

Case Number 37-07

OTTERY ST. CATCHPOLE DEPARTMENT OF
CHILDREN & FAMILY SERVICES, and its
subordinate bureau, Child Welfare
Bureau,

Appellants,

-against-

LUCIUS MALFOY, et al.,
Appellees.

RECORD

Prepared by
Hannah Menda



EXCLUSIVE:
Master Cerebral Cleanse, p. 3 



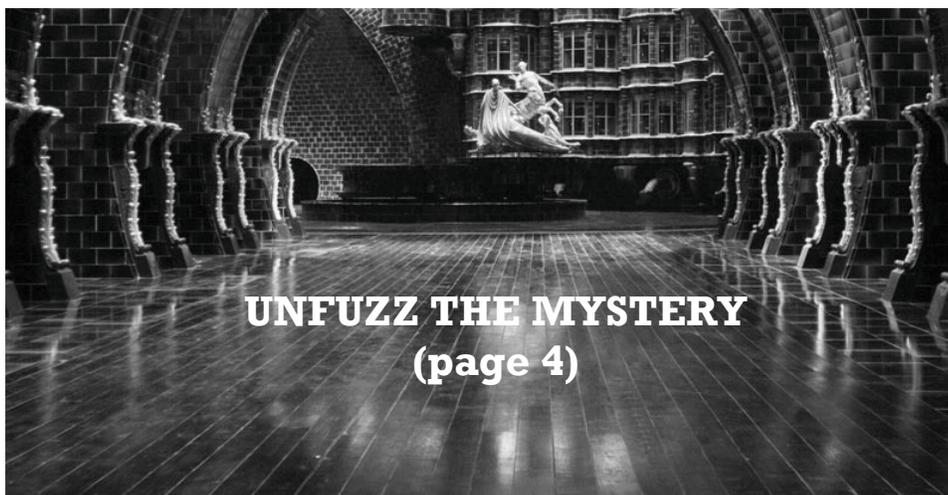
BY X. LOVEGOOD
Editor-in-Chief



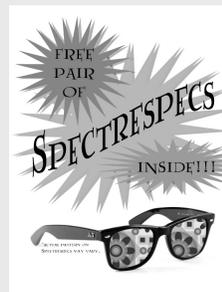
WRACKSPURTS



PANDEMONIUM at
THE MINISTRY
"WHAT A
PALAVER!"



UNFUZZ THE MYSTERY
(page 4)



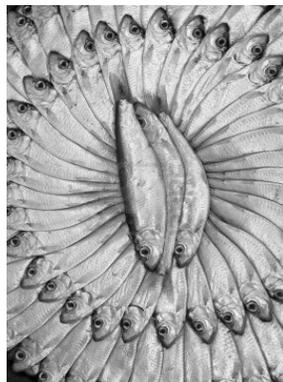


The Master Cerebral Cleanse

DAILY REGIMEN



- ❖ 8 Radishes
- ❖ Chia seeds
- ❖ Sardines
- ❖ Wheat germs



I have created this concoction and my daughter, Luna Lovegood, has been following the regimen. Needless to say, I have seen wicker improvements in all aspects of her academic aptitude and her daily energy. It is called the “Master Cerebral Cleanse” and it is not unlike the juice cleanses or colon cleanses that our “trendier” counterparts engage in today.

While there is no magic pill (unfortunately, though we are working on it) to bring us back to the height of our cognitive powers, there *are* some foods that have been shown to improve brain function, protect against age-associated cognitive decline, and encourage focus and clarity. This Cleanse is meant to provide these very nutrients that specifically assist brain function. It is a lifestyle choice that I consider to be healthy and beneficial, and I strongly urge all other parents to adopt the Master Cerebral Cleanse for the sake of their children.

D F C S
M E M O R A N D U M

TO: All Child Welfare Bureau and Department Employees
FROM: Ottery St. Catchpole Department of Family Services
SUBJECT: Policy No. 47
RE: Home Searches for Signs of Food Deprivation
DATE: February 15, 2011

There have been credible reports of child abuse and neglect in the community. Because we take all allegations of child abuse very seriously, we have decided to enact a Department policy that will require you to conduct home visits to investigate these allegations of abuse. This decision has only been reached after serious consideration and discussion. The Department's main goal is to preserve familial harmony, and we will rely on your cooperation with the following guidelines.

Guidelines:

1. A letter will be distributed to all households with children enrolled in Hogwarts High School informing them of the pending home visit and asking them to confirm a date for the visit.
2. Department personnel will be accompanied by a Department psychologist. However, only the authorized employee may enter the family home, unless the psychologist is granted entry or asked to participate by the family.
3. Entry is limited to the home kitchen. Department personnel may search the refrigerator and freezer. However, you may not open more than three (3) pantries or cabinets in addition to the refrigerator/freezer. If there is a food closet, personnel may enter and glance around the closet, but may not go through or rummage through the contents. Department personnel are not to enter into other private areas of the family home *under any circumstances*.
4. Inspection of the kitchen is limited to *food items*. This includes canned goods, beverages, and produce. Use your common sense. This does not include vitamins, medicines, and so forth. If there is reading material or any other personal information (such as mail) in open view, you are not allowed to inspect this material. You should inform the family that this material is in plain view, that it is outside the purpose of your visit, and that they may remove it if they wish.
5. Because the kitchen probably cannot be entered without crossing through other pathways of the family home, Department personnel are to ring the doorbell or

knock on the door and *ask for permission to enter*. Permission can be granted only by a parent or guardian over the age of eighteen.

