

APRIL QIC MEETING

My name is Matthew Falkner. I'm a national leader for Our Children Have a Voice, a movement for ethics, equality, transparency, and accountability in family law. Our organization consists of thousands of members throughout the country. I'm the Host of Our Children Have a Voice Radio. I'm the Republican Vice Chair for my precinct. I'm a Marine Corps infantry combat veteran and Former Deputy Constable with an impeccable record, and honorable service. I've issued three oaths of office. I have nearly a decade of theft and fraud investigation experience. I have 7 years of family law experience. I'm currently a paralegal.

My presentation today is on particular methods for identifying fraud waste and abuse in DCFS. I would also like to pass out our Children's Best Interests Survey results.

The idea that government interests consistently or presumably concur with public interests, including the interests of children, is a pipe dream.

Until all public servants are created perfectly, and there's a long history of no public corruption, unidentified public corruption should be presumed to exist.

When I say public corruption, I mean public servants acting or failing to act in ways they know, or should know are contrary to the interests of the public they serve.

It is not publicly safe, right, proper, or just, to interpret public interests regarding corruption using nothing more than government derived reports and studies. I would like to share with you, an admittedly biased, yet still compelling Children's Best Interests survey.

At least thousands upon thousands of members of the family law reform community concur that there is a culture of public corruption in family law that spans across the nation, and remains consistent with the reports of the late Nancy Schaeffer. However, I believe most of the fault rests on the People. After all, we are the largest and most powerful branch of government.

It is vitally necessary, and in the best interests of children and families, that direct input from the public be utilized regularly to identify their interests more fully, without any threat of compromise from conflicting government interests or money.

It's harder to listen to citizens stories than government reports, but unless you sift through that sand, you'll never find the valuable gold you need to make the best decisions.

There are two major harms that take place in family law when things go wrong:

- 1) Parents and/or families deprived of their fundamental liberty interest in the care custody and management of children.

2) Children denied their right to protection from abuse.

These two harms can be the result of a variety of things, but this presentation is meant to focus on identifying the influence of perverse incentives on patterns of practice that cause these harms.

I'm certain that the one major statistical difference between the two harms and inconsistencies in the application of guidelines is the existence of an unaccused fit parent as an involved party in the case.

"Unaccused fit parent" means a parent who has a) not been found by a judicial or quasi-judicial official to be an unfit parent; b) has not had parental rights terminated; and c) has not been accused of any significant wrongdoing involving a child, where the parent's child is an alleged child victim in a child abuse matter, or is the subject of a custody matter.

Our educated theory is this:

In family law, perverse incentives discourage the state from diligently investigating child abuse and pursuing parental rights terminations, unless or until there's a chance the state will gain custody, invoking the services that draw on the most funds.

That's not to say that the state won't diligently seek to invoke other services in the process of investigations that don't promise state custody. They may invoke services, but perform them poorly, maintaining conflict, and prolonging litigation. This causes interested and involved family members to beg, borrow and steal to pay for protection and rights against or in support of those services. Like a toll bridge on family rights.

Perverse incentives do encourage diligent investigations and pursued terminations against both parents at the same time (or relatively the same time) or against only one if that parent is the only one in the picture.

When only one of two parents who are in the picture are accused of abuse or supported for it, the other parent tends to be more heavily scrutinized than the first, and that parent often becomes a target of an abuse investigation themselves.

In proceedings for the termination of parental rights, kinship care is supposed to be the first priority, but funding for foster care is significantly greater than funding for kinship. CPS workers motivated by perverse incentives will try to avoid contact with viable candidates for kinship, or may overtly try to subvert the efforts of kinship candidates to gain custody.

How might perverse motivations be shown to effect patterns of practice? By answering these questions:

1) In cases where the state seeks to terminate parental rights, what is the percentage of cases where a relevant, unaccused fit parent exists?

2) In cases where the state seeks to terminate the parental rights of both the mother and the father at the same time, what is the percentage of cases where cause to terminate one of the parent's rights is based on incidents that occurred 6 or more months prior to the date of the petition?

3) With respect to cases where there were claims of abuse, custodial interference, or parental alienation, what percentage of cases involving an unaccused fit parent, vs. cases where one doesn't exist, was diligent action taken to investigate or remedy the claim?

4) In how many cases where children were placed in foster care, was there a family member who claims they were interested in providing kinship care, but CPS significantly avoided them or subverted their efforts to gain custody?

5) In what percentage of custody cases where an unaccused fit parent alleges child abuse against the other parent, does that parent end up losing custody.