

# Your Family or Its Health: Intersections Between the Healthcare and Foster Systems

January 14, 2021

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And tag participants!

@elizabethbrico, @lks221, @shrivercenter, @TGassenheimer

## ABOUT THE SHRIVER CENTER

The Shriver Center on Poverty Law fights for economic and racial justice. Over our 50-year history, we have secured hundreds of victories with and for people living in poverty in Illinois and across the country. Today, we litigate, shape policy, and train and convene multi-state networks of lawyers, community leaders, and activists nationwide. Together, we are building a future where all people have equal dignity, respect, and power under the law. Join the fight at **[povertylaw.org](https://povertylaw.org)**.

# War on Drugs (1980s-2000s)

- Criminalized poor Black people, including parents and caretakers
  - 1982 - 2003, federal funding for removing children saw 20,000% increase
  - Dr. Ira Chasnoff, whose research sparked "crack baby" narrative, disproved myth that parent crack use caused developmental harm on fetus as early as 1992; subsequent research supports findings & shows that best practice is skin-to-skin contact
  - No studies have found causal links between in utero illicit drug exposure and long-term developmental outcomes in infants
- Of children who entered foster system in FY 2019, 38% due to parental substance use

Sources:

- [Ground Zero Report](#)
- [Child Trends State-Level Data](#)
- ['Crack Baby' Hyperbole - Washington Post](#)

# Child Abuse Pediatrics – Certification

## Child Abuse Pediatricians (CAPs):

- "responsible for the diagnosis and treatment of infants, children & adolescents who are suspected victims of any form of child maltreatment [including] physical abuse, sexual abuse, factitious illness (medical child abuse), neglect, & psychological/emotional abuse"
- "participate in multidisciplinary collaborative work within the medical, child welfare, law enforcement, & judicial arenas, as well as in...community-based efforts [and] are often called to provide expert testimony in ...court."  
- Council of Pediatric Subspecialties (CoPS)

Approved by American Board of Medical Specialties (ABMS) in 2006, first pediatricians certified in 2009, now there are 344 in all but 3 states

- Dr. Eli Newberger, early leader in child abuse medical practices, OPPOSED creation of subspecialty but was outvoted
- Dr. Newberger uncomfortable with child abuse investigations' focus "transform[ing] into a very much criminalized approach—less, primarily, on understanding and help than on the developing of an evidentiary base for prosecution and pursuing perpetrators." He feared creating subspecialty would continue problematic transformation. He still consults for prosecution if he believes there was abuse but often assists defense teams as expert witness

# Child Abuse Pediatrics – Room for Overdiagnosis & Bias

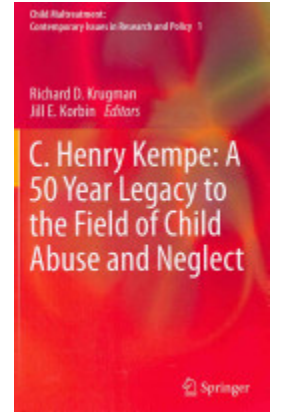
- Child abuse screening required:
  - In 2 Chicago hospitals, for any child under 3 presenting with various issues, from burns to bruises
  - In FL, for children 5 and under with “bruises anywhere”
- In 2017 study, researchers gave CAPs cases of potential abuse with certain socioeconomic cues (e.g., unemployed caregivers). When researchers reversed cues (e.g., employed caregivers)—diagnostic decisions changed in 40% of cases.
- University of Utah School of Medicine website includes presentation advising that children may be at risk for abuse if their parents have 'young age, low education, single parenthood, large number of dependent children, low income.'"
- 2002 study found hospitals more likely to report Black, Latino/a/x, Indigenous children for potentially abusive fractures

# Child Abuse Pediatrics – Overreporting & Incentives

- 2009 - 2018 (subspecialty exists), CPS reports by medical professionals increased 55%, 2x increase of all reports; once reported, **40% likelier substantiated** than reports by nonmedical professionals
- Many CAPs paid by CW agencies & are "financially dependent on contracts like these, along with academic institutions or grants, since little of their work with patients is billable."
- CAPs NOT required to identify themselves as such when interviewing parents, parents' statements about possible causes of injury can be seen as shifting accounts and used as evidence against them

# Mandated Reporting in Healthcare

- 1962: C. Henry Kempe, M.D., published *The Battered Child Syndrome* to pressure decision-makers and physicians to address child abuse
- 1963: Children's Bureau & American Humane Association publish model statutes for states to establish mandated reporting around 4 principles
  - Focused on medical practitioners and hospital personnel
  - Mandate to report all cases where circumstances lead to "inference of inflicted injuries"
  - Reporting exempt from doctor-patient relationship & protected against civil/criminal action
  - Reports to be made to CW service agency responsible for child protection in the area



# Mandated Reporting in Healthcare

- Many medical professionals at the time were hesitant to report; their concerns were backed by the American Medical Association
  - Did not feel equipped to investigate crimes or interpret law
  - Not willing to name children's family as source of harm
  - Felt it discouraged families from seeking medical help for children
- Legislative response was to include more mandated reporters from other fields to work around physician reluctance