6. When the door is answered, inform parents of your identity, affiliation, and the purpose of your visit. There will be a pre-written authorized statement that you must read out to them. This will include a statement that you will be inspecting the kitchen as well as asking them a number of questions on a pre-screened questionnaire.
7. If permission to enter is **granted**, personnel should do their best to avoid glancing at other areas of the home or asking questions until they are inside of the kitchen. Before entering the home, please obtain a signature confirming that entry has been granted. Personnel should interview the parents in the kitchen or wherever else the parent(s) feel most comfortable.
8. If permission to enter is **denied**, kindly ask for a signature and a short comment as to why entry is being denied. Inform the parent(s) that there will be a letter arriving within two to three days asking that they make an appearance at the Department's office to answer the questions. Inform them that if they refuse to sign and comment, there will be a box checked on our files declaring them "uncooperative."
9. If there is no answer when you announce your presence, knock or ring again. If there is still no answer, leave a leaflet (which we will provide you with) posted on the door and a letter (which we will also provide you with) in the mailbox.

Other:

1. Training will begin on February 20, 2011.
2. Training will include a presentation.
3. Training will include a case study.
4. Training will include three different simulations, with feedback, criticism, and recommendations given after each simulation has been performed.
5. The police authorities are not involved at this stage. The purpose of the visits is to ferret out possible neglect and make sure that children are in a healthy and safe environment.
6. If any abuse is found, there will be a voluntary plan proposed to the parent whereby the child is removed for a short predetermined amount of time. During this time, the child will be fed and brought back to health. The parent will undergo

voluntary psychological treatment (which will consist of eight sessions) and be asked to attend seminars on healthy living.

7. If the parent opposes the voluntary plan, then the child will be forcefully removed from the home for a limited period of time per established official Department policy.
8. If you have any questions or concerns, please e-mail them to healthyeating@otteryDCFS.com and we will respond promptly.

5. Defendant, Child Welfare Bureau (the "Bureau"), is a subordinate department of the Ottery St. Catchpole Department of Children and Family Services. The Bureau is a government agency that responds to reports of child abuse or neglect.

JURISDICTION AND VENUE

6. This is a civil action under 42 U.S.C. § 1983 against the Ottery St. Catchpole Department of Children and Family Services and its subordinate bureau, the Child Welfare Bureau, seeking damages and injunctive relief for committing acts, under color of law, with the intent and for the purpose of depriving Plaintiffs of rights secured under the Constitution and laws of the United States; retaliating against Plaintiffs for their exercise of constitutionally protected parental rights; and for refusing or neglecting to prevent such deprivations and denials to Plaintiffs.

7. This case arises under the United States Constitution and 42 U.S.C. § 1988, as amended.

8. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1331. Jurisdiction is also conferred upon this Court by 28 U.S.C. § 1343. Jurisdiction is further conferred upon this Court by 28 U.S.C. § 1343(a)(4), which creates federal jurisdiction for suits brought under 42 U.S.C. § 1983.

9. The declaratory and injunctive relief sought is authorized by 28 U.S.C. §§ 2201–2202, 42 U.S.C. § 1983, and Rule 57 of the Federal Rules of Civil Procedure.

10. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(b). All events giving rise to the claim occurred in the District of Hogsmeade, Plaintiffs are pleading a violation of their constitutional rights, and Defendants' actions represented official policy.

BACKGROUND

11. In October 2011, professors at Hogwarts High School ("Hogwarts") began to express concerns over the health and emotional welfare of a particular student, Luna Lovegood, after reports that she had been following a controversial diet known as the "Master Cerebral Cleanse."

12. On November 3, 2011, after deciding that Luna Lovegood's health was deteriorating, members of the Hogwarts faculty (Professors Dumbledore, McGonagall, and Flitwick) met to

discuss the issue. During that meeting, they decided not to alert the authorities as an initial matter, pending a meeting with the child's father.

13. On November 22, 2011, the same members of the Hogwarts faculty met with Luna Lovegood's father, Xenophilius Lovegood. They found him to be uncooperative and unresponsive to their specific concerns. Luna's mother is deceased and was therefore unable to attend the meeting.

14. On December 1, 2011, Professor Dumbledore sent out a school-wide memorandum to all members and/or stakeholders of the Hogwarts community announcing the enactment of a new blanket school policy ("Educational Decree No. 23") that would apply to all students, without exception.

15. The new school policy provided that the school nurse, Madame Poppy Pomfrey, would conduct physical examinations on all students. These examinations would entail weighing the children and taking urine samples from them. Professor Dumbledore described these check-ups as "akin to a lice check."

