



City of Philadelphia

OFFICE OF THE INSPECTOR GENERAL


Policy Recommendation Report

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<p>File Number: 9178</p>	<p>Work Unit & Location: Philadelphia Prison System 7901 State Road Philadelphia, PA 19136</p> <p>Department of Human Services One Parkway Building 1515 Arch Street Philadelphia, PA 19102</p>

I. BACKGROUND

At the request of the Department of Human Services (DHS), the Office of Inspector General (OIG) conducted an evaluation of the Philadelphia Prison System (PPS) policies regarding babies born to incarcerated women. DHS initially became aware of an unlicensed informal custody system, called the Mennonites Caregivers Group (Caregivers), through Melinda Price (Price), a former Riverside Correctional Facility (RCF) inmate who gave birth to a son while incarcerated and granted temporary custody of him to the Caregivers. This report summarizes the OIG evaluation of the policies by which infants born in PPS are placed and the parties involved.

This report substantiates the need for direct policies to assist the PPS, especially RCF, in meeting the demands of the numerous pregnant inmates who come through its facilities. Prior to this investigation, the PPS lacked explicit policies for handling inmates' children. Thus, employees did not conduct themselves

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according to an established protocol. The failure to implement a policy created a pattern of conduct by which staff members, uncertain of their roles, overstepped their contracted boundaries and infringed upon the work of others. Absent a formal policy, PPS representatives conducted their own custody arrangements for prisoners, leaving children at risk of potential harm. While PPS individuals may have been well-intentioned, safeguards to protect the children were not in place, leaving children in the custody of unmonitored informal social service agencies.

II. Individuals and Entities Involved

A. Riverside Correctional Facility – Pregnant Inmates

Opened in 2004, RCF operates exclusively to house female inmates. RCF houses pregnant inmates and inmates suffering from mental illnesses, along with general population inmates. On average, twenty-nine children are born annually to inmates at RCF. Despite their inmate status, mothers maintain the legal right to place their children with whomever they choose, unless the chosen caregiver has been deemed unfit. All pregnant inmates are housed together, where they can receive additional care. The women can receive care from RCF Social Workers, MOMobile- a Maternity Care Coalition group, or additional volunteer organizations.

Effective September 13, 2010, PPS Commissioner Louis Giorla (Giorla) implemented Procedural Directive 10-07 (P.D. 10-07) to establish a procedure for RCF Social Workers to help identify a caretaker for inmates' children. The procedure includes interviewing the pregnant inmate to identify potential DHS involvement, obtaining caretaker contact information as well as maintaining contact with the caretaker until the child's birth. If during the inmates' incarceration, or immediately after the child is born, the caretaker decides he or she can no longer care for the child, the Prison Social Workers must immediately contact DHS.

B. Maternity Care Coalition – The MOMobile RCF Program

Maternity Care Coalition (MCC) was founded in 1980 to provide services for pregnant women, infants, young children, and families at risk. The MOMobile is MCC's "signature direct service program". It is designed to assist women and children in the communities where they live. MCC employs community health workers, referred to as "Advocates", who reach out to the women and provide them with services that include job training, housing, and healthcare.

There are currently eight MOMobile sites in operation, including MOMobile-RCF, which has been providing services to inmates at RCF since November 2006 through a contract with the City of Philadelphia (City). Deputy Executive Director, Bette Begleiter (Begleiter) and Program Manager, Danyell Williams (Williams) work with three case managers to provide prenatal and postnatal group counseling and case management services to inmates at RCF. The case management services continue for up to one year after an inmate returns to her family and the community. MOMobile also provides doula and caregiver support services to the inmates. Williams and the case managers report to the PPS Deputy Commissioner of Restorative and Transitional Services, Reginald Hammond (Hammond) and work closely with the RCF Social Work Supervisors.

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C. Chaplain Phyllis Taylor

Chaplain Taylor started working in the PPS approximately 15 years ago as a volunteer grief counselor. Taylor completed the PPS Chaplain Academy in 2001. She is also a Registered Nurse, Hospice Nurse, and a certified Grief Counselor. According to Taylor's City contract, she is to provide grief counseling, hospice services and religious meals to PPS inmates. Her contract is for 15 hours a week for 45 weeks, at no less than 3 days per week. Chaplain Taylor is supervised by Hammond, and also reports to the Director of Chaplaincy Services. Giorla allows Taylor to work outside the scope of her contract, citing her dedication and excellent work.

