

## Open Letter to Members of the Legislature and Governor Asa Hutchinson

On the evening of January 12th, 2015 the Stanley family's lives would be instantly and drastically changed forever. Based upon extreme and fantastic allegations of abuse and neglect (including intentional poisoning) a doctor equipped with diagnostics had accompanied the State Police, Garland County Sheriff's Dept., DHS, Garland County Coroner, and a SWAT team to the Stanley's home to examine the Stanley children for signs of neglect or abuse. This was the first doctor to have ever touched the Stanley children. No child of the Stanley's had never stepped foot in a doctor's office or hospital in their lives, yet he concluded that they were all healthy and lacked nothing in the way of medical care. Moreover, there was absolutely no evidence of neglect or abuse.

Despite this the children were removed from their home and separated from their parents by the Garland County Sheriff's Department. A Dependent Neglect case was opened, "services" ordered, hoops and hurdles and obstacles were placed between the parents and children. After being forcefully removed from their home and separated from their parents, the children were interrogated, showered, deloused, intrusively inspected, and placed in a strange place by strange people with no idea why or for how long. This was the very first night of many of these young children's lives that they were not to be placed in their own beds by their parents after giving thanks for the blessings bestowed upon them by their Creator. The State held these children as captive as criminals while the parents jumped through the hoops, over the hurdles, and navigated the unnecessary and belittling obstacles placed before them (although these parents had at that time home-birthed, home schooled, and provided for nine children single-handedly, they were ordered to attend parenting classes among other "services").

In time, the parents were allowed occasional, brief periods of supervised visitation with the children. After a few months the four youngest were returned home, and within approximately 6 months all of the Stanley children were given back to the parents that had burned, beaten, poisoned,

and neglected them (according to the findings of Kathy Finnegan of the Arkansas State Police), but not before they were enrolled in public schools and indoctrinated by the State. During this time the children were forced into a way of life and a philosophy that was contrary to this family's values and principles. In short, their innocence was lost and their way of life discredited while the Authorities showed them that there was no security in family and that they and their parents were worthless and powerless.

Ms. Finnegan substantiated the abuse and neglect citing 21 offenses against Hal and Michelle Stanley. 12 for educational neglect, 1 for bruising, 6 for poisoning, 1 for burning, and 1 for striking a child in the face or head; none of which are legitimate or supported by the evidence. To elaborate:

If the Arkansas State Police (ASP) Crimes Against Children Division (CACD) had followed protocol (in other words, obeyed the law they are sworn to uphold) none of these findings could have been supported by the evidence; not even when one takes the report prepared by the investigator as factual, credible, and reads it in a light most favorable to the state, or in a light least favorable to the Stanleys.

In my experience I have come to believe that there are two ways that erroneous true findings of abuse and neglect are determined by a child maltreatment investigator. They are either produced intentionally or incompetently. Intentionally produced true findings are a vehicle for punishment if the accused is perceived as being uncooperative, non-forthcoming, defiant or rude. In Hal and Michelle Stanley's case, Finnegan implies in her Administrative Summary that she had no choice but to substantiate the allegations as a result of the Stanley's refusal to submit to her interrogation. The truth is, nobody refused, and the Stanleys testified at great length under both direct and cross examination during the dependent neglect probable cause hearing, wherein the State was given an unlimited opportunity to question the Stanleys. Both were perfectly candid and forthcoming in their testimony.

A colleague of mine, James Murray, calls this sort of behavior "Contempt of Cop".

The erroneous true findings of abuse and neglect that are produced by incompetence are easy enough to identify. There is a clear and concise manual (Publication 357) that defines the offenses of abuse and neglect contained within the Child Maltreatment Act. It does so for each offense separately and in great detail, and then it lists the elements of the offense; or the required evidence and acts or omissions of the parent/guardian or unrelated offender that **must be present** for an investigator to make a true finding. PUB-357 was promulgated long ago by DHS and is quite easy to follow and understand; provided that one can read and comprehend at a 3rd or 4th grade level. Because Investigators are required to have a baccalaureate degree, one may logically deduce that the protocol is either being ignored intentionally or the training and supervision within these agencies is grossly inadequate. The regulations and agreement between DHS and the ASP mandates that ASP investigators follow the same protocol as the DHS investigators.

Kathy Finnegan of the ASP testified before the Joint Performance Review Committee on July 30th, 2015, that she follows PUB-357's guidelines in every case when determining if an allegation is true or false. Her commander, Major Ron Stayton was also present and testified that Finnegan's supervisor, Michelle Gatlin and he were both involved with, and approved the true findings in the Stanley case.

There are only three possible explanations for Maj. Stayton and Ms. Finnegan's testimony regarding the use of PUB-357 in substantiating the Stanley investigation.

1. Major Stayton and Ms. Finnegan perjured themselves before the Joint Performance Review Committee;
2. Major Stayton and Ms. Finnegan are unable to read and comprehend the information contained within an investigative file and apply those facts to very simple and clear elements contained within PUB-357; or
3. Major Stayton and Ms. Finnegan used a completely different Stanley family investigative file than was provided to their counsel by the Central Registry.

All players involved in Child Welfare, especially the investigators, know that a true finding (even if successfully appealed and overturned) can be disastrous to a family. The statewide average in Arkansas for true findings of abuse and neglect that were overturned on appeal in fiscal year 2015 is 45%. In Area 9, (Ms. Finnegan's Area) 70% of true findings that were appealed during that same period were overturned.