16. The policy also led to the creation of a diet survey that all students were required to fill out. The survey asked what dietary norms the children were encouraged or required to follow at home. The survey also included a food diary that the students were required to fill out every day for 30 days and turn in every morning to their homeroom teacher. The survey asked the students about their diets and home life and asked for a specific list of all the foods they were eating.

17. The surveys and diaries were disseminated on December 4, 2011, and collected from students on January 6, 2011. Madame Pomfrey and other Hogwarts staff were allowed to call in students to verify the information provided in the surveys and diaries. This entire process concluded on January 10, 2011.

18. On December 5, 2011, Madame Pomfrey began to perform physical examinations on all Hogwarts students. All physical examinations concluded on December 25, 2011.

19. Various members of the Hogwarts Board of Governors, speaking on behalf of parents who had voiced concerns in meetings and informal gatherings held by the local Parent-Teacher Association, shared their concerns with Hogwarts faculty. Parents were upset that the school had been conducting searches of their children without first asking for permission

slips or formal parental consent. The parents also stated that they had been given no choice except to allow the school to conduct these searches, which they felt were excessive and intrusive.

20. On February 5, 2012, Luna Lovegood fainted on school grounds. Thereafter, Professor Dumbledore and other Hogwarts faculty members decided it would be more prudent to proceed under official guise and color of law.

21. To that end, on February 8, 2012, they reached out to the Ottery St. Catchpole Department of Children and Family Services and apprised them of the new school policy.

22. The Department delegated the issue to the Child Welfare Bureau to decide how to respond to the potential child abuse, which led to the enactment of Policy No. 47.

23. As part of Policy No. 47, the Bureau began to carry out random visits to Hogwarts students' family homes to inspect the food cabinets and speak with parents about the information found in the students' food journals. If the parents refused to allow the authorities access to their homes, the parents would instead be brought into the Bureau's offices for questioning at a later date.

24. When carrying out the searches, neither the Department nor the Bureau acted pursuant to a search warrant or a court order. They also lacked reasonable suspicion or probable cause to conduct the testing or searches.

25. The Bureau's Policy No. 47 is not suspicionless, because it was enacted in direct response to particular allegations of child abuse going on in a law-abiding citizen's household.

26. The searches began on March 15, 2012. They were conducted on every business day thereafter until the Defendants received notice of a pending lawsuit. The first batch of searches was conducted by the authorities, and they visited forty-seven homes in three days (there are approximately one thousand students at Hogwarts, living in approximately 600 households). The second batch of searches began on March 19, 2011, just a few days later, when the authorities visited another fifty-two households.

27. During the second search, on March 21, 2012, the authorities visited the home of the Malfoy family. Lucius and

Narcissa Malfoy have one son, Draco Malfoy, who is a student at Hogwarts High School, two grades ahead of Luna Lovegood. The Malfoys were reluctant to allow Department officials to enter their home, but they felt they were coerced into granting entry since they did not know what the consequences of denying entry might be.

28. Based on information uncovered during the search of the Lovegood home, Luna Lovegood was removed from her home and her father, Xenophilius Lovegood, editor-in-chief of the *Quibbler*, was charged with one count of negligent child abuse.

CAUSE OF ACTION

29. Plaintiffs allege that Defendants' official course of action and search policy were unreasonable searches or seizures in violation of the Fourth Amendment to the United States Constitution and 42 U.S.C. § 1983, and constituted a violation of Plaintiffs' rights to privacy and family integrity.

30. Plaintiffs allege that Defendants' official course of conduct and blanket search policy violated the Malfoy parents' substantive due process right to the care, custody, and control of their children because it unlawfully denied deference in child-rearing decisions.

WHEREFORE, Plaintiffs respectfully request the following relief:

- A. Injunctive relief;
- B. Damages in the amount of \$100,000 for violation of the Malfoys' Fourth Amendment rights by an illegal search and seizure;
- C. Any such other and further relief as this Court deems just and proper.

/s/ _____
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Dated: April 4, 2012

DEFENSES

5. Plaintiffs granted Defendants entry into their home, and entry was not coercive. Police or law enforcement personnel were never involved in any of the home visits.

6. Defendants did not violate Plaintiffs' Fourth Amendment rights. The Department, its subordinate Bureau, and all of its employees were following a policy adopted in response to a special need that arose, beyond the normal need for law enforcement, making the warrant and probable cause requirement impracticable.

7. This case involved suspicionless searches, and the searches supported a greater goal than the ordinary law enforcement practice of pursuing and prosecuting individual suspects for individual crimes.

8. The Government's special need and the efficacy of the search outweigh Plaintiffs' privacy interests.

9. Defendants did not violate Plaintiffs' right to family integrity.

10. Defendants did not violate Plaintiffs' substantive due process right to the care, custody, and control of their child because the State has legitimate authority to interfere with parental rights if the child is in danger.

11. Plaintiffs have failed to state a claim upon which relief can be granted.

12. Defendants reserve the right to plead additional defenses should they become known at a later date and as permitted by the Court.

WHEREFORE, Defendants respectfully request that Plaintiffs' request for relief be denied.

