

The untold story of the Maine Department of Health and Human Services involvement in the case of a missing child.

The Taking of Ayla Reynolds

by Terrilyn Simpson

Ayla Reynolds, [now presumed dead](#), was visibly afraid of her father.

On the day he came to get her, up until the moment she saw him, she'd been a happy child. A Lewiston police officer who entered the apartment first, described the one-and-a-half-year-old towheaded toddler as, "laughing, playing and attempting to make conversation with me."

The officer had informed aunt Jessica Reynolds, who was temporarily watching Ayla and her brother for mother Trista Reynolds, who had physical custody, that father Justin Dipietro was outside, there to collect his daughter. The aunt objected, describing Dipietro as abusive and saying he'd "beaten the child in the past." She said she wouldn't give Ayla up willingly -- that Ayla was "terrified of him," according to the written report.

The officer told the aunt that Karen Small of Child Protective Services (a division of the Maine Department of Health and Human Services) had "authorized the custody." Small is listed as an Office of Child and Family Services Supervisor at Portland DHHS.

When Dipietro had arrived at the Lewiston Police Station a short time before, requesting the police accompany him to "retrieve" his daughter, the officer who met with him recorded, "I consulted my supervisor...who stated that he had been on the phone with Child Protective Services and had spoken with Karen Small who in fact had authorized Dipietro to take custody of his daughter."

Reportedly, no paperwork changed hands.

The aunt told the officer to watch Ayla's reaction when she saw her father. "I then had Dipietro come to the apartment door," documented the officer. "I noted that upon seeing her father, Ayla immediately broke down crying and attempted to flee the kitchen. I was able to pick the child up and hand her over to her father as she continued to cry uncontrollably."

Ayla was taken by her father on October 17, 2011. Two months later, she was reported missing from her father's Waterville residence. Ayla has not been seen since. A Maine State Police missing persons report depicts a bleak picture.

"On December 17, 2011, Ayla Reynolds (DOB 4-4-2010) was reported missing from her Violette Avenue home by her father Justin DiPietro. Investigators have ruled out any possibility that Ayla left the house on her own or that she was abducted. Investigators discovered Ayla's blood in the basement of her home, and the three adults who were in the home at the time are withholding information. Police believe that Ayla is probably dead."

At the house were Justin Dipietro, his then girlfriend, Courtney Roberts, his sister, Elisha Dipietro, and her daughter who was about the same age as Ayla.

It is not clear under what authority DHHS's Karen Small determined a change in physical custody for Ayla, a matter that can legally only be determined by a signed judge's order. No order was presented and there is no indication Small attempted to get one.

Trista and Justin had mutually agreed that Ayla would stay with Trista's sister Jessica while Trista entered a short term rehab program located nearby, prompted, said Trista by her own concern around the choices she was making regarding alcohol and drugs. She said DHHS had initially become involved following the illness of her son, who was 11 months younger than Ayla. He'd suffered bouts of pneumonia and bronchitis. She said she



had not been accused by DHHS of any wrongdoing regarding his care.

Jessica, according to DHHS records, after being assessed by a DHHS supervisor (who was not Karen Small), was determined by DHHS as "appropriate to care for Trista's children." The report described Jessica as a "big sister to Trista" who "wants the best" for Trista and her children.

Officials at DHHS have said that the department cannot settle custody issues between parents. "You need to get an order from the court," said a spokesperson at the agency. It appears that Small simply decided to sidestep due process and presented herself to police as having jurisdiction in the custody matter.

The Lewiston police officer had agreed to assist Dipietro only "After learning that Dipietro was the legal guardian...." And that was based on the say-so of Karen Small who arbitrarily made questionable assertions, and decisions both capricious and contradictory. Justin Dipietro's mother had, in fact, earlier that same day told Small that Justin had not yet legally established his parental rights.

When paternal grandmother Phoebe Dipietro, and not Justin, contacted Small

on October 17, she said she was on her way to Portland to "pick Justin up and then they are going to pick Ayla up."

During that conversation, wrote Small, Phoebe "acknowledged that her son has not gone to court to establish his parental rights but they are going to be getting a lawyer and he will be going to court to do so."

The documentation by Small of the statement by Phoebe Dipietro - regarding Justin's parental rights - gives a clear indication that both women were aware of the prescribed legal process. In light of this, the actions of both women indicate clearly that both Phoebe and Small simply decided to ignore the law -- Phoebe by going after Ayla and Small by misleading the police.

