

TULSA WORLD


Children's Rights nonprofit: DHS settlement raises hope for welfare of Oklahoma foster children


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 [Read the DHS lawsuit complaint. \(http://tulsaworld.com/DHSoriginalcomplaint\)](http://tulsaworld.com/DHSoriginalcomplaint)

 [Read the settlement agreement. \(http://tulsaworld.com/DHSsettlement\)](http://tulsaworld.com/DHSsettlement)

 [Read the latest tax form for Children's Rights. \(http://tulsaworld.com/ChildrensRightstaxform\)](http://tulsaworld.com/ChildrensRightstaxform)

When the staff of the New York-based nonprofit Children's Rights started making calls to child advocates in Oklahoma, there was a recurring statement.

"We were asked pretty quickly, 'What took you so long to get here?'" said founder and executive director Marcia Robinson Lowry.

Those interviews backed up the data the nonprofit had gathered, and a lawsuit was filed in February 2008 on behalf of nine children.

It was expanded into a class-action suit in the U.S. Northern District in March 2009. It was settled in January and received approval from U.S. District Judge Gregory Frizzell on Wednesday.

"There are currents of change here, and I think there are plenty of people not happy with what the system has been," Lowry said. "I am thrilled with what has happened in Oklahoma. We hesitated before we came into Oklahoma. We knew it was going to be very difficult and hard for us."

"I think what is going to happen now will be amazing. It's a wonderful settlement. There is a real sense in the community that time has come to do something."

'Not standing by ourselves'

Children's Rights has launched legal challenges in at least 15 states and jurisdictions since 1995 seeking improvements in child welfare systems, with all but two ending in judicial consent orders or settlement agreements.

Critics question the nonprofit's motives, accusing the group of seeking profit or unjustly imposing its values.

"What's so bad about trying to reform child welfare nationally? Yes, we are trying to do that because hundreds of thousands of children are suffering," Lowry said.

Children's Rights has not sought damages. The group seeks reimbursement for costs, which are negotiated and approved by the court.

The cost to DHS - which has spent \$7 million so far defending the case and had approved another \$2 million for legal costs - has not been worked out. Children's Rights in other states has received between \$6 million to nearly \$11.

The nonprofit is based in New York City with net assets of about \$14 million, according to its 2010 tax records.

Expenses that year were about \$5.7 million and revenue was about \$4.9 million. Lowry's salary is listed as the top in the organization at \$233,842. The next four highest ranking officials earn between \$113,113 to \$203,088.

"We operate on a tight margin," Lowry said. "We get paid public interest lawyer salaries, and no one gets a bonus if you win a case. I find it amazing that people find this something to criticize.

"If no one else in the state thought there was a problem and there were no data to support it, then I would get it. The state is one of seven nationally that has failed every single child well-being indicator on federal audits. We did not make that up. The real question is what took us so long to get to Oklahoma."

Lowry credits local attorney Fred Dorwart for serving as co-counsel, and Tulsa attorney Paul DeMuro provided work for the nonprofit. Also, there were six Oklahoma attorneys and advocates serving as "next friend" to the children named in the original complaint. All volunteered their time and services for free.

"Look at who else is standing with us," she said. "We are not standing by ourselves."

'Children do have rights'

Lowry began her career as a journalist after graduating from Northwestern University. Then she obtained a degree at the New York University School of Law in the late 60s with the intention of working in social justice.

She quickly started representing deprived children's cases, often teenagers who had spent their childhoods in foster systems.

"There was almost no law in that area because children didn't have many rights," Lowry said. "Children do have rights, and the law is pretty well established now, though it goes up and down with some legal setbacks. But there is a body of law that says you have the right to be protected in a child welfare system."

Lowry can recall details of cases she handled more than 30 years ago, still keeping in touch with some of those former teens.

"So many of these kids who look like they are absolutely hopeless are people who actually have so much to them," Lowry said.

Just returning a phone call to a foster child created a huge response, she said.

"That was extraordinary," Lowry said. "No responsible adult would even do that for them. They were literally abandoned by society. So when you would offer them a grain of attention it becomes disproportionately important."

After handling some class-action work in New York, she took a position with the city's child welfare system as a special assistant.

Then, the New York Civil Liberties Union began a children's rights project that she headed from 1973 to 1979 and moved to the American Civil Liberties Union until 1995.

Children's Rights began as an independent nonprofit in 1995, where it focuses on litigation to reform flawed child-welfare systems.

"It's the most interesting and place you can make the most difference - you can affect the lives of children in a positive way and have a much greater impact," Lowry said.

'Information was not getting out'

Children's Rights spent about eight months investigating Oklahoma. The group has conducted similar probes in eight other states and passed on filing a lawsuit.

"We select very carefully," she said. "We wouldn't go into a place that isn't really bad because the cases are hard and a big commitment of time and money."

In most cases, attorneys and advocates in states contact the nonprofit seeking assistance. The nonprofit also follows national data and media reports, Lowry said.

Lowry said local attorneys often do not have the specialized experience or resources to handle a federal class-action case, and some fear a professional backlash from state officials or political leaders.

"A lawsuit is a massive undertaking," Lowry said. "It requires a huge amount of resources, an enormous

amount of lawyer hours and a lot of cash. You can't do a case like this without experts, and experts cost a lot of money. There are not a lot of commercial law firms prepared to take on that kind of commitment."

In defending the lawsuit, DHS officials pointed to similar language among the Children's Rights complaints in each state.

"Problems in child welfare are national problems. It's not boilerplate," she said. "There are some very serious national problems that play themselves out with local variations. They are common problems but are not exactly the same."

Oklahoma's data showed its social workers had caseloads too high to effectively handle, foster children with multiple placements, shelter populations routinely topping capacity and a lack of oversight and training of foster parents.

"One of the things that has allowed this to continue for such a long time is that information was not getting out," Lowry said.

Children's Rights lawsuits do not address treatment of children before entering foster care because the state does not have legal custody.

Since the lawsuit was filed, DHS has reduced the number of children in foster care from about 11,000 to about 8,000.

"Anybody who is sensibly addressing reform in child welfare doesn't stop at the door of custody," she said. "What you do want is to limit the system to children who absolutely have to be there."

In the settlement agreement, the parties avoided a court order by creating a three-person independent panel to oversee an improvement plan created by DHS officials. Progress will be reported publicly, according to the professional services contract with the monitors.

"I'm very optimistic about what is going to come out of this, and it's exciting to have played a role in that," Lowry said.

Key points of settlement

- Creation of three-person oversight panel
- Panel will approve an improvement plan for 15 areas. The plan is being developed by DHS officials and due March 30.

Target areas include:

- Child abuse and neglect in care

- Number of available foster homes
- Frequency and continuity with which child welfare workers visit foster children
- Number of foster placements children receive
- Number of children in shelters and length of time remaining there
- Number of children leaving the system to go to permanent families
- Adoption, including adoption-failure rates
- Caseloads for workers
- Monitors may obtain enforceable court orders if they determine that DHS is not making sufficient progress.
- DHS will be released from the terms of the settlement if the monitors determine in a final report on Dec. 15, 2016, that the agency has made good faith progress toward each target.
- If the monitors do not make that finding, DHS will continue to be subject to the settlement agreement for successive one-year periods until the goal has been met.

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Associated Images:



Children's Rights founder and executive director Marcia Lowry is seen last week in front of the federal building. MIKE SIMONS/Tulsa World

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