D. Blanche Carney

As a former RCF Social Work Supervisor, Blanche Carney (Carney) supervised six social workers and one clerical support staff member. She was one of two Social Work Supervisors at RCF when the facility opened in 2004. Carney's direct supervisor was Patricia Hall (Hall), PPS Program Administrator for Social Services. Carney also occasionally reported to RCF Warden Kenneth Brown (Brown).

In December of 1995, Carney was hired as a Social Worker for the PPS and was assigned to Curran-Fromhold Correctional Facility (CFCF). The Caregivers Program was already well established at that time. Carney became aware that members of her staff were involved with placing inmates' children with the Mennonite Caregivers Group upon her transfer to RCF. Carney consistently informed her line staff that referring the inmates to the Caregivers was not an appropriate social service recommendation, since the Caregivers were not a government sponsored program. Prior to the implementation of P.D. 10-07, by directing and facilitating children to go the Caregivers, Taylor and MCC worked outside the guidelines of their contracts, causing their roles to overlap and conflict with Carney and other PPS staff.

Since 2006, Carney had met with Begleiter and Williams on eight separate occasions to discuss MCC's contractual obligations. They repeatedly assured Carney that MCC staff would work within the scope of their contract. However, after each meeting MCC staff and Taylor resumed duties that conflicted with the duties of PPS Social Work staff. Chaplain Taylor continued to act as a liaison between the inmates and the Caregivers; and MOMobile continued to counsel inmates to place their children with the Caregivers as an alternative to DHS.

While MOMobile and Taylor continued this course of conduct, Carney persistently instructed her staff to locate the inmate's relatives or the child's father when seeking a caretaker. Once a placement plan was established, Carney and her staff would maintain contact with the inmate's family every month to ensure the established placement was still a viable option. Upon the child's birth, hospital staff would call the assigned person to verify placement, and if placement was not secured or the established placement was no longer feasible, a social worker would contact DHS for an appropriate placement.

Giorla promoted Carney to an Intake Unit Supervisor at Curran-Fromhold Correctional Facility (CFCF) on November 1, 2010, based on her outstanding work performance.

E. Mennonite Caregivers Group

The Caregivers began working with inmates in the PPS over fifteen years ago, although the practice was never a formal PPS endorsed program. The Caregivers' relationship with the PPS began as a word of mouth referral system between incarcerated mothers and Chaplaincy Services. The placement program was initially facilitated through former Philadelphia Industrial Correctional Center (PICC) Chaplain Elaine Babcock (Babcock). Since then, each succeeding Chaplain has assumed the responsibility of helping place children with the Caregivers. The Caregivers have been working specifically with RCF since 2004, when the prison first opened.

The Caregivers consist of approximately thirty families from various Pennsylvania Mennonite churches in Lancaster, Franklin, and Union Counties. The Caregivers Group is not a licensed social service agency; however a few of its members are certified foster parents. In order to join the group, members are required to meet the following criteria: be financially sound, complete a criminal background check, and obtain a child abuse clearance through the Commonwealth of Pennsylvania.

After each prospective Caregiver family receives its criminal background check and child abuse clearance reports they are kept in an informal file at each family's home; as it is each family's responsibility to maintain whatever records they deem necessary. The documents are not reviewed by DHS or any other social service agency that would provide supervision to ensure the child's welfare and safety. Since the Caregivers conduct themselves as an informal system, there is no official determination that the child is being placed with a safe family.

The Caregivers do not contract directly with the PPS, RCF, or the City. They are not incorporated and operate according to an informal longevity-based hierarchy. Ruth and Thomas Eberly (Eberlys) have been involved with the Caregivers for the past sixteen years, the past eleven with the PPS. Based on their seniority, they have become "informal liaisons" or "leaders" of the Caregivers. The Eberlys maintain a list that includes information about all of the children, the inmates, and the Caregivers.

The custody agreement that the inmates sign grants temporary legal and physical custody of the inmate's child to the caretaker. All parties are given a copy while the Caregiver retains the original. When the child is born, the hospital social worker contacts the Caregivers, and the family that takes custody of the child signs the discharge papers.

