and our families we have to humbly recognize where our ignorance or errors contribute to failings or harm. To admit to such should not diminish us but it does require a great deal of fortitude. (Denise Kane, Letter from the Inspector General, OIG Annual Report, January 1999, p.1)

This passage is pure Denise Kane, bearing many of her hallmarks. There is the learned humanism, with a distinct Catholic hue; the focus on professionalism and fiduciary duty; the disdain of flashy self-promotion and the high value placed on humility; the importance of virtue and justice; and the need to think clearly and introspectively. What is missing from this passage is the sense of child welfare as a personal calling, although Ms. Kane most certainly believes it is. The sense of calling has profoundly shaped the OIG, from determining the type of employees it attracts to the importance it places on ethics and the centrality it places on the worth of the individual child, as noted on the previous page. Certainly the affinity the OIG has towards small-scale faith-based agencies, as discussed in Chapter Four, is, in part, due to the shared sense of vocation.

The theme of re-professionalization of the Illinois child welfare system has recurred frequently in this thesis, from Director McDonald’s emphasis on more training and accreditation to the development of the Code of Ethics. But the concept of vocation is more relevant to the OIG’s mission than the concept of profession because it is more encompassing of the underlying moral dimension of this mission. If a profession asks of the professional that she learn a distinct set of skills and adhere to the institutionalized norms of the profession, the vocation asks that a person define a significant part of her personhood, her meaning, in terms of a core value, and that she should be open to
changing as a result of her experiences. The capacity for introspection is essential for one who has a vocation.

The concept of vocation stills bears the mark of its origin in early Christianity, where the term (vocatio in Latin, translating the Greek klesis) referred to the “special hope and destiny” of the adult who converted to Christianity. Later, following Augustine, the term centered on the work of the clergy and it combined the sense of worldly renunciation, grace from God, and a “special profession based on aptitude and right intention” (Haynes 1997, p. 33). During the Protestant Reformation, the concept of vocation was gradually expanded to include secular work. With the rise of the Industrial Revolution a vocation came to be seen as a chosen endeavor that could overcome the sense of alienation that came to characterize most work. Although a vocation does not necessarily occur in the context of the profession, there is a tendency to associate a vocation with certain professions, such as teaching and social work.

The passage quoted above indicates the importance of the concept of vocation to Ms. Kane and this sense applies equally to many of the OIG’s employees. In numerous instances, vocation retained its full religious connotations. One former OIG employee came to Chicago as the wife of a minister in the late 1960s to work on Dr. Martin Luther King Jr.’s campaign to integrate Chicago, spent many years as a community activist before coming to the OIG, and eventually left the OIG to become ordained herself. Her work in child welfare was clearly intertwined with her broader sense of purpose in life and a profound religious belief. Another OIG employee received a dual degree in divinity and social work at the University of Chicago before coming to the OIG. When I spoke with her, she was very explicit about her reasons for working in child welfare.
To me, I’m a minister, I’m doing ministry...with every ounce of what I do with my job.” “It is a vocation, it is [an] encapsulating meaning. It is putting beliefs into...what you are, who you are and how the world is shaped and formed and responds. Absolutely vital, if you didn’t have that, who the hell would do this stuff? You see how people in this office act when there is a baby here...all the OHHing and AHHing. These people are here because they love children.

Other OIG employees have had extensive involvement in social movements, such as the civil rights movement and the Sanctuary movement of the 1980s, that directly informed their desire to work in child welfare. My point is not that the OIG consists solely of people practicing a vocation in contrast to other child welfare professionals who are merely doing a job. One of the heartening aspects of my research was the extent to which many child welfare professionals retain a sense of vocation even in a system that was inefficient and often arbitrary.

What is the organizing framework for this sense of vocation? It is not directly religious in most cases. It can more accurately described as spiritual. Paul Rabinow summarizes the way that philosophers Ferenc Feher and Agnes Heller define spiritual:

[The spiritual] has a broad interpersonal connotation that contrasts with the always individualizing Christian soul and its bodily persona...It is diffuse...and serves as a collective name for everything "that is not natural."...The domain of the spiritual comprises that which is "not real" but which nevertheless is essential for there to be a human reality (i.e., ideas, figures of imagination, utopias, and the like)...To the degree that the spiritual lives in the person, it forms the general part of the particular (Kant’s sacred humanity residing in every rational being). One might say that the spiritual—interpersonal, diffuse, anthropologically distinctive, simultaneously general and particular—is an imaginary construction with very real effects and potent affects. (Rabinow 1999, p.11).

