

*B.H. v. Smith
&
The Illinois LGBTQ Roundtable*

Ghirlandi C. Guidetti, J.D., MPP
(he/him/his)

Lessons learned from working to improve care for LGBTQ+ youth in the custody of the Illinois Department of Children and Family Services

August 26, 2021

Background – *Illinois Department of Children and Family Services* (DCFS)



Full list of DCFS Directors:

1. Donald Brieland (January 1964 to November 1965)
2. Cyril Winking (November 1965 to March 1968)
3. Roman Haremski (March 1968 to May 1968)
4. Ed Weaver (May 1968 to April 1972)
5. Jimi Ann Lawrence (April 1972 to January 1973)
6. Jerome G. Miller (January 1973 to August 1974)
7. Mary Lee Leahy (August 1974 to January 1977)
8. Don Schlosser (February 1977 to May 1977)
9. Margaret Kennedy (May 1977 to January 1979)
10. Greg Coler (January 1979 to December 1983)
11. Gordon Johnson (December 1983 to July 1990)
12. Jess McDonald (July 1990 to January 1991)
13. Sue Suter (January 1991 to September 1992)
14. Sterling "Mac" Ryder (September 1992 to June 1994)
15. Jess McDonald (June 1994 to April 2003)
16. Bryan Samuels (April 2003 to November 2006)
17. Erwin McEwen (November 2006 to September 30, 2011) - Named acting director on November 17, 2006; appointed director on December 5, 2007; confirmed by Senate on January 9, 2008
18. D. Jean Ortega-Piron (Acting Director: September 30, 2011 to November 30, 2011)
19. Dixie Lee Peterson (Acting Director: December 1, 2011 to December 14, 2011)
20. Richard H. Calica (December 15, 2011 to November 15, 2013) - Named acting director on December 15, 2011, confirmed by the Senate on February 24, 2012
21. Denise Gonzales (Acting Director: November 15, 2013 to January 24, 2014)
22. Arthur Bishop (January 24, 2014 to February 28, 2014)
23. Bobbie Gregg (Acting Director: February 28, 2014 to January 19, 2015)
24. Cynthia Tate (Interim Director: January 20, 2015 to February 16, 2015)
25. George H. Sheldon (February 17, 2015 to June 15, 2017) - Named acting director on February 17, 2015, confirmed by the Senate on January 13, 2016
26. Lise T. Spacapan (Acting Director: June 16, 2017 to June 26, 2017)
27. Beverly (BJ) Walker (Acting Director: June 27, 2017 to February 15, 2019) - Never confirmed by the Senate
28. Debra Dyer-Webster (Interim Director: February 16, 2019)

[DCFS](#) » [About Us](#) » [Director's Corner/Welcome message](#)

Director's Corner/Welcome message



Marc D. Smith, Director
Illinois Department of Children and Family Services

Background – Illinois Department of Children and Family Services (DCFS)

Illinois Department of
DCFS
Children & Family Services

Safe Kids Loving Homes Brighter Futures Get Involved About Us

DCFS » About Us » Policy, Rules and Forms » Procedures

Procedures

The procedures below are available in Adobe Acrobat. If you need Adobe Reader, click on [Adobe Reader](#) to download the latest Adobe reader for your personal computer.