The Mennonite families can apply for supplemental nutrition through the federal Women, Infant, and Children (WIC) Program and often apply for a medical card through their local county assistance offices. Because the Caregivers consider themselves a ministry whose purpose is to provide care for children independent of assistance, they discourage their members from receiving financial compensation.

When inmates have granted custody of their children to the Caregivers, and have completed their sentences, they contact the Caregivers to facilitate the return of the child together. Caregivers may not immediately return the children to their mothers for various reasons. For example, at times, the Caregivers have contacted DHS if they felt the biological mother was unfit. Some children have remained in the Mennonite community indefinitely.

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Some children have been formally adopted by the Caregiver family with the mother's consent. Other children have remained with the Caregivers, pursuant to the custody agreement, as the mother may not be able to care for the child but does not consent to the adoption.

F. Melinda Price

Price was eight months pregnant when she was initially imprisoned at RCF on December 5, 2009. Upon her arrival, Price was interviewed by Danyelle Williams from MCC. Price told Williams that she wanted to place her child with her mother, Sara Wells (Wells). Williams and other MCC staff determined that Wells' home was not an appropriate placement. Chaplain Taylor suggested the Caregivers to Price as the only additional placement option. Taylor told Price that the Caregivers would be better than DHS because the Caregivers "did not go through the process and will give your child back".

On January 20, 2010, Price gave birth to a son. None of Price's family members went to the hospital to pick up her son. Price was again confronted by Taylor and Williams at the hospital, who told her that if she did not sign a Caregiver custody agreement, her son would be placed with DHS, and Price would never get him back. At that time, Williams also questioned Price about whether or not the child's father was still in her life. Price stated that he was not.

The day before she was transported back to RCF, Price reluctantly signed the temporary custody agreement allowing Caregivers, Lloyd and Melissa Weiler (Weilers) to care for her son. The Weilers picked her son up from the hospital. During the remaining two months of Price's incarceration the Weilers only took Price's son to visit her once.

Price was released from custody on March 5, 2010, and went to live in New Directions, a half-way house. Price was required to complete the program at the half-way house as a condition of her bail; however she was not permitted to keep her son there. Price contacted Williams, who located a second half-way house, Wayne Hall, where she could keep her son. After breaking curfew at Wayne Hall, Price was sent back to New Directions. Price wanted an acquaintance to care for her son instead of the Weilers, but New Directions Director, Caroline Stewart (Stewart) told Price to give her son back to the Weilers. Stewart told Price that the custody agreement with the Caregivers was still in effect.

After leaving New Directions on June 7, 2010, Price spent the next two months trying to locate her son. Eventually Price was able to locate the Weilers through Chaplain Taylor. The Weilers returned Price's son on August 8, 2010, but did not return his birth certificate, medical card, diapers, or other belongings. Melissa Weiler repeatedly ignored Price's requests for her son's medical card and birth certificate. The Weilers eventually sent Price a copy of her son's birth certificate. Price never received the medical card.

ISSUES/PROBLEMS

A. City's Duty to Children Born in Custody

In conjunction with the Philadelphia Home Rule Charter Chapter 7, Section 5-700, the Child Protective Services Law, 23 Pa.C.S. §§ Sections 6301—6385 and the Juvenile Act, 42 Pa. C.S. §§ Section 6302, the City owes a duty to ensure that children born into the custody of the PPS remain secure and unharmed.

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To allow children to be placed with an unlicensed social services agency, without any formal recordkeeping process or monitoring, puts them at great risk of harm. The Philadelphia Home Rules Charter, Chapter 7, Section 5-700 states that:

“The Department of Public Welfare [now formally known as DHS] shall have the power and its duty shall be to perform the following functions:...It shall, receive, care for and place dependent, mentally defective, neglected, incorrigible, and delinquent children...”

The Charter continues to say:

“it [the Department of Welfare] shall from time to time investigate the manner in which they [the children] are being cared for.”

Additionally, “The Department [DHS] shall have general supervision over the City penal, reformatory and correctional institutions...owned or operated by the City.”

This responsibility is carried out by Philadelphia’s DHS. DHS’s mission *is to provide and promote safety, permanency, and well-being for children and youth at risk of abuse, neglect and delinquency*. Circumventing DHS jeopardizes the children’s welfare and safety and also prevents the City from fulfilling its legal obligation. Throughout the course of this investigation, the City’s primary concern was to safeguard the well-being of the children involved and prevent any injury or harm to them.