Rabinow situates this understanding of the spiritual in an assemblage that includes both new and old elements. What is missing in his summary of Feher and Heller’s concept of
the spiritual is the rational. They write, "although 'the spiritual' is not by definition synonymous with 'the intellectual', it increasingly came to be identified with the rational, expressing the dominant spirit of modernity" (Feher and Heller 1994, p.13). However, I believe that the relationship between the spiritual and the rational is not one of identity but rather of supplementation.

Processes of rationalization are well-known for their capacity to cause fragmentation. Less obvious, perhaps, is the counter-trend of creating new assemblages that achieve their own cohesion. The spiritual serves as a framework for constituting new unities in the face of the divisions created by the rational. The vocation is a construction that, in the example of the OIG, brings the spiritual and the rational into a viable relationship with each other. The value accorded to the individual child is spiritual in the sense that it is a figure of the imagination that unites the general (sacred humanity) with the specific case (the child and her unique circumstances). The processes of rationalization are necessary to enhance the value of the child by offering ever-finer analyses of the social, medical, economic, or psychological problems facing the child, the family, the community, or the nation. The spiritual has to be diffuse in order to simultaneously traverse and transcend the wide range of elements and factors.

With this analysis in place we can return to the paradox discussed in the previous section and state that Ms. Kane prioritizes neither the individual child nor the child welfare system. Rather, the value ascribed to the individual child is what guarantees the need to reform the system. While child welfare is not a new vocation, I think we can say that it is newly situated in a specific distribution of personal narratives within a general economy of risk. As traditional child welfare institutions experienced a crisis in
legitimacy, an opportunity for new configurations emerged, and Ms. Kane’s conceptualization of her vocation and her ability to bring like-minded people together provided a site for a specific set of reforms. As Jane Addams and her colleagues devised a profession out of their vocation in the final years of the nineteenth century – turning personal narratives into important institutions that mitigated the worst effects of the emerging industrial economy even as it was expression of that economy - so the vocation of the child welfare professional is being reworked to mitigate the effects of a post-industrial economy and the network society that is built around it. It has been argued, by Roberts and others, that the child welfare system, in Illinois and throughout the nation, subjugates the poor more than it helps and that merely reforming the system is inadequate. Yet the institutions that govern us, and their techniques, practices and discourses, are derived from deeper values about personhood, values that are widely held, and are attempts to match these values to specific economic, political, and social circumstances. Reform, even quite rapid reform, is not just possible, it is an imperative of modernity. This idea has been best expressed by Nikolas Rose:

If the new techniques for the care of the self are subjectifying, it is not because experts have colluded in the globalization of political power, seeking to dominate and subjugate the autonomy of the self through the bureaucratic management of life itself. Rather, it is that modern selves have become attached to the project of freedom, have come to live it in terms of identity, and to search for the means to enhance that autonomy through the application of expertise. In this matrix of power and knowledge the modern self has been born; to grasp its workings is to go some way towards understanding the sort of human beings we are.
Appendix
Code of Ethics

for

Child Welfare Professionals

Illinois Department of Children & Family Services
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Illinois Department of Children & Family Services

Code of Ethics

for

Child Welfare Professionals

PREAMBLE

Society values each child’s natural right to have basic needs for survival and development met and each child’s natural right to live with his/her parents. Society also values each parent’s natural right to rear his/her child, but through its child welfare laws, defines certain situations in which the parent’s rights can be limited so that the child can be protected. Society delegates to the child welfare field and to those who become members of the field the authority to intervene in the lives of families with the goals of ensuring the safety of abused and neglected children, assisting parents in meeting minimum parenting standards, and planning alternative permanent care when parents are incapable of or unwilling to meet those standards.