- Procedures 300 Reports of Child Abuse and Neglect
Note: The PDF version of Procedures 300 includes the file Procedures_300_Table_of_Contents.pdf which provides links to the body text and Appendices of Procedures 300. The subparts can be downloaded and read separately, but to use the Table of Contents properly, it is necessary to download the file Procedures_300_Table_of_Contents.pdf into the same local folder on your PC that contains the other files.
 - [Procedures 300.pdf](#)
 - [Procedures 300 Appendix B.pdf](#)
 - [Procedures 300 Appendix C to L.pdf](#)
 - [Procedures 300 Table of Contents.pdf](#)
- [Procedures 301.pdf Placement and Visitation Services](#)
- Procedures 302 Services Delivered by the Department
Note: The PDF version of Procedures 302 includes the file Procedures_302_Table_of_Contents.pdf which provides links to the body text and Appendices of Procedures 302. The subparts can be downloaded and read separately, but to use the Table of Contents properly, it is necessary to download the file Procedures_302_Table_of_Contents.pdf into the same local folder on your PC that contains the other files.
 - [Procedures 302 Table of Contents.pdf](#)
 - [Procedures 302 Subpart A.pdf](#)
 - [Procedures 302 Subpart B.pdf](#)
 - [Procedures 302 Subpart C.pdf](#)
 - [Procedures 302 Appendices](#)
- [Procedures 304.pdf Access to and Eligibility for Child Welfare Services](#)
- [Procedures 305.pdf Client Service Planning](#)
- [Procedures 306.pdf Service Termination](#)
- [Procedures 307.pdf Indian Child Welfare](#)
- [Procedures 308.pdf Nondiscrimination Requirements of Department Service Providers](#)
- [Procedures 309.pdf Adoption Services](#)
- [Procedures 312.pdf Department of Children and Family Services Scholarship Program](#)

POLICIES, RULES AND FORMS

- Action Transmittals and Other Emergency
- Policies in response to COVID-19
- Announcements for Providers
- Forms
- Laws
- Policy Guides
- Policy Interpretations
- Procedures**
- Rules
- Rulemaking
- Search Policies, Rules and Forms

SERVICES DELIVERED BY THE DEPARTMENT September 8, 2020 – P.T. 2020.14

- [Appendix A Substance Affected Families](#)
- [Appendix B Services for Older Caregivers and Their Families](#)
- [Appendix C Human Trafficking](#)
- [Appendix D Services to Unaccompanied Minors](#)
- [Appendix E Repealed](#)
- [Appendix F Employment Incentive Program](#)
- [Appendix G Youth in College/Vocational Training Program \(Moved to Procedures 314.75\)](#)
- [Appendix H Supervised Independent Living Program](#)
- [Appendix I Repealed](#)
- [Appendix J Pregnant and/or Parenting Program](#)
- [Appendix K Support and Well-Being of Lesbian, Gay, Bisexual, Transgender and Questioning \(LGBTQ\) Youths](#)
- [Appendix L Services for Deaf and Hard of Hearing Clients](#)
- [Appendix M Transition Planning for Adolescent](#)
- [Appendix N Transition Planning for Wards with Developmental Disabilities](#)
- [Appendix O Referral for Nursing Consultation Services](#)
- [Appendix P Food Allergies and Anaphylaxis](#)
- [Appendix Q Case Management Guidelines for Children's Asthma Management](#)
- [Appendix R Case Opening Protocol](#)
- [Appendix S Education and Training Voucher Program \(Moved to Procedures 314.75\)](#)

Dual Advocacy



Background – *B.H. v. Smith*

- 1988 lawsuit: DCFS was maintaining a system that predictably and systematically harmed the children in its custody.



IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

SCHIFF HARDIN & WAITE
RECEIVED
OCT 17 1989

DIARIZED _____ DOCKETED _____
ATTY. _____

B.H., C.H., J.E. C.Z., E.G., O.G.,)
S.G., C.G., P.G., and A.G., by)
their next friend JOSEPH MONAHAN,)
individually and on behalf of)
all others similarly situated,)
Plaintiffs,)
v.)
GORDON JOHNSON, Director of)
the Illinois Department of)
Children and Family Services,)
Defendant.)

No. 88 C 5599
Judge Grady

RECEIVED
OCT 16 1989
H. STUART CUNNINGHAM, CLERK
UNITED STATES DISTRICT COURT

SECOND AMENDED COMPLAINT

Plaintiffs file this Second Amended Complaint pursuant to Court Order. Plaintiffs incorporate herein all the allegations of plaintiffs' Amended Complaint dated November 4, 1986, for the express and sole purpose of preserving for appeal any and all issues raised by that pleading which are not included in the Second Amended Complaint as a result of the Court's Memorandum Opinion of May 30, 1989.