/s/ _____
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State Attorney General
Ministry of Law
1031 Rowena Lane
Hogsmeade, HH 41489

Dated: April 8, 2012

Department chose to search without a warrant on its own assessment of probable cause, losing the protection that a warrant would provide in an action for damages brought by a plaintiff claiming that the search was unconstitutional. See United States v. Ross, 456 U.S. 798, 823 (1982).

Plaintiffs concede that, while the Department's enactment of Policy 47 was not suspicionless, the search at issue in this case was. See Answer ¶ 7. The Bureau officials conducting the search had no particular belief that they would discover criminal wrongdoing in the Malfoys' home. Nevertheless, under Fourteenth Circuit precedent, warrantless suspicionless searches are constitutionally permissible only if there is a special need that justifies the lack of a warrant and probable cause. The special needs doctrine is well established in this and other circuits. See, e.g., United States v. Amerson, 483 F.3d 73, 77-81 (2d Cir. 2007); United States v. Hook, 471 F.3d 766, 773 (7th Cir. 2006).

However, Plaintiffs maintain that the special needs doctrine does not apply to child abuse investigations. In the case at hand, the Department has not established the existence of a special need. Furthermore, the search exceeds the bounds of reasonableness required by the Fourth Amendment when weighed against the intrusion on the Malfoys' familial interest in privacy. Therefore, the Department's search constituted an illegal search and seizure within the meaning of the Fourth Amendment, and Plaintiffs are entitled to relief under § 1983 and judgment as a matter of law.

II. THE DEPARTMENT'S SEARCH SERVES NO "SPECIAL NEED" BEYOND THE NORMAL NEED FOR LAW ENFORCEMENT.

The Second, Third, Fifth, and Ninth Circuits have held that the special needs doctrine does not apply to child abuse investigations, particularly when the search is in the home or involves law enforcement. See Roe v. Tex. Dep't of Protective & Regulatory Servs., 299 F.3d 395 (5th Cir. 2002); Tenenbaum v. Williams, 193 F.3d 581 (2d Cir. 1999); Calabretta v. Floyd, 189 F.3d 808 (9th Cir. 1999); Good v. Dauphin Cnty. Soc. Servs. for Children & Youth, 891 F.2d 1087 (3d Cir. 1989).

A. The Special Needs Doctrine Is Inapplicable to Child Abuse Investigations Conducted in the Home.

Although Plaintiffs acknowledge that the high number of abuse cases creates a compelling interest for the state, it does not create a "special need, separate and apart from law

enforcement," and therefore "the special needs doctrine cannot be used to justify the warrantless entry." See Thomas v. Tex. Dep't of Family & Protective Servs., 427 F. App'x 309, 314 (5th Cir. 2011) (concluding that, under similar circumstances, a home visit to investigate possible child abuse "was not separate from general law enforcement" because the visit was also to investigate the possibility of child abuse and the safety of the children); see also City of Indianapolis v. Edmond, 531 U.S. 32, 121 (2000); Gates v. Tex. Dep't of Protective & Regulatory Servs., 537 F.3d 404 (5th Cir. 2008).

The policy adopted by the Department was not a government assistance program designed to ameliorate child abuse. See Marchwinski v. Howard, 309 F.3d 330, 334 (6th Cir. 2002) (quoting Bd. of Educ. of Indep. Sch. Dist. No. 92 of Pottawatomie Cnty. v. Earls, 536 U.S. 822, 834 (2002)). The policy was designed to uncover potential child abuse, which was subsequently reported to the police. The location of the search removes any possible room for argument that the search was of an "administrative component" of the sort that has previously been upheld under the special needs doctrine.

B. The Department's Civil Purpose Is Not Sufficiently Divorced from the State's General Interest in Law Enforcement.

The special needs doctrine can be applied only where the need is "divorced from the state's general interest in law enforcement." Ferguson v. City of Charleston, 532 U.S. 67, 68 (2001). Because the search at issue served the goal of general law enforcement (defined as "ordinary crime-detection activities"), it would be inappropriate to proceed to a balancing test to determine whether the search meets the constitutional requirement of reasonableness. See MacWade v. Kelly, 460 F.3d 260, 268-69 (2d Cir. 2006). There could be no other possible goal served by the Department's policy because the essence of the policy was to uncover child abuse, remove the child from the home environment, and have law enforcement take over.

Even if Defendants attempt to frame this policy in terms of "preventing" child abuse by means of detecting it, this distinction is inconsequential. The prevention of child abuse is always going to be the ultimate goal, but the special needs doctrine concerns itself only with the "immediate objective" of a search. See Ferguson, 532 U.S. at 76; Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646 (1995). The Department's immediate objective was to generate evidence for law enforcement purposes.

The State's principal means of preventing child abuse is by use and imposition of its criminal law. This cannot possibly qualify as a special need because the State's supposedly civil purpose is not sufficiently divorced from the State's general interest in crime control and law enforcement, as required by the special needs doctrine.

The involvement of law enforcement is further evidenced by the fact that the Department employed the use of coercive means to pressure parents into participating in the search.