B. Preservation of Mother’s Rights

A mother retains her right to determine who cares for her children while incarcerated. Taylor and MOMobile regularly streamlined inmates’ children to the Caregivers and diverted them away from DHS placement, failing to apprise the inmates of their various placement options. In doing so, Taylor deprived the inmates of their right to act as mothers who are allowed to make informed decisions about their children’s lives.

C. Absence of Philadelphia Prison System Policies

The absence of formal PPS procedures created opportunities for employees to create their own informal procedures for child placement. Without a formal standard, employees and supervisors did not stay within the guidelines of their employment and their roles began to overlap and conflict.

On at least eight occasions since MOMobile started operating in RCF, Carney met with Begleiter and Williams regarding the terms and boundaries of MOMobile’s contract. MOMobile repeatedly reassured Carney they would retract from placing children with the Caregivers and work within their contractual limits. Soon after these meetings, Williams refused to refrain from conducting child custody arrangements with the Caregivers. With no policy in place, Carney could not restrict MOMobile’s disregard of her instructions despite repeated warnings.

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D. Informal Custody Agreement

The informal custody agreements signed by the inmates were problematic, at best. Inmates signed these agreements without the advice of legal counsel. Many of the clauses in the custody agreement are of great concern. For example, the second clause states:

“Mother agrees to give temporary physical custody of her child(ren) to Caretakers, placing the child(ren) in Caretakers’ home until such time when Mother is released from prison and the parties mutually agree that Mother is ready to take care and custody of the child.”

This is problematic because if the Caretakers do not want to relinquish custody of the child(ren), they do not have to agree that the mother is fit to care for the child. In Melinda Price’s case, the Caregivers changed their phone number and made it difficult for Price to track down the location of her child. Once Price was able to find her child, the Caregivers did not return any clothing, medical documents, or the child’s birth certificate. Price has had a hard time regaining legal custody of her son because she has yet to receive the proper paperwork from the Caregivers.

This clause is also problematic because once the child has been returned to the mother, the Caregivers can use the agreement to regain custody of the child at a later date if the mother returns to prison or the Caregivers later deem her to be unfit. Again in Price’s case, once she had returned to New Directions, she wanted her child to be cared for by an acquaintance. However, the Director of New Directions cited the custody agreement as the reason why Price’s child had to be returned to the Caregiver family. Price felt bound by the agreement and eventually agreed with the Director.

The fifth clause reads:

“Mother agrees to indemnify and hold harmless Caretaker in the event of an accidental death, illness, or injury, to the child, and does hereby release and hold Caretaker forever harmless against with respect to any injuries which may occur to the child.”

No mother should be made to sign a clause where the Caretaker is not responsible for the well being of the child(ren). Any legal guardian must bear responsibility for the minor under his or her care. For example, a three year old toddler who had been legally adopted by a Mennonite family died after accidentally falling into a feeding mixer on the family’s farm. This child was not born to an inmate incarcerated in the Philadelphia County Prison System. However, if a child born to a PPS inmate has been hurt or killed while in the custody of Mennonite Caregivers, the custody agreement may have prevented the mother from taking action against the Caregivers believing that the agreement she signed prevents her from doing so.

The sixth, and last clause, reads:

“This agreement shall continue until further mutual agreement *or Order of Court*. Nothing in this agreement shall prevent Caretaker from filing for custody or obtaining a court order granting Caretaker legal and physical custody in the event that Mother is released and fails to obtain or request custody of the child.”

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The sixth clause seemingly states that the custody agreement would remain in effect even if the mother wants her child returned, unless the mother obtains a court order. The effect of this is that a mother must get a court order for the return of her own child if the Caregivers do not agree to return the child voluntarily. Similarly, the agreement allows the Caretakers to seek legal permanent custody of the child(ren) with no regard to the mother or the biological father.

The problems derived from these contracts are endless. The mothers signed these agreements without the advice of legal counsel, regardless of their capacity, intelligence, or education level.