I. NATURE OF THE CONTROVERSY

1. This case is a civil rights class action for declaratory and injunctive relief pursuant to the Fourteenth Amendment to the United States Constitution, the Adoption Assistance and Child Welfare Act of 1980, 42 U.S.C. §§ 620-629, 670-679a ("AAA"), 42 U.S.C. § 1983 and 28 U.S.C. §§ 2201 et seq. Named plaintiffs B.H., C.H., J.E., C.Z., E.G., O.G.,

Background – *B.H. v. Smith*

- 1991 Consent Decree:
 - The ACLU represents “all persons who are in the custody of DCFS and who have been placed somewhere other than with their parents.”

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

B.H., C.H., J.E., C.Z., E.G., O.G.)	
S.G., C.G., P.G., and A.G., by their)	
next friend SUSAN TONE PIERCE,)	
individually and on behalf of all)	
others similarly situated,)	No. 88 C 5599
)	
Plaintiffs,)	Judge John F. Grady
)	
v.)	
)	
JESS McDONALD, Director, Illinois)	
Department of Children and Family)	
Services,)	
)	
Defendant.)	

RESTATED CONSENT DECREE

As Entered on December 20, 1991, and Modified by Orders of Court,
dated March 19, 1992; June 18, 1992; September 29, 1992;
March 22, 1993; March 30, 1994; April 7, 1997; July 15, 1997

Plaintiffs filed this action on June 29, 1988, seeking declaratory and injunctive relief under 42 U.S.C. §§ 1983 and 1988 and 28 U.S.C. §§ 2201 et seq., on their own behalf and on behalf of all others similarly situated because of alleged violations by defendant of the Fourteenth Amendment to the United States Constitution and the Adoption Assistance and Child Welfare Act of 1980, 42 U.S.C. §§ 620-28, 670-79(a) (the “AAA”).

PARTIES

At the time this lawsuit was filed, named plaintiffs B.H., C.H., J.E., C.Z., E.G., O.G., S.G., C.G., P.G. and A.G. were children who had been removed from their homes and placed in the custody of the Illinois Department of Children and Family

Investigation & Advocacy

- 1991 Consent Decree:
 - The ACLU represents “all persons who are in the custody of DCFS and who have been placed somewhere other than with their parents.”

Reports will also be filed with the Court.

b. In addition to the Semi-Annual Report, but consistent with the considerations in subparagraph a, class counsel for plaintiffs may at any time make reasonable requests for, and DCFS shall provide, additional reports or information. DCFS shall ensure that class counsel for plaintiffs, upon prior notice to defendant's counsel, shall have reasonable access to

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Case 1:88-cv-05599 Document 456-2 Filed 06/29/2009 Page 64 of 71

records and information of DCFS or any person or agency contracting with DCFS to provide care and services to children relating to the provision of services to class members. Class counsel for plaintiffs shall be permitted to interview privately, at reasonable times and places, any person, including plaintiffs, parents, foster parents, DCFS employees and persons providing services to class members. The consent of persons other than DCFS employees or officials shall be required before such interviews take place. In lieu of class counsel for plaintiffs, the parties may agree that DCFS's obligation to ensure access to records, information, persons and agencies, set forth in this subparagraph shall be provided to an independent entity outside of DCFS, as agreed to and identified by the parties and as set forth in an Implementation Plan submitted by DCFS. This Implementation Plan may also

Investigation & Advocacy

- Youth did not know about “App. K” or their legal rights
- Many youth face outright discrimination
 - Those who do not, feel tolerated rather than affirmed
- DCFS imposed unnecessary barriers to transgender youth receiving transition-related care, including social transition and hormone therapy

Lessons

1. SOGIE Data Collection

- A. Necessary for enforcement of nondiscrimination policy (i.e., protecting youth) and comparing outcomes against non-LGBTQ peers

Lessons

1. SOGIE Data Collection

- A. Necessary for enforcement of nondiscrimination policy (i.e., protecting youth) and comparing outcomes against non-LGBTQ peers