During the afore-mentioned JPRC hearing, Sen. Alan Clark asked Maj. Stayton what his thoughts were about the fact that nearly one-half of all appealed true findings during the fiscal year 2015 were overturned on appeal. His initial response to a 45% reversal of true findings appealed was that the "system is working". For whom the system works, he did not say. A follow up response by Major Stayton was that he did not feel that all of those reversed cases were decided correctly by the Administrative Law Judges. Both statements were direct and bold and made with no remorse or concern whatsoever for the enormous costs to those 45% falsely convicted of abuse and or neglect. I have yet to hear one person within DHS or ASP admit that when a parent, guardian, or other provider suffers harm as a result of an erroneous true finding, this damage and harm is also injuring those very children that the agency congratulates themselves for "protecting".

A true finding on a provider also injures children that are not even the subject of the abuse or neglect (whether actual or not). Relationships between siblings and 1/2 siblings suffer when custody is changed or visitation is suspended.

The monetary costs can run into tens of thousands of dollars before you can blink an eye. There are court costs and attorney's fees, loss of time at work to jump through the Agencies' hoops. It costs time and money to attend hearings, and to exercise supervised visitation under the suspicious eye of the Department. The accused parent must be "in compliance" with Agency plans and participate in what are often unnecessary "services" such as counseling, psych evals, anger management, parenting classes etc. Add to that the enormous emotional toll from the stress, diminished relationships with children, and tarnished reputation to name only a few repercussions. Any person with a job or career that requires licensure,

works near children, impaired adults, or **any** state employee is practically guaranteed to lose his or her livelihood. Children do without when providers lose jobs, whether the children are in that provider's custody or their custodian's child support ceases as a result of losing his or her job. If the provider isn't terminated, Christmases, birthdays, camps, vacations, recreation and other non-essentials often disappear as the families' discretionary income disappears, and their quality of life is diminished. I have been speaking of working middle class America. The poor and unsophisticated have absolutely no chance at all, and the working middle class can be bankrupted and dismantled by a spiteful ex-spouse, or any other person or entity with an axe to grind, by a single phone call to the State Police Child Abuse Hotline.

This is all true even when children are **not** taken away from their families of origin by force, and subsequently isolated from their extended families. I cannot even begin to comprehend the trauma that victims of removal and isolation must experience. The children that are victims of neglect or abuse at home are doubly victimized by the very intervention meant to protect them. Often times the intervention is more damaging than the abuse or neglect.

The damage is swift, sure and quickly becomes permanent.

Now this next bit of information you may not believe: the investigative protocol of the Agencies allow a single investigator to gather evidence, interview witnesses, judge the witnesses' credibility, decide relevance of and weigh the remaining evidence and then ultimately decide innocence or guilt. The child abuse investigator is the detective, prosecutor, judge, jury and executioner. The investigator is given absolute power, and well..... you know the rest.

When true findings are made in anger or retribution (contempt of cop) the actions of the agency are corrupt and criminal in nature. Even the most disciplined and principled investigator that genuinely does his or her dead level best to make a reasoned, objective determination, cannot possibly do so consistently. Human nature and the responsibility of a single person

performing all of the functions mentioned above, precludes objectivity when working within the confines of an entirely subjective process.

Now please consider this: All of these government employees operate within a completely secret administration, in closed proceedings, with sealed files and have no checks or balances other than legislative oversight. Can you name the members, or ex-officio panel members or even the committee or subcommittee that these agencies answer to?

Whether erroneous true findings by investigators are made intentionally or incompetently is immaterial, as either is absolutely unacceptable when the stakes are as high as the loss of the fundamental family unit and its right to exist free from governmental intrusion. But alas, and notwithstanding how the erroneous true findings against the Stanley's materialized, the corruption extends beyond the investigative outcome. ASP and DHS authorities are painfully aware that the true findings are inappropriate in the Stanley case and are not supported by the evidence. **Still**, the powers that be refuse to admit this, and are forcing the Stanleys to appeal the findings.

I personally believe that the Garland County Sheriff's Dept. and the State Police CACD are primarily responsible for the Stanley tragedy; however, DHS is responsible for providing legal representation on behalf of the ASP at the administrative appeal hearing October 9th. DHS can and should refuse to defend these baseless findings, and force the ASP to evaluate the personnel and protocol and begin meaningful reform. They have thus far refused to do so, therefore, DHS is aiding and abetting, and is as culpable as the ASP.

Hal Stanley, Alex White, Dr. Claire Kelly, Kanoe Fendley and Bridgette Brantley have agreed to share with the JPRC on Oct. 1st, at 1:00 p.m., their experiences as victims of false reports, erroneous true findings, and being subjects of a child maltreatment investigation. Dr. William R. Viser will discuss the trauma caused by the primary intervention of removing children from their homes and isolating them from their families.

I honestly cannot recall the number of men and women involved with DHS and ASP that I have consulted with and or represented in my career. I do however recall the word most often used to describe their feelings, and that word is terrified. No word better describes the tactics of an entity that's primary intervention is to enter one's home, remove one's children, and place them in an undisclosed location with unidentified adults and children for as long as it wishes. Combine that with the authority to place those children for adoption should it choose to do so, while acting in complete secrecy. Perhaps the most egregious part of all is that this action may be set into motion by an anonymous phone call requiring no more evidence than the reporter's statement. if one considers the totality of the circumstances, terrorism is no longer an adequate descriptor for the actions taken in the name of "protecting the children".

Please join us on October 1st and help us reestablish the rights of the American Family.

Joe Churchwell