Small's assertions with the Lewiston police completely circumvented the legal process.

Although under Maine law both parents would have had equal parental rights, absent any formal custody agreement, Ayla had always lived with Trista. DHHS records indicate she'd spent only a few hours at a time with Justin - never an overnight. And even more puzzling, Small documented in the October 17 log,



"I explained to Phoebe that the decision for the children to go with Jessica on Friday was not made by the Department. I let her know that we were there with Trista when Trista made the plan for the children to go with Jessica and that her son (Justin) was aware of that plan and supported the children going to Jessica for the weekend."

The entry indicates that the parents - Trista and Justin - did have at least a short term custody agreement. It was an agreement in which Phoebe played no part. Altering the custody arrangement required a civil action - not a decision by a state child protective worker.

In such instances, the parent disputing the current custody setup would file in Maine District Court a petition for parental rights and responsibilities, according to Maine Attorney Brian Condon, who is not involved in the case. And the matter would be legally decided in the family court division of district court. Small would have no standing in this process.

The matter would be decided by a judge - not by DHHS's Karen Small.

Even if Small felt that a child should be removed because it was in danger, Small would have to file an affidavit with the court and obtain a temporary jeopardy order allowing DHHS to remove the child. And that order would be signed by a judge - not by Small.

It's not clear why no documentation was required when Small told Lewiston Police she'd authorized custody.

The scenario, as it unfolded, suggests, observes Condon, that a DHHS employee "used the power of the state to effect or create an outcome in what should be a civil action between two parents."

And any claim that Small might make that she feared Ayla might be in danger would not pass the straight face test as evidenced by an additional detail. Small orchestrated the removal of only one child by police. Small left Ayla's younger brother with the aunt. Dipietro was not the father of that child.

Another troubling aspect of the case is the connection between Karen Small and Phoebe Dipietro. Given that Ayla was being cared for at Jessica Reynolds' apartment in Lewiston, the matter would have involved the Lewiston DHHS office. Karen Small is listed as a child protective services supervisor in Portland, not Lewiston. It's not clear how Phoebe knew to contact Small personally.

And once she'd contacted her, Small not only did not refer her, she ended up giving her confidential information which Small initially indicated she had no right to share.

"She was requesting that I give her and Justin Jessica's address so they can go pick Ayla up," wrote Small of Phoebe. "I told her," wrote Small, "that I cannot release that information to her due to confidentiality.....I let Phoebe know that we really needed to be communicating with Justin on this matter....."

Then Small records that Phoebe informs her "she works for the Maine Revenue Service...."

She also tells Small she lives in Waterville with her daughter and granddaughter and that Justin lives in Portland, but that he has told Phoebe he's willing to move to Waterville.

The initial conversation seems to end there, with Small noting that the mother's and father's "families are trying to involve DHHS in custody dispute. I let them know they need to resolve issue between themselves."

At some point on the same day Karen Small contacts aunt Jessica Reynolds about Justin Dipietro picking Ayla up. Jessica asks when a family team meeting is going to be held and is told by Small that "unfortunately Betsy (a DHHS caseworker) and I had been busy..." When pressed on Ayla going with her father, Small notes "Jessica became upset and said that she was told by Betsy not to allow Justin to have Ayla until after the FTM."

When Small tells Jessica that she's talked to Justin about trying to pick his daughter up, "Jessica became more upset and stated that she was concerned about Ayla going with Justin because he has not been in her life and if she released her to him she would become very upset and she didn't want Ayla



to go through that," recorded Small, then continued to document a report of suspected abuse that she will almost immediately ignore.

Small writes that Jessica "also said that Justin recently had Ayla for a visit and she came back from the visit with bruises. She is concerned about Ayla in Justin's care."

DHHS records also indicate a September 29 call from a doctor at Maine Medical Center, detailing a problem with Ayla's leg following a visit with her father. "Ayla was brought in by Trista...with a complaint of an abnormal gait....Trista reported that Ayla went to her father's house on Thursday of last week.... and then after her nap on Friday Trista noticed that Ayla would not bear weight on her right leg. For the past week, Ayla has been favoring her leg. Ayla has external rotation on the right leg and limited internal rotation....when Ayla walks she is 'duck footed' on the right." When the doctor "tries to turn the foot in, Ayla resists...." An X-ray revealed no abnormality. The doctor observed that "a bruise near her bottom could be from falling." It was determined there was "no evidence to suggest non-accidental trauma."

