

A Tale of Two Juries on Foster Father Accused of Sex Abuse

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Seven days of deadlocked jury deliberations in the sex abuse trial of a single foster father are over. Despite allegations that he abused multiple children for almost 20 years while receiving \$1.5 million in foster care payments, after three weeks of testimony a Long Island jury acquitted Cesar Gonzales-Mugaburu of all 17 counts on May 2. The jury found he was not guilty beyond a reasonable doubt, thus sparing him from 25 years in prison at age 60.



In sharp contrast, the Suffolk County Special Grand Jury issued an 83-page report last year that blamed foster care agencies and officials whose duty was to protect children for allowing grave harm to many of our most vulnerable children in state foster care.

The grand jury report probes how 18 reports of abuse against Gonzales-Mugaburu were repeatedly ruled “unfounded” over a 20-year period.



The detailed answers in the report are:

- Vulnerable special needs children with ADHD, borderline or bipolar disorder do not disclose abuse and are tricked into thinking that the abuse is normal.
- Reports are “unfounded” when a child is pressured not to disclose through threats of being taken away or moved to a worse home, to a hospital or to jail.
- Investigators interviewed child victims in the presence of their possibly abusive foster parent. The possible perpetrator was given advance notice of the interview, thereby permitting him to threaten punishment against the child.
- There was no written, formal interoffice notice from investigators to the private foster care agency of its dispositional finding. This enabled placements to continue.

- The Office of Children and Family Services (OCFS) could not determine how many investigations took place because the private agency had no mechanism to notify its senior management. Therefore no “independent investigations” of the safety of the foster home were conducted by the private agency itself or by the government agency.
- The state’s Child Protective Services (CPS) Program Manual requires that it notify the county that has custody of a child named as the abused or maltreated party in any investigation. Suffolk County CPS did not notify New York City’s Administration for Children’s Services pursuant to this directive.
- The private agency did not make or document annual re-evaluation visits to the foster home.
- The private agency certified the home for more children than the law allowed.

The grand jury found that the sole source of the foster parent’s income was from \$1.5 million in foster and adoption subsidies. As a result, the foster parent was highly motivated to maximize the number of children placed in his home, at the highest possible payment rate.

The grand jury recommended the following executive, administrative and legislative changes:

- Eliminate the statute of limitations in civil and criminal cases involving a sexual offense.
- Require foster parents to provide tax returns for initial certification and annually thereafter.
- False statements made by the foster parent in an application or recertification should permit the foster care providing agency to nullify and void the foster parent contract.
- The OCFS Child Protective Services Program Manual should be amended to:
- Require CPS investigators to interview foster child away from the foster home outside the presence of the foster parent.
- Mandate a minimum number of unannounced visits to a foster home each year.

The grand jury report provides informative details of New York’s statutory and regulatory foster care system. It is a good beginning for advocates to work to reform and improve this often mismanaged system.

The authors uphold the principle that the law should not allow prison time unless a unanimous jury finds guilt beyond a reasonable doubt. Simultaneously, we advocate for the reforms mentioned in the grand jury report.

There is enormous room for improvement. Do not let this criminal verdict thwart the real need for change.

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