# Mandated Reporting in Healthcare

**Medical personnel** included as mandated reporters in IL:

- Physicians, residents, or interns
- Physician assistants
- Surgeons
- Dentists or dental hygienists
- Nurse practitioners, licensed practical nurses, or registered nurses
- Certified nursing assistants or health home aides
- Emergency medical technicians
- Chiropractors
- Podiatrists
- Acupuncturists
- Genetic counselors
- Hospital administrators
- Psychiatrists

**Social service & mental health personnel** included as mandated reporters in IL:

- Licensed professional counselors & licensed clinical professional counselors
- Social workers
- Psychologists & assistants working under direct supervision
- Domestic violence personnel
- Substance dependency treatment personnel
- Licensed marriage and family therapist
- Staff of state agencies dealing with children, including:
  - Department of Human Services
  - Department of Healthcare and Family Services
  - Department of Public Health
  - Department of Corrections
  - Department of Children and Family Services

# Mandated Reporting in Healthcare - Cook County, 2012-2018

	Screened In	Unfounded	Substantiated	% of Screened-In Calls That Are Substantiated
Medical	57,139	44,607	12,532	21.9%
Mental Health	8,886	7,949	937	10.5%
Social Services*	36,153	29,288	6,865	18.9%
Total without SS (Last column is average)	66,025	52,556	13,469	16.2%
Total (Last column is average)	102,178	81,844	20,334	17.1%

*\*In Illinois law (ANCRA), social services includes: "Mental health personnel, social workers, psychologists, domestic violence personnel, substance abuse treatment personnel, staff of state agencies dealing with children such as Department of Human Services, Department of Healthcare and Family Services, Department of Public Health, Department of Corrections, and Department of Children and Family Services."*

## Cook County, 2012-2018

	2012	2013	2014	2015	2016	2017	2018
Health & MH	19%	18%	19%	19%	20%	20%	21%
Social Services	11%	10%	11%	11%	11%	11%	11%
	30%	28%	30%	30%	31%	31%	32%

## Statewide IL, 2018

- Of 183,627 hotline calls, 145,131 (79%) by mandated reporters.
- Of the calls from mandated reporters...
  - 13.5% (25,145) Medical
  - 2.6% (4,909) Mental Health
  - 10.7% (19,985) Social Services
  - 26.8% total

# CRIMINALIZATION OF HEALTH – ALLEGATIONS IN IL DCFS PROCEDURES 300.APPENDIX B

ABUSE	NEGLECT
#2 Head Injuries	#52 Head Injuries
#4 Internal Injuries	#54 Internal Injuries
#5 Burns	#55 Burns
#7 Wounds	#57 Wounds
#9 Bone Fractures	#59 Bone Fractures
#10 Substantial Risk of Physical Injury/Environment Injurious to Health and Welfare	#60 Substantial Risk of Physical Injury/Environment Injurious to Health and Welfare
#11 Cuts, Bruises, Welts, Abrasions and Oral Injuries	#61 Cuts, Bruises, Welts, Abrasions and Oral Injuries
#13 Sprains/Dislocations	#63 Sprains/Dislocations
#15 Substance Misuse	#65 Substance Misuse
#17 Mental and Emotional Impairment	#67 Mental and Emotional Impairment
	#76 Inadequate Food
	#79 Medical Neglect
	#81 Failure of Thrive
	#83 Malnutrition
	#85 Medical Neglect of Disabled Infants

# CRIMINALIZATION OF HEALTH – PRIMA FACIE EVIDENCE ABUSE/NEGLECT IN IL JCA OF 1987

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- Diagnoses: Battered Child Syndrome, Failure to Thrive, Fetal Alcohol Syndrome, Withdrawal Symptoms
- Repeated drug use to level of impairment of parent
- Repeated use of controlled substance in front of minor or sibling
- Newborn has controlled substance in blood, urine, meconium
- Minor's presence where parent making methamphetamine

# CRIMINALIZATION OF HEALTH – PARENTAL UNFITNESS IN IL ADOPTION ACT

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- Habitual drunkenness or addiction to drugs other than those prescribed by doctor
- Rebuttable presumption of unfitness if baby born with any amount of controlled substance in blood, urine, meconium + mom has another child previously adjudicated neglected
- Inability due to mental illness/intellectual disability

# MODERATOR: TANYA GASSENHEIMER

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## **Staff Attorney, Shriver Center**

Tanya Gassenheimer advocates for parent-centered systemic change in keeping families together and out of the child welfare system. She focuses on the disproportionate, unjust, and devastating impact the system has on families and communities of color. Tanya is in the process of developing strategy, which could include policy work, litigation, and/or administrative advocacy, around how best to achieve movement toward these goals. She seeks to center the voices of impacted parents in driving advocacy efforts.

Before joining the Shriver Center on Poverty Law, Tanya represented youth at the Chicago Coalition for the Homeless on a variety of legal matters, particularly in the arena of healthcare and public support programs. She has also defended tenants against eviction and against termination of housing subsidies while at LAF.