E. Investigating Allegations of Abuse

Because the Caregivers Program is an informal system, there was no official recordkeeping process to affirm that children were placed with safe families or were appropriately monitored throughout the course of their placement. After each family received the results from their child abuse clearance and their criminal background checks they would keep the files, they were not required to submit the results to a central filing system or even the head of the group. Because of this informality, there was no centralized filing system and no follow-up once the checks were conducted. Thus, it would have been possible for a criminal background check or child abuse check to establish that a family placement would have been completely inappropriate, but that family held the documents and the problems would not be known.

On at least one occasion Taylor was informed of an alleged sexual abuse incidence involving children of a former RCF inmate who had been placed with a Mennonite Caregiver family. By her own account, Taylor did not report the incident to DHS; she “investigated the matter on her own” by speaking with the family who was caring for the child. She then determined the allegations were unfounded.

Under Chapter 47, Section 52 of The Pennsylvania Code and the Child Protective Services Law 23 Pa.C.S. § Section 6311, Taylor is not mandated to report suspected child abuse. However, she clearly lacked the proper authority and training to investigate allegations of abuse or neglect. She endangered the emotional and physical well-being of the inmates’ children and provided a great disservice to both the inmate mothers and their children. Any liability as a result of her involvement will ultimately be imputed onto the City, as the holder of Taylor’s contract. This type of self-monitoring does not provide the adequate precautions to guarantee that children are protected.

F. Need for Recordkeeping to Locate Children

Formal files and records for the Caregiver families, or any families where children are placed, are crucial. The inmate mothers need to know where their children are to be able to regain custody after their release. Without appropriate recordkeeping, a Caregiver could relocate with an inmate’s child and, if the inmate was unable to locate the family, the Caregiver could formally adopt that child, even without the mother’s knowledge.

Recordkeeping also allows for the proper supervision of the children. Authorities cannot monitor the safety of children if they do not know for sure where the children are, who is caring for them, and under what conditions.

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Ruth and Thomas Eberly, who have become the “leaders” of the Caregivers, maintain a list that includes information about all of the children currently in placement with their members, the inmate’s name, and the Caregiver family’s contact information. There are also two additional lists: children who were formerly in placement with a Caregiver family and have been returned to their mothers, and children who have been formally adopted by the Caregivers. In most of the placements, there has not been any monitoring or supervision by DHS or the child welfare agency assigned to the county in which the families live. Therefore, it is difficult to determine if the true number of children that are currently in placement or have been cared for in the past by the Caregivers has been disclosed. It is possible that the Caregivers have temporary custody of children born to PPS inmates, who are not on their list, and whose existence is not known to DHS. It is also possible that there are inmates or former inmates who are actively searching for their children and are unable to locate them. Without formal monitoring and recordkeeping, the Caregivers have put themselves in the position of being the sole custodians of information relevant to the location, safety, and welfare of these children.

Chaplain Taylor maintains an informal list of the placements; however, she took over the responsibility of placing inmates’ children with the Caregivers after the departure of several other Chaplains who had been involved in this process for a number of years.

IV. PPS Response - Procedural Directive 10-07

On, May 24, 2010, Commissioner Giorla issued a verbal cease and desist stopping all placements with the Caregivers. On September 13, 2010, he instituted a written procedure, codified as Procedural Directive 10-07 (P.D. 10-7). P.D. 10-07 encompasses the aforementioned procedures under which Carney directed her staff to operate. It requires the following:

1. The Social Work Services Manager (SWSM) will meet with the pregnant inmate during the individual interview to identify Department of Human Services (DHS) involvement (e.g., open cases) or who will care (e.g., father, family, kin) for the child.
2. The SWSM will obtain the caretaker’s information (name, address, phone number and relationship to inmate) and will contact the person to confirm that they are willing to care for the child.
3. The SWSM will then compare the information provided by the inmate with the caretaker and enter the information in the IJMS Inmate Services (IS) desktop. The information will be given to the inmate to take to the hospital in order for the hospital staff to identify the caretaker that is expected to pick up the newborn. The SWSM will meet with the inmate monthly to check that the caretaker’s information has not changed.
4. In the event the pregnant inmate discloses that she is in an abusive relationship and the paramour is the identified caretaker, the pregnant inmate will be referred to domestic violence educational awareness classes. The SWSM will then engage the pregnant inmate further to identify another caretaker. Once the caretaker’s information is obtained, the SWSM will follow the above procedures.

