

**TESTIMONY ON THE PHILADELPHIA GRAND JURY REPORT  
ON  
THE DEATH OF DANIEAL KELLY**

**PRESENTED TO:  
THE SENATE AGING AND YOUTH COMMITTEE**

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Good morning Chairman Vance, Chairman Washington, and members and staff of the Aging and Youth Committee. My name is Gary Shuey. I am a retired County Children and Youth Services Administrator and have served in the child welfare field for many years. I began my service with the Pennsylvania public child welfare system in 1968 and have had the privilege of working as a county caseworker, supervisor and agency administrator. I currently serve as a part-time social work supervisor in the Penn State Dickinson School of Law Children's Advocacy Clinic. I appreciate the opportunity to speak to you today at this hearing regarding the issues confronting the child welfare system in the aftermath of the County Investigating Grand Jury XXII in Philadelphia, regarding the death of Danieal Kelly. I appear before you today as a citizen of the Commonwealth with over 40 years experience in the field of child welfare and child advocacy. The death of a child is a great tragedy but, if the death occurs at a time when those agencies entrusted to protect that child are involved, it is indeed a cause for great concern.

The mission of the child welfare system in Pennsylvania is to protect children/youth from abuse and neglect, to provide permanency in living situations for children/youth and to advocate for child/youth and family well being.

In light of this mission, the issue before us today, is to determine where we go from here. The Grand Jury has made several recommendations to improve the system and ensure that another child death tragedy may be avoided. It is important to review these recommendations because when we deal with children we are looking into the eyes of Pennsylvania's future. When we deal with the issues of children that courts have placed in substitute care, the child welfare system stands in the position of a "parent" for all of these most vulnerable of Pennsylvania's citizens.

I am fortunate to have the perspective of experience in the Pennsylvania child welfare system. I have been a part of and witnessed many significant changes to better our child-serving system. I recall my first caseworker job when I walked to my desk on which there was a stack of files and my

supervisor pointed to the stack and said “that is your caseload”. I was age 22 at the time and full of the enthusiasm of a beginning worker but, devoid of any parenting experience and training. Today, the beginning caseworker is enrolled in the Child Welfare Training Program and receives over 200 hours of child welfare training leading to a “certification” as a child welfare caseworker. Every year thereafter that worker receives a minimum of 20 additional training hours to maintain the certification. The child welfare supervisor receives that 200 hours basic training and an additional 60 hours of training specifically directed towards supervision. They also continue with additional training to maintain their certification. This training is not only available to public agencies but, also, private provider agencies in the Commonwealth. Our Pennsylvania child welfare training program has received national acclaim and is a cornerstone of our child welfare system. This is a major accomplishment!

We have trained and professionalized our workforce. We have provided them with the knowledge to do the job and to determine “best practice” – what works and what does not. Unfortunately, despite the training and professionalization, at times we still experience “questionable practice” instead of “best practice”. Such was the situation in the case of Danieal Kelly. Agency policy and procedures were in place. They were not followed and timely and appropriate interventions did not occur.

I now want to look at the recommendations of the Grand Jury and discuss them more fully.

**RECOMMENDATION:**

**The Pennsylvania legislature should authorize the state’s chief county executives, including the Mayor of Philadelphia, to appoint ombudsmen to oversee the county agencies’ performance and make them more accountable to the public.**

This is not a new recommendation. The Legislative Budget and Finance Committee Audit of Child Welfare in June 1999 resulted in committee discussion on the concept of an ombudsman to oversee child welfare. I participated as a committee member in that LB&F Review and discussed the pros and cons of the concept back then. That ombudsman concept, however, did not find itself in the report recommendations. The over all feeling at that time was that child welfare already had many “overseers” from Regional Offices to County Commissioners to individual clients who had the right of administrative appeal of agency decisions. Also, of concern was the cost of an ombudsman coming out of the Child Welfare Budget when agency budgets were being cut and services scaled back.

You see the issue of oversight of child welfare is a very debatable topic. Technically, the Regional Offices of the Office of Children, Youth and Families under DPW, licenses, provides technical assistance, and investigates performance issues brought about by complaints of County Children & Youth Agencies. It would appear that they are in a position of oversight. The issue, however, is that they do not get involved in internal personnel issues. The Agency of hire is responsible to deal with an employee’s training, evaluation and performance. The Supervisory Curriculum at the Child Welfare Training Program provides training on personnel policies and procedures. They are taught how to properly evaluate employees, create corrective action plans and monitor employee progress using Civil Service and local policies. They are taught how to assist an employee to improve and how to use progressive discipline for the employee who continues to have issues. All counties and private contract agencies should also provide an orientation for their child welfare supervisors and include appropriate county specific personnel training.