III. THE DEPARTMENT'S POLICY EXCEEDED THE BOUNDS OF REASONABLENESS REQUIRED BY THE FOURTH AMENDMENT

Even if a special need existed, the Department's searches were unreasonable because it did not take care to preserve familial privacy in enacting the policy; included in this familial privacy consideration is the privacy of the child from intrusive and potentially traumatic searches. See Troxel v. Granville, 530 U.S. 57, 65–66 (2000); see also Brokaw v. Mercer County, 235 F.3d 1000, 1018 (7th Cir. 2000) (citing Santosky v. Kramer, 455 U.S. 745, 760 (1982)); Berman v. Young, 291 F.3d 976, 983 (7th Cir. 2002) (citing cases and tracing the development of the familial rights).

A. Plaintiffs Were Entitled to Rely on a Reasonable and Objective Expectation of Privacy in Their Own Home and in Their Familial Relationship.

A family's right to remain together without the coercive interference of the awesome power of the state is the most essential and basic aspect of familial privacy. Hernandez ex rel. Hernandez v. Foster, 657 F.3d 463 (7th Cir. 2011).

Because the search at issue raises great concern for the child's privacy and dignity and because child and parent have an essential interest "in the privacy of their relationship with each other," Calabretta, 189 F.3d at 820, the Department's search was highly unreasonable and over-intrusive in light of the individual privacy interests and the Department's attenuated goal and vague procedures.

Unlike here, most cases in the special needs context rely on the concept of a party's reduced expectation of privacy when engaging in the reasonableness determination. In a departure from the Supreme Court's jurisprudence in the area of special needs, Defendants here do not rely on Plaintiffs' reduced expectation of privacy. See generally Earls, 536 U.S. at 831-32;

Vernonia, 515 U.S. at 657; Nat'l Treasury Emps. Union v. Von Raab, 489 U.S. 656, 671 (1989); Skinner v. Ry. Labor Execs. Ass'n, 489 U.S. 602, 627 (1989). Even in the cases where home searches have been found reasonable when weighed against the individual privacy interest at stake, it was only in relation to the special status held by probationers and/or parolees, who have a reduced expectation of privacy based on the special needs of the state supervision system. See, e.g., Samson v. California, 547 U.S. 843, 849-50 (2006); Griffin v. Wisconsin, 483 U.S. 868, 874, 878 (1987).

The Seventh Circuit's decision in Doe v. Heck, 327 F.3d 492, 511 (7th Cir. 2003), makes it clear that "a warrantless search conducted on private property is presumptively unreasonable, whether the government's motivation is to investigate violations of criminal laws or breaches of other statutory standards, so long as the person has a reasonable expectation of privacy in the premises on which the search took place." Michael C. v. Gresbach, 526 F.3d 1008, 1014 (7th Cir. 2008) (emphasis added) (citing Heck, 327 F.3d at 511).

Defendants' policy in and of itself poses a huge threat of harm to children. Children must also be protected from intrusive and potentially traumatic searches. It is this concern that motivated the Third Circuit in Good v. Dauphin County Social Services for Children & Youth, where a home search and strip search were conducted despite the lack of any evidence suggesting abuse. Good, 891 F.2d at 1095. As in Good, Draco Malfoy, a child who showed no signs of abuse, was forced to endure the frightening and humiliating experience of an invasive search on the basis of a vague allegation and "an agency afraid of another child falling through the cracks." Id.

In addition to infiltrating the private family home without any kind of suspicion, permission, or justification, the search in this case is particularly offensive because Department employees went through cabinets and second-guessed parents on child-rearing decisions. When the government invades one's home, it become privy to "the sanctity of a man's home and the privacies of life." Boyd v. United States, 116 U.S. 616, 630 (1886). The Supreme Court has never upheld a "special needs" search where the person's expectation of privacy was as strong as Draco Malfoy's interest in bodily and familial privacy. See Roe, 299 F.3d at 406.

B. The Offensiveness of the Intrusion Outweighs the Need for a Search

Due to the fact that Hogwarts High School had already instituted a thorough and invasive search policy, the Department's justifications for initiating its own policy were weak, especially considering that the results of the first search gave no further cause for concern. In this context, the Department reacted in a manner disproportionate to the reality of the situation.

The state's important interest in protecting children "include[s] not only protection against child abuse, but also the child's psychological well-being, autonomy, and relationship to the family or caretaker setting," as well as children's "interest in the privacy and dignity of their homes." Calabretta, 189 F.3d at 820 (internal quotation marks omitted). That being the case, the interests of Draco and his parents are substantially greater than the state's interest in guarding against the highly unlikely possibility of child abuse. The state's interest diminishes as the probability of any abuse decreases.

The probability of uncovering abuse decreases exponentially when the principal way of uncovering it is by searching homes at random where there have been no allegations or indications of abuse. The Government failed to use any screening procedures commonly used by child protective agencies that could have significantly reduced the intrusion posed by the warrantless searches. In failing to exercise this kind of diligence, the Department can hardly claim that its actions were "reasonable."