The child welfare professional is a person who functions in a societally sanctioned decisionmaking capacity for neglected and/or abused children and their families. When individuals accept the role of child welfare professional and the delegated authority inherent in that role, they publicly acknowledge having the professional responsibilities which accompany that authority. Society and agency clients, therefore, have legitimate expectations about the nature of professional intervention as it occurs in one-on-one professional/client interactions, in the management and administration of those providing intervention, and in policy decision-making.

Because of their special knowledge and authority, all professionals are in a position of power in inherently unequal relationships with their clients. The power of child welfare professionals is particularly daunting because of their delegated state authority and the mandated nature of their professional/client relationships. Their clients and society must be able to trust that child welfare professionals are working with their client’s interests in mind with no element of disrespect, punishment, or personal bias. Child welfare professionals must behave in such a manner as to ensure not only that their delegated authority is exercised appropriately but that their clients and society perceive their use of authority as appropriate.

Child welfare professionals’ responsibilities to clients are grounded in a fiduciary relationship with its promise of trustworthy intervention in the lives of those less powerful. This type of relationship entails certain responsibilities based on the values of respect for persons, client self-determination, individualized intervention, competence,
loyalty, diligence, honesty, promise-keeping, and confidentiality. Child welfare professionals' responsibilities to colleagues, supervisees, foster parents, the court, employees, the child welfare field, and society also find their roots in many of the same values – respect for persons, honesty, promise keeping, and loyalty – as well as in the values of accepting the responsibility for one’s actions and their consequences and holding professional behavior to a standard higher than self-interest.

This code of ethics sets forth ethical principles which should be considered by child welfare professionals whenever ethical judgment must be exercised in specific situations and which should become habitual guides to daily conduct. It sets standards of behavior to be adhered to in relationships between professionals and their clients, colleagues, supervisees, foster parents, the court, employees, the child welfare field, and society. Its purpose is to assist in identifying the many and often competing values and responsibilities present in practice issues so that appropriate consideration is given to each value and responsibility in the decision-making process.

It is understood that ethical judgments are made by individuals who bring their personal values, culture, and experiences to the decision-making process. By making public the values and ethical standards shared by child welfare professionals, this code will assist in making ethical decisions more consistent and objective and will reinforce child welfare professionals’ accountability to society and to those individuals with whom they have professional relationships.
1. GENERAL RESPONSIBILITIES

1.01 Integrity

Child welfare professionals should carry out their professional responsibilities with integrity, treating those with whom they have professional relationships in a dignified, respectful, honest, and fair manner.

1.02 Propriety

Child welfare professionals should maintain high standards of personal moral conduct when engaged in professional activity. Personal standards and conduct are private matters except when such conduct may compromise professional responsibilities or reduce public confidence in the child welfare field.

1.03 Competence

a. Child welfare professionals should provide services only within the boundaries of their competence based on their education, training, supervised experience, and professional experience.
   b. Child welfare professionals should accurately represent their qualifications, educational backgrounds, and professional credentials.
   c. Child welfare professionals should be aware of current professional information and take advantage of continuing professional education in order to maintain a high level of competence.

1.04 Avoiding Harm

Child welfare professionals should act in the best interest of those toward whom they have professional responsibilities. It is understood, however, that choices must often be made from among competing values and responsibilities resulting in some values being given priority over others.
   a. Child welfare professionals should promote the welfare of those toward whom they have professional responsibilities.
   b. Child welfare professionals should avoid harming those toward whom they have professional responsibilities.
   c. Child welfare professionals should minimize harm when it is unavoidable.

1.05 Nondiscrimination

a. Child welfare professionals should not engage in and should act to prevent discriminatory behavior on any basis proscribed by law.
b. Where personal or cultural differences could significantly affect child welfare professionals’ intervention with a particular individual or groups, child welfare professionals should seek and obtain the supervision and training necessary to ensure that the intervention is unbiased, competent, and culturally appropriate.

1.06 Sexual Harassment

Child welfare professionals should not engage in and should act to prevent sexual harassment.

1.07 Conflict of Interest

1.07(a) Multiple Relationships

Child welfare professionals should take into consideration the potential harm that intimate, social or other nonprofessional contacts and relationships with clients, family members, foster parents, colleagues and supervisees could have on those with whom they have professional relationships and on their professional objective judgment and performance.