Supervisory review is a critical component of the child welfare system. It is the supervisor who assigns, monitors, and assists with cases. It is the supervisor who evaluates the performance of each individual caseworker. Essentially the supervisor’s supervisor evaluates the performance of the supervisor and so it goes up the organizational structure. Theoretically, all bases are covered

by comprehensive review. If everyone performs his or her job adequately there is no issue. In practice, however, sometimes the system breaks down.

When turnover or caseloads are high and everyone is very busy, oversight may be overlooked. I know there are many well trained, dedicated, and qualified women and men in the child welfare system. I have had the pleasure of training them and serving with them. Unfortunately, there are some employees who do not perform well and truly may pose a danger to the children and the system. Agencies will initiate remediation and corrective plans to assist the employee. Perhaps we may try to remediate employees for too long a period of time. Obviously, we have selected and trained an employee and need to do everything possible to help them be successful. But, if they are not capable of doing the job, they must be re-assigned to a more appropriate position or, let go.

Today, we have many very good performance evaluation tools at our disposal. I suggest we make use of them. We need to focus on outcomes, performance and quality assurance. We need to objectively evaluate performance both quantitatively and qualitatively. With that said, we may still need oversight. I believe we need to look to other states and the literature to determine what models of oversight are available and what seems to work best. I note that according to the web site of the National Conference of State Legislatures “approximately 29 states currently have ombudsmen or offices of the child advocate with duties and purposes related to the welfare of children”.

I believe the concept of an ombudsman may be a step in the right direction. Perhaps we should consider a person with dual law and social work degrees - (MSW/JD)? This person would be trained in best social work practice and the laws, regulations, and policies governing child welfare and agency personnel administration. This person needs to be free to review situations and “tell it like it is”. I think Philadelphia and Allegheny Counties should have their own ombudsman and the remaining counties could share ombudsmen services with other counties in their region. Multiple

ombudsmen could be hired for specific regions or counties with larger populations. The ombudsmen could be employed by the Commonwealth, (perhaps in the Governor's Office, Office of Attorney General, Office of Inspector General, etc.), and work out of the Regional Offices. They would need to understand the laws and regulations governing child welfare services. They would need to understand the terms and policies of local collective bargaining agreements. They would need to have an understanding of the Adoption and Safe Families Act and the goals of the Child and Family Services Review. They would need a working knowledge of local resources. They would need to work in concert with the Regional Offices regarding complaints brought forward about the child welfare agency. They would need to work in concert with the local agency regarding employee performance issues ensuring that child safety is addressed. They would need to work with the Regional Office to provide technical assistance to the local agency. They would need the power to make "time limited" change recommendations to the local agency and Regional Offices. If we are to employ an ombudsman and allot valuable scarce resources to that end, we must also find a way to give them the power to bring about change. I believe we need to re-visit this concept and devise a process that is not just another layer of bureaucracy but, a tool that can assist child welfare professionals, local and state administrators with the oversight process. I have been accused of being an "eternal optimist"; however, I believe that we should be able to create a position that would be credentialed, informed, non-partisan, ethical and able to assist agencies in assuring child safety. This will not be an easy task; however, we need to take the time to involve stakeholders from public and private agencies, regional and state offices, consumer groups, and professional associations to determine if the "ombudsman" is the best model to ensure appropriate oversight. Unfortunately, no one person or model will provide the outcome of zero child deaths in the child welfare system.

**RECOMMENDATION:**

**Laws regarding confidentiality of DHS records should be amended to make the agency more transparent.**

This recommendation deals in the broad sense with children and youth service agency records. I believe if the first recommendation – using ombudsmen is implemented, the second recommendation should include modifying laws to permit the ombudsmen access to any and all records in the child welfare agency. This would permit oversight without threatening the “privacy” of child welfare records and the personal client information contained in the record.

If the ombudsmen recommendation is not implemented, I find it a difficult situation to “tinker” with the many confidentiality laws to enable a more “transparent agency”. The information that is made available needs to be made available to a person in authority who can compel action. We would have to be very clear how personal client information, employee appraisal information and other information is released and disseminated. I believe that is a very difficult task. The Integrated Children Services Plans, (ICSP), that counties are now completing have begun the process of dealing with cross-agency confidentiality and are finding the challenges very formidable.

In conclusion, I believe the recommendation to pursue the creation of an “oversight” position for the child welfare system is a step in the right direction only if that person has the power to effect change. I believe we need to convene appropriate stakeholders and study the models available for oversight. I believe the ombudsman concept should be one of the models considered. If there is an ombudsman-like position, I believe confidential information needs to be shared with them. I would, therefore, favor amending confidentiality laws to include the ombudsman as a recipient of any and all agency records/information pertinent to a case. If no ombudsmen-like position is chosen, I have grave concerns about any attempt to modify confidentiality laws to make agencies “more transparent”.

I want to thank Senators Vance, and Washington and this committee for the opportunity to speak before you today. If you have any questions, I will be happy to respond at this time.