The special needs doctrine is inapplicable to searches conducted as part of child abuse investigations in a family home. In such a case, state actors are bound by the warrant and probable cause requirements of the Fourth Amendment. Because the search at issue raises great concern for the child's privacy and dignity and because child and parent have an essential interest in the privacy of their relationship with each other, the Department's search was highly unreasonable and over-intrusive in light of the individual privacy interests and the Department's attenuated goal and vague procedures.

CONCLUSION

The Department's policy was unconstitutional and violated the Malfoy family's Fourth Amendment rights. For the foregoing

reasons, the Court should grant summary judgment in favor of Plaintiffs on their § 1983 claim.

/s/

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Dated: May 13, 2012

the Department's interest outweighs the private interests involved. The actions of the Department and Bureau, in drafting and carrying out the search policy at issue, pass constitutional muster under the Fourth Amendment, and therefore judgment should be entered in Defendants' favor in Plaintiffs' § 1983 claim.

II. CHILD ABUSE INVESTIGATIONS CONSTITUTE A "SPECIAL NEED" FOR PURPOSES OF THE SPECIAL NEEDS DOCTRINE.

The Department's search was appropriate and comports with the Fourth Amendment because it falls under the "special needs" exception to the warrant requirement. The prevention of child abuse and investigations targeted at preventing child abuse constitute a special need separate and apart from general law enforcement goals. Moreover, Defendants' search met the constitutional requirement of reasonableness because the Department's legitimate interests outweighed any invasion caused by the search.

A. The Department Has Demonstrated a "Special Need" Discrete and Superior to the General Interest in Law Enforcement.

In deciding whether to apply the special needs doctrine, the Supreme Court's primary focus has been on the language articulated in Justice Blackmun's concurrence in New Jersey v. T.L.O., 469 U.S. 325, 351 (1985), that the government must show a substantial need "beyond the normal need for law enforcement." As the law has developed, federal courts of appeals have consistently held that child abuse investigations satisfy the special needs doctrine. See, e.g., Doe v. Heck, 327 F.3d 492 (7th Cir. 2003); Doe v. Bagan, 41 F.3d 571 (10th Cir. 1994); Wildauer v. Frederick Cnty., 993 F.2d 369 (4th Cir. 1993); Darryl H. v. Coler, 801 F.2d 893, 905 (7th Cir. 1986).

The Department's policy fulfilled objectives that could not be achieved through normal law enforcement. The Department's primary concern was prevention of potential child abuse and not law enforcement or ordinary crime-detection activities. See Ferguson v. City of Charleston, 532 U.S. 67, 81 (2001) (explaining that courts focus on the state's immediate, specific purpose when evaluating the nature of the special need asserted). In the case at hand, the Department's specific purpose was to uncover potential child abuse by utilizing social services programs that are not intertwined with law enforcement. Moreover, Defendants did not attempt to achieve this objective through the use of the criminal law. Prevention of a grave societal harm has been found to constitute a "special need." In

Cassidy v. Chertoff, 471 F.3d 67, 82 (2d Cir. 2006), the prevention of terrorist attacks on large vessels constituted a special need. In the case at hand, the Department-approved plan was a reasonably effective method of deterring child abuse, which supports the application of special needs doctrine according to the rationale in Cassidy. See id. at 85.

The special needs doctrine applies with full force because the state's substantial interest in preventing child abuse would be unduly hindered by the warrant and probable cause standard. The Department was attempting to uncover possible neglect in order to prevent further harm to children. See Marchwinski v. Howard, 113 F. Supp. 2d 1134, 1141-44 (2002). Neglect, a form of child abuse that is by far the most prevalent form of maltreatment, is particularly difficult to identify, prevent, and treat effectively. See Nina Williams-Mbengue et. al., National Conference of State Legislatures, Differential Response Approach in Child Protective Services: An Analysis of State Legislative Provisions 2-9 (2009), available at <http://perma.cc/LV29-XKKJ>; see also Child Welfare Information Gateway, Acts of Omission: An Overview of Child Neglect, U.S. Department of Health and Human Services, Children's Bureau 2-6 (2012), <http://perma.cc/6KRR-SL9P>. Neglect is commonly defined in state law as the failure of a parent or other person with responsibility for the child to provide needed food, clothing, shelter, medical care, or supervision to the degree that the child's health, safety, and well-being are threatened with harm. Id.

Neglect is difficult to identify because the initial impact may not be as obvious as physical or sexual abuse. However, the consequences of child neglect are just as serious and cumulative in the long term. Frequently, victims are too young to call out for help and adults are unaware that they are witnessing abuse, leaving the state unaware of the abuse and unable to intervene. Adam Pié, The Monster Under the Bed: The Imaginary Circuit Split and the Nightmares Created in the Special Needs Doctrine's Application to Child Abuse, 65 Vand. L. Rev. 563, 564 (2012). Due to these concerns, the special needs doctrine is a vital tool to the state because the nature of the governmental concern requires immediate attention and may otherwise go completely unreported or undetected.