1. Child welfare professionals should avoid any conduct that would lead a reasonable person to conclude that the child welfare professional might be biased or motivated by personal interest in the performance of duties.
2. Whenever feasible, child welfare professionals should avoid professional relationships when a preexisting nonprofessional relationship is present.
3. Child welfare professionals should discuss past, existing and potential multiple relationships with their appropriate superiors and resolve them in a manner which avoids harming and/or exploiting affected persons.
4. Child welfare professionals who are also foster parents should disclose and have ongoing discussions regarding these dual roles with their appropriate superior in order to prevent conflicts of interest, abuse of power, or the suggestion of impropriety in carrying out professional activities.

1.07(b) Private Interests

1. Child welfare professionals should not allow their private interests, whether personal, financial, or of any other sort, to conflict or appear to conflict with their professional duties and responsibilities. Any conduct that would lead a reasonable person to conclude that the child welfare professional might be biased or motivated by personal gain or private interest in the performance of duties should be avoided.
2. Child welfare professionals should avoid professional matters where they have a private financial or personal interest. If situations arise where such a conflict may exist,
child welfare professionals should consult with an appropriate superior and take steps to eliminate any potential or real conflict.

1.08 Personal Problems

a. Child welfare professionals should not perform professional activities when they know or should know that personal problems, mental health problems, or substance abuse could impede professional judgment and performance.
b. When such problems could interfere with performance, child welfare professionals should consider obtaining appropriate professional help and determine, along with their appropriate superior, whether they should limit, suspend or terminate their professional duties.

1.09 Documentation of Professional Work

Child welfare professionals should accurately and truthfully document their professional work according to agency policy and/or legal requirements in order to ensure accountability and continuity in the provision of services to clients.

2. RESPONSIBILITIES TO CLIENTS

The client is a child or a family member who is receiving a professional intervention and/or child welfare services from DCFS or through an agency with which DCFS has purchase of service contracts. The first responsibility of the child welfare professional is to the client; however, the specific nature of that responsibility differs depending on whether the client is the child, the parent, or another family member.

A. Responsibilities to the child

The child becomes a client when the child’s right to have basic needs met may have been compromised or denied. The child welfare professional acts to ensure that the basic needs of the child are met by others.

B. Responsibilities to the parents

The parent becomes a client when the parent’s ability to responsibly care for the child has been questioned. Both the parent and the child have the right to live together as a family, and the parent has the right to care for the child, if the parent is able and willing to meet the basic needs of the child. The child welfare professional makes reasonable efforts to help the parent meet the applicable standard of care, and recognizes the changing nature of the responsibilities of the professional to the parent based on the parent’s response to intervention.
C. Responsibilities to other family members

Other family members become clients when providing services to them will help meet the basic needs of the child. The child welfare professional acts to provide those services.

2.01 Integrity

Child welfare professionals recognize the vulnerability of their clients and the serious responsibilities associated with intervention in the parent/child relationship. The behavior of child welfare professionals should reflect the emphasis placed by the child welfare field on professional trustworthiness and on the values of respect for persons, client self-determination, individualized intervention, competence, loyalty, diligence, honesty, promise-keeping, and confidentiality.

2.02 Client Self-Determination

The mandated nature of the child welfare professional/client relationship limits the options available to clients, but does not eliminate their right to self-determination. Client self-determination refers to the client’s right to receive information necessary to make a self-determined choice.

a. Child welfare professionals should evaluate the decision-making capacity of all clients and reevaluate it appropriately as circumstances change.

b. Child welfare professionals should ensure that all clients, whatever their age, have the opportunity to make self-determined choices according to their level of understanding and decision-making capacity.

c. Child welfare professionals should ensure that their clients have available to them all of the information necessary to make self-determined decisions.

d. Child welfare professionals should ensure that their clients have the opportunity to make self-determined choices from among the options available to them free from external coercion.

e. Child welfare professionals should ensure that psychological constraints to self-determined decision-making are addressed and, if possible, eliminated or reduced so that self-determination is enhanced.