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5. In the event a caretaker is not identified, the SWSM will inform the inmate that DHS must be notified for placement and will facilitate a call to DHS. The SWSM will also facilitate a call between the inmate and the DHS worker to have dialogue regarding voluntary placement. In some occasions, hospital staff may contact the SWSM when the caretaker has failed to appear. If this occurs, the SWSM will review the IJMS for any additional telephone numbers and will make every effort to contact the caretaker. If the SWSM is unable to make contact with the caretaker, the hospital will be advised to contact DHS for placement through their procedure. Upon the inmate's return to the facility, the SWSM will meet with the inmate for counseling and will facilitate contact with DHS.

Commissioner Giorla informed all staff members that they are not to function outside of P.D. 10-07, and any action taken otherwise would result in contract or employment termination. Since the May 24, 2010 meeting, these procedures have been followed and all children born since then have been placed with family members or DHS. Giorla has permitted the Caregivers to continue visitation, between the children cared for by the Caregivers, and the inmates.

V. RECOMMENDATIONS

A. Implementing Policy

The OIG believes that the policy Commissioner Giorla instituted on September 13, 2010, is both ethical and appropriate for protecting the rights of everyone involved. Giorla has further advised all staff members to work within the confines of his instruction or face termination.

It is imperative that PPS staff work under the new policy regarding inmates' newborns in order to ensure that P.D. 10-07 remains effective and children are adequately protected. In order for PPS staff to do so, they must become better acquainted with the new form of conduct. The OIG recommends that the PPS prepare and train all Prison Social Work Supervisors and staff involved in the process to ensure that everyone is aware of and well acquainted with the new procedures.

B. Dealing with Contractors

The OIG recognizes that the actions of MOMobile and Taylor were well-intentioned. We also understand that Giorla has granted Taylor more latitude than her contract provides based on the quality of her work. However, Taylor's contractual responsibilities are to provide grief counseling, hospice services, and kosher meals. Arranging for custody of inmates' children and investigating allegations of child abuse or neglect exceed the scope of her employment contract and impinge upon the duties of DHS and the PPS Social Work Supervisors and their staff.

MOMobile's City contract requires only that they provide prenatal and new parent groups, case management services, doula services, and support to the inmates. Again, arranging for custody of inmates' children exceeds the terms of their contract. Additionally, MOMobile was consistently warned by former Social Work Supervisor Carney to remain within those contractual terms. MOMobile, as an independently contracted agency without sufficient instruction, may face conflict with the PPS social work policies.

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Now that firm policies are in place, the OIG recommends that the PPS take the appropriate measures to ensure that all parties immediately return to functioning within their contracted duties. Regardless of the contributions that contractors like Taylor and MOMobile make, they are required to work within the limits of their contractual duties, and cannot exceed those boundaries.

Taylor and MOMobile's deep-seated involvement with the Mennonite Caregivers Group clearly exceeds the scope of their contractual duties. In addition to reminding MOMobile to operate within their contractual obligations, the OIG recommends that the PPS institute a system of oversight for MOMobile and Taylor, to ensure that they function within their contractual terms and in cooperation with PPS staff and officials.

The Mennonite Caregivers Group

Although the Caregivers were effective and well-intentioned in their capacity as caretakers, the OIG and DHS were primarily concerned that the Caregivers, as a self-contained community, did not receive the checks and regulations that are firmly established in the child welfare system. This report and recommendation is not meant to eliminate the Caregivers as a placement option for incarcerated mothers. Rather, the OIG recommendation is that the Caregivers be treated as any other agency, family, or individual designated to foster a child.

Based on P. D. 10-07, the OIG recommends only licensed foster parents from the Caregivers may return to work with the PPS, and do so only under the direction and supervision of DHS, in the same manner as any other foster parent currently does. DHS supervision will eliminate the hazards of the Caregivers' flawed informal custody agreement and their unacceptable self-monitored abuse prevention system.

The OIG also recommends that DHS conduct safety evaluations of the children currently in placement with the Caregivers to ensure that the children are properly cared for and supervised. In the course of conducting their safety evaluations, it is also recommended that DHS obtain a full listing and current location of all children born to PPS inmates and placed with the Caregivers since the program's inception.

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