Once again raising questions about her decision to run interference for Phoebe Dipietro, Small writes, "I explained to Jessica that the children are not in DHHS custody and there was no safety plan completed...."

Finally, again on the same day, October 17, Small documents that Phoebe calls back -- and Small, for reasons she does not explain, decides to ignore the restrictions governing what DHHS can and cannot do -- as she has just previously outlined to Phoebe and recorded in written notes, documentation she likely assumed would never be scrutinized publicly. Small had said she "really needed to be communicating with Justin...." But Phoebe called back, not Justin.

Small also apparently decides to ignore the report of bruises and the concern for Ayla's safety when with her father.

Informing Phoebe that the matter was a "custody dispute," Small says the families "need to resolve the issue between themselves." But Phoebe tells Small she's on her way to get Justin and then they're "going to the Lewiston PD to get assistance with picking up Ayla."

And Small unexplainably capitulates, with Phoebe Dipietro dictating the terms, and speaking for her son, who had only days before gone on record with DHHS as being fine with leaving his daughter temporarily in the care of her maternal aunt.

Small is apparently even OK with Phoebe, a Maine Revenue Service employee, taking care of the background check on her own family, with the straightforward characterization, "She stated that her family is not unstable...."

After telling Phoebe she couldn't provide Jessica's address - because it was confidential information in a confidential DHHS file -- Small writes, "I then contacted Lewiston PD and asked them to provide assistance and gave them Jessica's address." By doing so she knowingly provided the information to the Dipietros.

Small's candor in documenting the situation did not extend to the inclusion of the vital detail that she was the one who had "authorized Dipietro to take custody of his daughter." One has to wonder if Small ever read the police officer's account of Ayla trying to hide, sobbing, fighting not to be taken, not to be separated from her brother and from family she knew.

A month later- on Monday, November 14 - Jessica Reynolds calls DHHS. Ayla has suffered a broken arm. A DHHS caseworker records that Jessica "notes that Ayla was placed with the father Justin by DHHS about a month ago." Jessica tells the caseworker that "on Friday they received a call from Justin and he was freaking out and saying that Ayla had fallen onto her arm up the steps and her arm was really swollen."

Jessica said that on Saturday, Phoebe "took Ayla to the ER....and they determined that she had a broken arm." Jessica then tells the caseworker, "Trista then took Ayla to her regular primary care physician...." She was referred to an Orthopedic specialist. The doctor "saw the child and stated that he felt that the injuries were not consistent with the description of how the father said they occurred. (The doctor) reported that this was an uncommon break in a 19-month-old child."

Out of rehab, Trista tried to get Ayla returned but was told it was a civil matter between parents.

Increasingly concerned over Ayla's welfare - she said Ayla was dirty and upset during their handful of visits - Trista filed in Maine District Court for her return. The following day Justin Dipietro reported that Ayla had disappeared during the night. Trista said she had not informed Justin she'd filed to get her daughter back.

On behalf of Trista Reynolds, Portland Attorney Brian Hansen has filed under the Maine Tort Claims Act notice of a potential suit against the State of Maine, the Maine Department of Human Services, Governor Paul LePage and DHHS Commissioner Mary Mayhew. The lawsuit is currently on hold pending some resolution in the case.

No one has yet been charged in Ayla's disappearance.

The Maine Attorney General's Office prosecutes all homicides in Maine. The AG's office also represents the Maine Department of Health and Human Services and defends and represents the state and its agencies in civil actions. Given the behavior of DHHS in this case, it's not clear how the inherent conflict of those roles can be resolved.

Longtime investigative journalist Terrilyn Simpson has written extensively about the Maine Department of Health and Human Services, including its role in the death of five-year-old Logan Marr. (www.asmainegoes.com/loganstruth_intro.htm)

Simpson has received a number of awards for her work and was the recipient of the PEN/Newman's Own First Amendment Award.

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Urgent! MISSING

Ayla Reynolds

WATERVILLE, Maine

Police in Waterville are searching for a missing toddler who they say may have been abducted. 20-month old Ayla Reynolds disappeared from her home at 29 Violette Avenue.

Police searched the area near the home with a K-9 and have turned up nothing. They also are searching the home and say Ayla's family is cooperating with them. They are now turning to the public for help.

The little girl was last seen wearing green one-piece pajamas with polka dots and the words "daddy's princess" written on them.

She's 2' 9" tall and weighs about 30 pounds. She has short, blonde hair and her left arm is in a sling with a soft splint.

Call Waterville Police
207-680-4700

facebook.com/Help.Find.Ayla