2.03 Informed Consent

Informed consent emanates from the principle of client self-determination. It promotes decision-making by the client after complete and accurate information regarding the nature of the intervention and the possible consequences of that intervention have been fully discussed by the professional and the client. Child welfare
professionals have the responsibility to engage in this process with mandated clients who have not chosen to become clients but who have options to consider and decisions to make within the framework of a mandated intervention.

a. Child welfare professionals should inform clients as soon as feasible and in language that is understandable about the nature of the professional relationship, the nature of the professional intervention, the professional’s delegated authority and the limits of that authority, which decisions the clients can make and which decisions the child welfare professional will make.

b. Child welfare professionals should inform clients of the role of the court, if any, and their legal and procedural rights.

c. Child welfare professionals should keep clients informed about the case plan throughout the entire intervention.

d. Child welfare professionals should obtain permission for intervention from a legally authorized person when a client is legally incapable of giving informed consent.

e. Child welfare professionals should seek assent for intervention from clients who are not capable of giving an informed consent, giving due consideration to the clients’ preferences in pursuing their best interests.

2.04 Confidentiality

a. Child welfare professionals should respect the confidentiality rights of clients and those with whom they work or consult. Confidential information should be used only for professional purposes and shared only with authorized parties.

b. Child welfare professionals have a duty to be familiar with all relevant confidentiality requirements and limitations found in federal and state laws and agency rules that apply to the child welfare field.

c. Child welfare professionals should inform clients of all relevant confidentiality requirements and limitations.

2.05 Sexual Relations with Clients

Child welfare professionals are in inherently unequal relationships with their clients creating the potential for abuse of power. In mandated relationships there is a special potential for harm and exploitation of vulnerable clients by child welfare professionals.

a. Child welfare professionals should not engage in sexual activities with current clients.

b. Child welfare professionals should not accept as clients persons with whom they have previously engaged in sexual activities.

c. Child welfare professionals should not engage in sexual activities with former clients who were adults during the professional intervention for a period of at least two years after the termination of the professional intervention. Because sexual intimacies with former clients are potentially harmful to the client, child welfare professionals who do engage in sexual intimacies after a two year period following termination of
professional intervention are responsible for demonstrating that no exploitation is taking place.

d. Child welfare professionals should not engage in sexual activities with former clients who were minors during the professional intervention for a period of at least two years after the client has reached the age of 21. Because sexual intimacies with former clients are potentially harmful to the client, child welfare professionals who do engage in sexual intimacies after this two year period following the client’s reaching the age of 21 are responsible for demonstrating that no exploitation is taking place.

e. Child welfare professionals who are still employed in the field should consult with their superior before becoming intimate to help ensure that no exploitation will take place. Child welfare workers who leave the field continue to have the responsibility of considering the potential for exploitation and harm in relationships with former clients.

f. Child welfare professionals should not engage in sexual activity with clients’ relatives or with other individuals with whom clients maintain a close personal relationship since such behavior has the potential of being harmful to the client.

2.06 Termination of Services

Child welfare professionals should not abandon their clients. Child welfare professionals should continue appropriate intervention with clients until intervention is no longer required to meet the needs of the child or is no longer appropriate under the applicable statute. At that time, intervention is terminated.

a. Child welfare professionals should promptly notify clients when termination or interruption of services is anticipated.

b. Prior to termination, for whatever reason, except precise order of the court, child welfare professionals should provide appropriate pre-termination counseling and take other steps to facilitate transfer of responsibility to another colleague or provider of services if further intervention is required.

c. Child welfare professionals should request the transfer of a case to another professional when compelling reasons prevent successful professional intervention.

3. RESPONSIBILITIES TO COLLEAGUES

Child welfare professionals should act with integrity in their relationships with their colleagues, treating them with respect, honesty, and fairness and accepting their right to hold values and beliefs that differ from their own.

a. Child welfare professionals should cooperate with colleagues in order to serve the best interests of their clients effectively and efficiently.

b. Child welfare professionals should accurately represent the views and qualifications of colleagues, making opinions on such matters known through the appropriate professional channels.
c. Child welfare professionals should extend to colleagues of other agencies the same respect, honesty, fairness, and cooperation that is extended to colleagues in their own agencies.

d. Child welfare professionals should extend to members of other professions the same respect, honesty, fairness, and cooperation that is extended to child welfare professionals.