B. The Department's Civil Purpose Is Sufficiently Divorced from the State's General Interest in Law Enforcement.

In the first prong of the special needs doctrine, the Court is concerned about the involvement of police and law enforcement in the search and the purpose of the search. In T.L.O., for example, the Court did not rule against the school for turning over evidence found in the search to the police. T.L.O., 469 U.S. at 347. Secondary criminal repercussions that develop around a civil search alone do not make non-law-enforcement searches unreasonable under the Fourth Amendment. Id. Therefore, the fact that an arrest resulted from the search is not relevant. In any case, law enforcement personnel could not be said to have been involved at any phase of the policy and they did not partake in any of the home visits.

Because the need to enter Plaintiffs' home was sufficiently divorced from the state's general interest in law enforcement, there existed a special need that justified the entry. Thomas v. Tex. Dep't of Family & Protective Servs., 427 F. App'x 309 (5th Cir. 2011); Gates v. Tex. Dep't of Protective & Regulatory Servs., 537 F.3d 404 (5th Cir. 2008).

II. DEFENDANTS' POLICY WAS REASONABLE IN LIGHT OF THE IMPORTANCE OF THE GOVERNMENT INTEREST AND THE THREAT POSED.

A. The Balancing of Private and Public Interests Points in Favor of the State Interest.

Defendants' search met the constitutional requirement of reasonableness because the Department's interest outweighs the private interests at stake. When child abuse is asserted, "the child's welfare predominates over other interests of her parents and the State." Tenenbaum v. Williams, 193 F.3d 581, 595 (2d Cir. 1999); see also Roska ex rel. Roska v. Peterson, 328 F.3d 1230, 1240 (10th Cir. 2003); Franz v. Lytle, 997 F.2d 784, 785 (10th Cir. 1993). In carrying out its policy, the Department was simply trying to safeguard the child's interest. Because the child's interest in safety and bodily integrity has been deemed superior to any familial interest in privacy the parents could possess, the Department's policy did not offend the reasonableness calculus.

Although courts grant parents deference in most child-rearing decisions, they also recognize that the state has legitimate authority to interfere with parental rights if the

child is in danger. In Darryl H. v. Coler, 801 F.2d at 900 (citing Terry v. Ohio, 392 U.S. 1,8 (1968)), the Seventh Circuit affirmatively recognized the applicability of the special needs doctrine to investigations of child abuse, reasoning that the state's need was "substantial and multifaceted." The Fourth Circuit quickly followed suit and echoed the Seventh Circuit's rationale that a child abuse investigation supersedes the parents' interests. Wildauer, 993 F.2d at 372. In Doe v. Bagan, 41 F.3d at 574, the Tenth Circuit applied the balancing test to an in-school interview that the court found was a "temporary seizure" and decided that it was reasonable. These circuit courts have held that the state interest in a child abuse investigation supersedes the parents' interests.

The main private interest to be served is the child's right to bodily integrity. Tenenbaum, 193 F.3d at 593; Darryl H., 801 F.2d at 896. The right to bodily integrity includes not just the right to be free from intrusive body searches (which the Department did not perform), but also the right to safety and health. The Department was acting within the scope of its authority to ensure that children were not being deprived of this right. The state's interest here is derivative of the child's interest, and *both* of these interests have been found to outweigh the parents' interest in their relationship with a child.

B. The Need for a Search Outweighs the Offensiveness of the Intrusion.

The analysis of whether a seizure of a child is supported by probable cause is an objective inquiry; the focus is on the facts and circumstances known to defendants at the time they decided to remove the child. Courts must determine whether a prudent caseworker, meaning one of reasonable caution, could have believed that the child faced an immediate threat of abuse based on those facts. Hernandez ex rel. Hernandez v. Foster, 657 F.3d 463 (7th Cir. 2011). In the case at issue, we are not in the realm of probable cause, and Luna Lovegood's eventual seizure from her home is not at issue here. The parents' right "to bear and raise their children" and the child's right "to be raised and nurtured by his parents" is not absolute, but "must be balanced against the state's interest in protecting children from abuse." See Siliven v. Ind. Dep't of Child Servs., 635 F.3d 921, 928 (7th Cir. 2011) (citing Heck, 327 F.3d at 517-18); see also Brokaw v. Mercer Cnty., 235 F.3d 1000, 1019 (7th Cir. 2000). To achieve the proper balance, caseworkers must have "some definite and articulable evidence giving rise to a reasonable suspicion" of past or imminent danger of abuse before

they may take a child into protective custody. Brokaw, 235 F.3d at 1019; see also Siliven, 635 F.3d at 928. "A reasonable suspicion requires more than a hunch but less than probable cause." Siliven, 635 F.3d at 928 (quoting United States v. Oglesby, 597 F.3d 891, 894 (7th Cir.2010)) (internal quotation marks omitted). The Department here had much more than a hunch—it had proof of the ongoing abuse in one household in the form of a newspaper article (*The Quibbler*), which suggested that the abuse was becoming rampant.