Tanya holds a Master of Social Work that she actively works to incorporate into her legal practice. She is a transplant from the East Coast and enjoys the continued journey of adjusting to life in the Midwest.

# PANELIST: BEKURA SHABAZZ

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## **Advocate & Organizer**

Hampton Roads native and mother to 4 biological children plus 4. BeKura W. Shabazz has over 2 decades of dirtroots advocacy and activism in the areas of criminal injustice, policy, environmental injustice, child welfare reform, housing and economic injustice work. She previously served as State lead for federal legislation on climate change and sea level rise with the Virginia Conservation Network. Since leaving that role she has been vigorously fighting against oppressive and systemic nonprofit culture against African Americans alongside all of her other areas of interest.

She is currently the Social Justice and Health Disparities committee chairwoman of the Va. Green New Deal, Chesterfield NAACP Criminal Justice committee chair, Internal Policy Committee of the Virginia Environmental Justice Collaborative and Board Member, an Advisory Board member of the Virginia Human Rights Network, was just recently appointed to the Chesapeake Bay Program Citizens Advisory Council and just recently expanded her advocacy to the state Maryland by becoming the Legal Empowerment Director of Life After Release.

Ms. Shabazz is the Founder and President of First Alliance Consulting LLC, The Criminal Injustice Reform Network and Mothers Against Mandatory Minimums. Ms. Shabazz is also a certified mediator, conflict resolution specialist and provides legal advocacy services for legally underrepresented community members.



# PANELIST: ELIZABETH BRICO

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## Freelance writer and journalist

Elizabeth Brico is a freelance writer and journalist, and a 2019/20 journalism fellow with Talk Poverty. She was also a 2019 Reimagining Communities fellow with the National Council for Incarcerated and Formerly Incarcerated Women and Girls, where she investigated the use of predictive analytics in the family regulation and foster system. Her writing typically focuses on social justice, particularly in the contexts of the drug war, class war, and the foster system. Her writing has appeared in VICE, Vox, The Appeal, Talk Poverty, Filter, Columbia Journalism Review, Politico, Prism, and more.

She is also a mother with a diagnosed substance use disorder who is living in the aftermath of state violence after having two of her three children forcibly removed from her custody. To learn more about her story or join the fight to reunite her family, please [check out her petition](#) and follow her on Twitter [@elizabethbrico](#). When she isn't fighting to end the drug war and abolish the foster industrial complex, she can usually be found reading, writing, or watching speculative fiction.

# PANELIST: DR. JAMES RONAYNE

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## **Pediatrician & Faculty Member, UIC School of Medicine**

James Ronayne is a pediatrician, psychotherapist and public health practitioner. While he remains a school of medicine faculty member at the University of Illinois at Chicago, he now lives on a small sailboat and works as a hospitalist in the US Virgin Islands. Dr. Ronayne became engaged with the child welfare system through research endeavors concerning the substance exposed infant, has received federal grants for the same, and has been published in *Child Abuse & Neglect*, among other journals. Since 2015, Dr. Ronayne has volunteered his time to the courts of various jurisdictions as an expert witness in cases of alleged child abuse involving substance exposure.

He is a committee member of IL DCFS Family First Prevention Services Act, Legal & Policy subcommittee, and is also a DHS committee member helping to reform the compiled statutes (“codes”) concerning child welfare in the Virgin Islands. Dr. Ronayne is concerned about systematic conflation between the roles of the medical and law enforcement establishments. He championed a failed effort (HB 3484 101st IL General Assembly) to mandate that informed consent be obtained from parents prior to screening for substance exposure in pediatrics patients, in non-emergency situations.

PANELIST: LISA SANGOI

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**Co-Director & Co-Founder of  
Movement for Family Power**

# Thank you! To learn more...

## BeKura Shabazz

Facebook: [/firstallianceconsulting](#),  
[/CIRNVirginia](#), [/One City One Voice](#),  
[/BeKura Waliah Shabazz Branch](#)

## Elizabeth Brico

Twitter: [@elizabethbrico](#)  
Sign Elizabeth's [Petition](#)

## James Ronayne

Email: [jamesronayne@gmail.com](mailto:jamesronayne@gmail.com)  
Amend IL DPH Powers & Duties Law (20 ILCS 2310) - [PDF](#)

***"Informed consent is a basic policy in both ethics and law that physicians must honor"*** (Grady, 2015)

ISSUE: Women are not giving consent for toxicologic (drug) testing of themselves and their babies, resulting in harm. Women who are offered an opportunity to consensual testing have an increased chance of successful substance abuse treatment.

## Lisa Sangoi

[movementforfamilypower.org](#) + [Ground Zero Report](#)

Facebook: [/MovementForFamilyPower](#)

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Instagram: [@movementforfamilypower](#)

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by visiting the Shriver Center's website:

<https://www.povertylaw.org/event/spotlight-on-the-foster-system-webinar-series/>

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