4. RESPONSIBILITIES TO THE COURT

Child welfare professionals frequently are called upon to appear in court and participate in court proceedings. They have special responsibilities in that setting.

a. Child welfare professionals should treat all parties to the case with respect, honesty, fairness, and cooperation.

b. Child welfare professionals should thoroughly familiarize themselves with the background of the case involved.

c. Child welfare professionals should testify honestly in court. They should apprise the court of all relevant facts in the case, both positive and negative, of which they are aware.

d. Child welfare professionals should advise the court if they come to know of the falsehood of prior testimony given in a child welfare proceeding.

e. Child welfare professionals should take appropriate action against any unethical conduct they observe in court.

5. RESPONSIBILITIES TO FOSTER PARENTS

Foster parents act as a bridge between the client and child welfare agencies. Therefore, child welfare professionals should treat foster parents with respect, fairness, honesty, and cooperation.

a. Child welfare professionals should be familiar with and adhere to the Foster Parent Law which sets forth the rights and responsibilities of foster parents.

b. Child welfare professionals should not engage in sexual activities with foster parents with whom they are presently working.

c. Child welfare professionals should consult with their appropriate superiors when initiating a potentially intimate relationship with a foster parent or if they have had an intimate relationship with a person who will now be working with them as a foster parent. These types of situations should be resolved in a manner which avoids harming and/or exploiting all affected persons.
6. RESPONSIBILITIES IN SUPERVISION

Child welfare supervisors, as members of management, recognize that their primary responsibility is to implement the policies and practices of their agencies so that the best possible services are delivered to clients. Child welfare supervisors also recognize their responsibilities to their supervisees, treating them with respect, fairness, and honesty; offering the professional support necessary to sustain the supervisees’ continued motivated work; and providing a work environment which encourages ethical behavior.

6.01 Personal Integrity

a. Child welfare supervisors should not use their position of authority to exploit their supervisees in any way.
   b. Child welfare supervisors should not engage in sexual activities with current supervisees.
   c. Child welfare supervisors should accept responsibility for their own decisions and the consequences of those decisions. They also have a high level of responsibility for decisions made by their supervisees and should accept appropriate responsibility for those decisions.

6.02 Management Responsibilities

a. Child welfare supervisors should apprise supervisees of current professional information and encourage supervisees to take advantage of continuing professional education in order to maintain a high level of competence.
   b. Child welfare supervisors should communicate, explain, and apply legislation, agency policies, and administrative decisions necessary for them and for their supervisees to perform their work competently.
   c. Child welfare supervisors should act as advocates for their supervisees by apprising upper management of problems which impede or prevent them from efficiently and effectively performing their duties. They should also suggest appropriate changes in policy and procedure.
   d. Child welfare supervisors should provide necessary training and guidance when supervisees’ personal or cultural differences could result in biased or discriminatory professional intervention with a particular individual or groups.
   e. Child welfare supervisors should consult with supervisees and help with remedial action if they have knowledge of the supervisees’ impairment due to personal problems, mental health problems, or substance abuse.
   f. Child welfare supervisors should evaluate supervisees fairly and objectively on clearly state criteria, sharing opinions about the supervisees’ performance in an ongoing manner.
   g. Child welfare supervisors should take appropriate steps to terminate employment of supervisees who are not competent and are not likely to become competent.
7. RESPONSIBILITIES IN ADMINISTRATION

Child welfare administrators recognize that, although each child welfare professional is responsible for his/her ethical behavior, the agency is responsible for the environment in which ethical judgments are made. Child welfare administrators, therefore, should nurture and model organizational norms that encourage and reward the ethical behavior for which society holds the child welfare field accountable.

7.01 Personal Integrity

a. Child welfare administrators should treat each client, colleague, and employee with respect.
b. Child welfare administrators should maintain truthfulness and honesty and not compromise them for advancement, recognition, or personal gain.
c. Child welfare administrators should take responsibility for their own decisions and behavior.
d. Child welfare administrators should conduct official acts without partisanship.