2. Youth voices are powerful drivers of change



STATE OF ILLINOIS
**OFFICE OF THE
AUDITOR GENERAL**

Frank J. Mautino, Auditor General

REPORT DIGEST

**PERFORMANCE
AUDIT**

**Release Date:
February 2021**

Audit performed in
accordance with
**Senate Resolution
Number 403**

EXECUTIVE SUMMARY

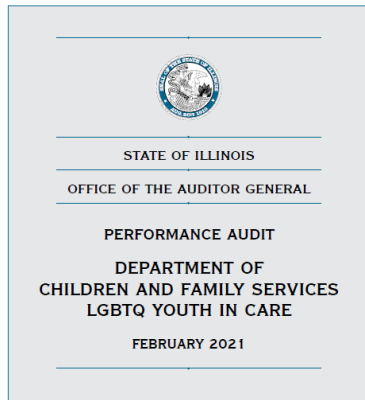
**Illinois Department of Children and Family Services
LGBTQ Youth In Care**

Senate Resolution Number 403, adopted May 31, 2019, directed the Auditor General to conduct a performance audit of the Department of Children and Family Services' (Department) compliance with its obligations to protect and affirm children and youth who are lesbian, gay, bisexual, transgender, questioning or queer.

Overall the audit found that there is a lack of reliable and consistent information regarding LGBTQ youth in the care of the Department. Further, although the Department has established policies and procedures to ensure the well-being of LGBTQ youth in care, the Department did not implement all of these procedures or the procedures were not implemented in a timely manner. We also found that there is a lack of monitoring and oversight of private agency compliance with these procedures.

In this audit, we also reported that:

Background – *B.H. v. Smith*



FRANK J. MAUTINO

AUDITOR GENERAL

The Illinois Auditor General examined the way that **DCFS cares for LGBTQ youth in their care**. They found:

- ✗ **DCFS has not monitored its own policies for LGBTQ youth with contract agencies**
- ✗ **DCFS has failed to tell LGBTQ youth their rights**
- ✗ **DCFS fails to provide affirming medical care for LGBTQ youth**

Until safe and affirming care is the norm for every child at DCFS, we will continue our ongoing work advocating for these young people.

ACLU
Illinois

Background – The Illinois LGBTQ Roundtable



The Illinois LGBTQ Roundtable (Roundtable) – an intersectional coalition of cross-sector advocates, providers, and other allies – was informally established on January 12, 2017 with the goal of advocating for DCFS to do a better job of working to meet the needs of the LGBTQ youth in its care. Since 2017, the Roundtable has consistently engaged with DCFS to press for reform, and now elects to formalize its structure to ensure the continued, robust engagement with DCFS on the substance and full implementation of necessary reforms.

The Illinois LGBTQ Roundtable – Issue Priorities



- Mandatory training of DCFS and POS staff, and Foster Parents
- Meaningful Implementation of “App. K”
- SOGIE Data Collection
- Matching of “out” LGBTQ youth with affirming placements
- Allocation of resources to adequately address needs of youth in care

What is happening now?

- Training, finally! (maybe soon?)
- New “Chief of LGBTQI Services” position within the Office of Affirmative Action
- SOGIE Data Collection Process in Development
- Encouragement of participation in Human Right Campaign’s All Children All Families Program
- LGBTQ Youth Advisory Board
- Streamlined access to gender-affirming care at more medical providers
 - Including legal name changes

Lessons

1. SOGIE Data Collection
 - A. Necessary for enforcement of nondiscrimination policy (i.e., protecting youth) and comparing outcomes against non-LGBTQ peers
2. Youth voices are powerful drivers of change
3. External stakeholder collaboration/pressure is effective

Lessons

1. SOGIE Data Collection

- A. Necessary for enforcement of nondiscrimination policy (i.e., protecting youth) and comparing outcomes against non-LGBTQ peers
- B. Must consider process, center privacy

2. Youth voices are powerful drivers of change

3. External stakeholder collaboration/pressure is effective

Lessons

1. SOGIE Data Collection
 - A. Necessary for enforcement of nondiscrimination policy (i.e., protecting youth) and comparing outcomes against non-LGBTQ peers
 - B. Must consider process, center privacy
2. Youth voices are powerful drivers of change
3. External stakeholder collaboration/pressure is effective
4. Not all “training” is created equal