

# One Pediatrician's Thoughts on Improving the safety of Vermont's Children

Committee on Child Protection Hearing

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# Goals

- Briefly mention my background
- Discuss what I (as a lay person) have learned about reunification laws
- Present a few thoughts on how to improve the system

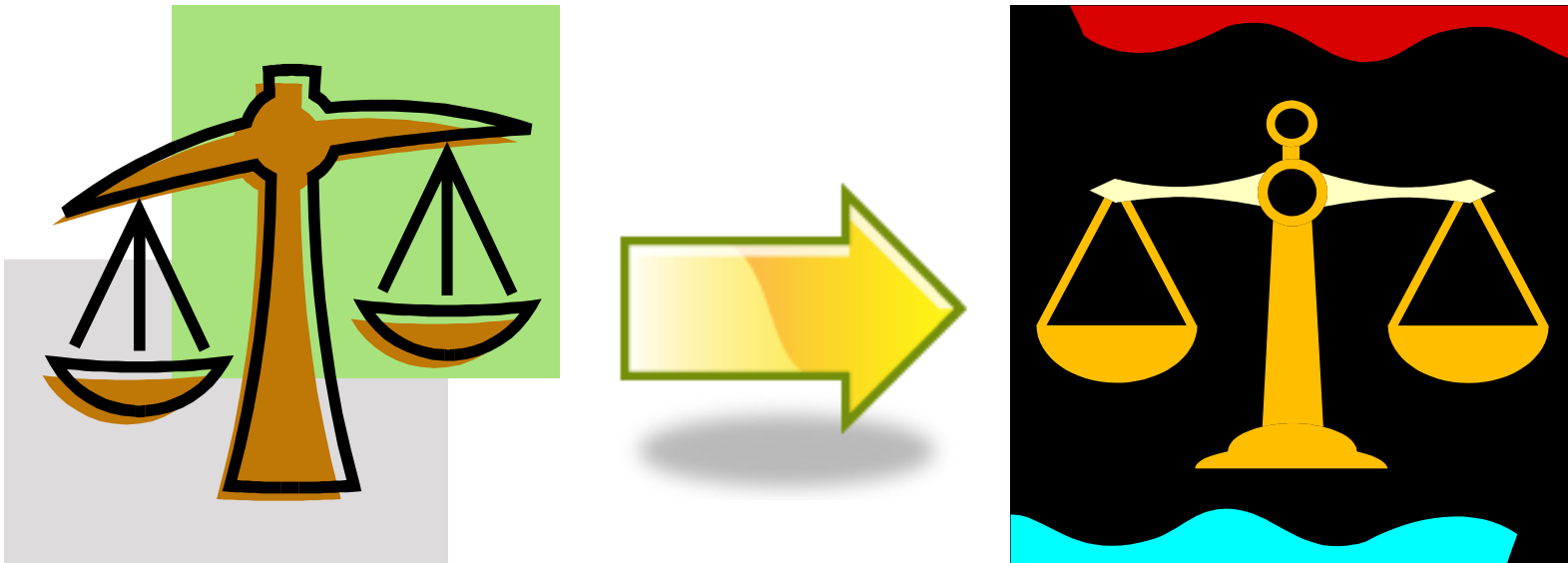
# Disclosures

- These are my own thoughts (although I have discussed them with Dr. Joe Hagan and Dr. Karyn Patno)
- My sister works for DCF in central office, but my work with child abuse far preceded her position and we have not ever crossed paths professionally

# Background

- Grew up in NH in a family with many foster siblings
- Graduated from the University of Connecticut School of Medicine in 2001
- Pediatric Residency at UVM 2001-2004
- Pediatric Critical Care Fellowship at The Children's Hospital Colorado 2004-2007
  - Worked with the team from the Kempe Center for the Prevention and Treatment of Child Abuse and Neglect (one of the oldest child abuse programs in the country)
- Returned to join the UVM/FAHC in the Pediatric Intensive Care Unit in 2007
- At this point in my career, I have cared for 200-300 children who have been the victims of severe, life-threatening or fatal child abuse.
  - My viewpoints are biased by the severity of the cases I have seen

# Reunification



I feel that in our current system, the scale is slightly tipped toward reunification versus ‘best interest of the child’

# “Blame” in child abuse

- Do we blame firefighters for the fire?
  - or for death when they cannot save someone?
- Prevention is still the best “treatment”

# ASFA (Adoption and Safe Families Act) 1997

- Actually intended to shift the emphasis towards children's health and safety concerns and away from a policy of mandated reunification
- However, most states and child welfare organizations did not interpret it that way

# ASFA Reunification

- Reasonable efforts shall be made to preserve and reunify families
  - Prior to placing a child in foster care
  - To eliminate the need for removing the child from the home
  - And to make it possible for a child to safely return to the child's home