7.02 Public Welfare

a. Child welfare administrators should exercise their discretionary authority to promote the values of the child welfare field.
b. Child welfare administrators should respond to the public in ways that are complete, truthful, clear, and easy to understand.
c. Child welfare administrators should understand and apply legislation and regulations relevant to their professional role.
d. Child welfare administrators should work to improve and change laws and policies which are counter-productive or obsolete.
e. Child welfare administrators should prevent all forms of mismanagement of public funds by establishing and maintaining strong fiscal and management controls, and by supporting audits and investigative activities.

7.03 Organization

a. Child welfare administrators should enhance organizational capacity for open communication, creativity, efficiency, and dedication.
b. Child welfare administrators should subordinate institutional loyalties to the public good.
c. Child welfare administrators should establish procedures that promote ethical behavior and hold individuals and organizations accountable for their conduct.
d. Child welfare administrators should provide organization members with a working environment which permits frank discussion and criticism of agency operations and with an administrative means for dissent, assurance of due process, and safeguards against reprisal.

e. Child welfare administrators should promote organizational accountability through appropriate controls and procedures.

f. Child welfare administrators should maintain a high level of competence and provide support to upgrade competence throughout the organization.

8. RESPONSIBILITIES IN RESEARCH

Research performed by child welfare professionals should be rigorous and relevant to the delivery of services, the outcomes of interventions, and policy formation in the child welfare field.

a. Child welfare professionals should protect the rights and welfare of research subjects, treating them with respect and dignity and protecting them from harm, danger, unnecessary discomfort, and ethnic and/or social discrimination.

b. Child welfare professionals should obtain informed consent from their prospective subjects, after explaining in language that is understandable to them, the nature of the research; its possible risks, benefits, and consequences; alternative treatments or interventions; confidentiality rights; and the voluntary nature of participation with no penalty for refusing to participate or choosing to withdraw at a later date. Child welfare professionals should answer any questions the prospective subject asks.

c. When the prospective subject is not legally capable of giving informed consent, child welfare professionals should give an appropriate explanation of the research, obtain assent when appropriate, and obtain informed consent from a legally authorized representative.

d. Child welfare professionals should conduct research according to accepted standards of professional competence, federal and state law and regulations, agency policy, and accreditation requirements.

e. Child welfare professionals should obtain the approval of the agency Institutional Review Board and other relevant regulating boards before initiating research and should conduct their research according to approved protocol.

f. Child welfare professionals should report the findings of their research truthfully and completely. They should work to prevent misuse and distortion of their research findings.

9. RESPONSIBILITIES TO THE CHILD WELFARE FIELD

a. Child welfare professionals should perform their duties in a competent, honest, diligent manner to ensure society’s continuing trust in the child welfare field.
b. Child welfare professionals should broaden the knowledge base of the child welfare field.

c. Child welfare professionals should critically examine child welfare policies and advocate appropriate change.

d. Child welfare professionals should take appropriate action against unethical conduct by any member of the child welfare field.

10. RESPONSIBILITIES TO SOCIETY

Child welfare professionals should apply the values and specialized knowledge of the child welfare field and should work to increase public awareness of those values in order to promote the general welfare of society.

11. ETHICAL DECISION-MAKING

a. Child welfare professionals have a duty to be familiar with this Code of Ethics and to consider which ethical principles apply in each practice decision.

b. Child welfare professionals should follow applicable ethical principles in each practice decision. If there is a conflict between two or more ethical principles and/or responsibilities in a particular case, child welfare professionals should consult with superiors and colleagues knowledgeable about ethics issues, or with the child welfare ethics board, in choosing a proper course of action.

c. If the demands of an agency with which child welfare professionals are affiliated conflict with this Code of Ethics, child welfare professionals should clarify the nature of the conflict, make known their commitment to the Code, and seek to resolve the conflict in a way that permits fullest adherence to the Code.

d. Child welfare professionals who observe a violation of this Code by a colleague should bring the issue to the attention of the colleague if an informal resolution appears appropriate. If the issue cannot be informally resolved, child welfare professionals should refer it to appropriate superiors and/or to the child welfare ethics board.
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