# Unless...

- The parent has subjected the child to aggravated circumstances (**as defined in state law**, which definition may include but need not be limited to abandonment, torture, chronic abuse, and sexual abuse)
- Or:
  - The parent has committed murder
  - The parent has committed voluntary manslaughter
  - The parent has aided or abetted, attempted, conspired, or solicited to commit murder
  - The parent has committed felony assault that results in serious bodily injury to the child or another child of the parent
  - Parental rights of the parent to a sibling have been terminated involuntarily



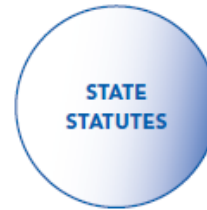
# VT

- **5308. Temporary care order**
- (a) The Court shall order that legal custody be returned to the child's custodial parent, guardian, or custodian unless the Court finds by a preponderance of the evidence that a return home would be contrary to the child's welfare because any one of the following exists:
  - **(1) A return of legal custody could result in substantial danger to the physical health, mental health, welfare, or safety of the child.**
  - (2) The child or another child residing in the same household has been physically or sexually abused by a custodial parent, guardian, or custodian, or by a member of the child's household, or another person known to the custodial parent, guardian, or custodian.
  - (3) The child or another child residing in the same household is at substantial risk of physical or sexual abuse by a custodial parent, guardian, or custodian, or by a member of the child's household, or another person known to the custodial parent, guardian, or custodian. It shall constitute prima facie evidence that a child is at substantial risk of being physically or sexually abused if:
    - (A) a custodial parent, guardian, or custodian receives actual notice that a person has committed or is alleged to have committed physical or sexual abuse against a child; and
    - (B) a custodial parent, guardian, or custodian knowingly or recklessly allows the child to be in the physical presence of the alleged abuser after receiving such notice.
  - (4) The custodial parent, guardian, or guardian has abandoned the child.
  - (5) The child or another child in the same household has been neglected and there is substantial risk of harm to the child who is the subject of the petition.



## Child Welfare Information Gateway

PROTECTING CHILDREN ■ STRENGTHENING FAMILIES



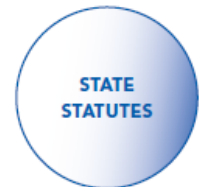
*Current Through  
October 2012*

Reasonable Efforts  
to Preserve or  
Reunify Families and  
Achieve Permanency  
for Children



## Child Welfare Information Gateway

PROTECTING CHILDREN ■ STRENGTHENING FAMILIES



*Current Through  
July 2012*

Parental Drug Use  
as Child Abuse

# Statutes in other states where reunification may be questioned

- The parent was convicted of murder or voluntary manslaughter of the child's other parent
- The child was removed from the home previously due to abuse or neglect and was removed again due to subsequent abuse or neglect
- The parent was convicted of a sexual offense that resulted in the child's conception
- The parent indicated a lack of interest in reuniting with the child
- The parent repeatedly withheld medical treatment or food from the child

# Statutes in other states where reunification may be questioned

- The parent is a registered sex offender
- The parent failed to comply with the terms of a reunification plan
- The parent has been incarcerated for a substantial term in relation to the child's age, and there is no suitable relative to care for the child
- The parent suffers from a mental illness of such duration or severity that there is little likelihood that the parent will be able to resume care for the child within a reasonable time

# Statutes in other states where reunification may be questioned

- The parent suffers from chronic abuse of drugs or alcohol and has refused or failed treatment
  - The parent has subjected the child to prenatal exposure to alcohol or a controlled substance (3 states, but one is currently being challenged in their supreme court)
  - The parent allowed the child to be present where a clandestine illegal laboratory is operated
- ❖ We are one of only three states (VT, CT, and NJ) that do not have statutes that address the issue of substance abuse by parents

# Summary

- The pendulum has swung a *tad* too far (towards reunification)
- We can not prevent every death
- Communication and team-work are KEY to success in improving the system

# Suggestion 1

- Re-write VT statutes and DCF policies to:
  - Specify other examples of when reunification may not be in the child's best interest
  - Rewrite hearsay laws for cases of child abuse
    - child abuse specialists should be able to testify if they interview a child
  - Include language for medically fragile or complex children

## Suggestion 2

- Improve communication between DCF and the legal teams with the medical, school, or other treatment teams
  - Including informing reporters of final determination
  - Include medical providers for all MDTs where significant abuse or neglect has occurred



# Suggestion 3

- Following implementation of new statutes and DCF policies, begin widespread education for:
  - Judges
  - DCF
  - Lawyers
  - Medical community
  - Law enforcement
- Appropriate funding for this education

# Other thoughts

- Increase DCF staffing (already underway)
- Some states, doctors can put “72 hr holds” on a child they feel is in need of protection
- Investigations of possible sexual abuse should consider a medical evaluation

# Other Thoughts

- Consider policies (and statutes?) for secondary review when there are cases with significant disagreement between team members (i.e. between treating physician and DCF or between DCF and judge)
- Do we need to review follow-up time and criteria?
- Do we need different statutes, policies, and procedures for our most vulnerable children?
  - Under the age of 3 (4? 5?)
  - Medically fragile
  - Intellectually or physically challenged

# Thank You!