The nature and immediacy of the governmental concern at issue, and the efficacy of this means for meeting it, favor a finding of reasonableness. The Department's policy was not meant to encroach upon Mr. and Mrs. Malfoy's ordinary parental authority. The potential for any such encroachment was effectively addressed by ensuring that the personnel conducting the searches be trained and that the searches be random and suspicionless. The Fourth Amendment does not require that the "least intrusive" search be conducted. Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646, 647 (1995).

The Department's policy was narrowly tailored and well-crafted to address prevention of physical abuse after receiving reports that children were not being provided with the basic need of adequate nutrition. There were guidelines in place to limit the social workers' discretion in conducting the search, and there are no allegations that the social workers stepped outside the bounds of that discretion. See Good v. Dauphin Cnty. Soc. Servs. for Children & Youth, 891 F.2d 1087, 1094-95 (3d Cir. 1989) (highlighting the importance of "established guidelines" curbing the officer's discretion).

The Department's response was directly proportional to the threat posed (food deprivation is a form of physical abuse) and was narrowly tailored to address these concerns regarding nutrition (weighing students, urine samples for mineral testing, searching food pantries, and strip searches to see whether a child is too thin). The option of a voluntary program before removal provided parents with a non-coercive alternative. Entry into the home was not forced and parents were free to refuse and go to the Department offices. These factors point toward a finding that the intrusion was not offensive when weighed against the need to uncover the alleged abuse.

Courts have authorized home searches on numerous occasions in special needs cases. The Supreme Court has previously found that a system of state supervision could require applying the special needs doctrine to home searches. See Samson v.

California, 547 U.S. 843, 849–50 (2006); Griffin v. Wisconsin, 483 U.S. 868, 874 (1987). The fact that the policy was narrowly tailored to address a situation where the risk of physical danger was high renders the home visit less intrusive.

Because both prongs of the two-step special needs inquiry have been satisfied, Plaintiff cannot establish a Fourth Amendment violation.

CONCLUSION

For the foregoing reasons, Defendant respectfully requests the Court to grant summary judgment in favor of Defendants.

/s/ _____
Kingsley Shackelbott, Esq.
State Attorney General
Ministry of Law
1031 Rowena Lane
Hogsmeade, HH 41489

Dated: April 8, 2012

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HOGSMEADE

LUCIUS MALFOY and NARCISSA MALFOY,	:	
individually and on behalf of	:	
Draco Malfoy,	:	
Plaintiffs,	:	
-against-	:	OPINION AND ORDER
	:	GRANTING PLAINTIFFS'
	:	MOTION FOR SUMMARY
	:	JUDGMENT
OTTERY ST. CATCHPOLE DEPARTMENT	:	
OF CHILDREN & FAMILY SERVICES, and	:	
its subordinate bureau, Child	:	
Welfare Bureau,	:	
Defendants.	:	

BONACCORD, J.

INTRODUCTION

Plaintiffs, the Malfoys, bring an action under 42 U.S.C. § 1983, alleging a violation of their Fourth Amendment rights against unreasonable searches and seizures. Plaintiffs filed a motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure. Defendants, the Ottery St. Catchpole Department of Children and Family Services and its subordinate Child and Welfare Bureau, claim that their actions were constitutional because they fell under the "special needs" exception to the warrant requirement of the Fourth Amendment. Defendants filed their own motion for summary judgment under Rule 56 of the Federal Rules of Civil Procedure.

While the special needs doctrine is well established in this circuit, its application to child abuse or neglect investigations has not been conclusively decided, and there remains considerable confusion among the courts of appeals. Because the standard in the District of Hogsmeade is still unclear, we attempt to clarify the law so that public officials can be confident that the course of conduct in which they are engaging is legal. For the following reasons, this Court grants Plaintiffs' motion for summary judgment.

FINDINGS OF FACT

Plaintiffs Lucius Malfoy ("Mr. Malfoy"), Narcissa Malfoy ("Mrs. Malfoy"), and Draco Malfoy ("Draco") are residents of the State of Wiltshire. Their home is known as Malfoy Manor. On December 4, 2011, Hogwarts High School, where Draco is a student, enacted a school policy known as "Educational Decree No. 23." Educational Decree No. 23 required all students to undergo a physical examination performed by the school nurse. It also required all students to fill out a diet survey which asked students and their families to answer very specific questions and divulge personal information regarding their daily nutritional intake.

Hogwarts' headmaster, Professor Albus Dumbledore ("Prof. Dumbledore"), was troubled by the results of the examinations and food surveys and decided to reach out to Defendant, Ottery St. Catchpole Department of Children and Family Services (the "Department"). The Department enlisted its subordinate bureau, the Child Welfare Bureau (the "Bureau"), to respond to Prof. Dumbledore's general allegations of child abuse. The Bureau, fearing that children were being deprived of adequate nutrition, created a policy ("Policy No. 47" or the "Policy") designed to search for signs of neglect or malnutrition. The Department and Bureau trained those who would be enlisted to conduct searches of the homes of Hogwarts students.

The Department instructed their employees to search kitchens to see what the families were feeding their children. In addition, the parents were asked to answer a number of questions regarding their children's food consumption patterns. The parents were allowed to refuse the social workers entry into their home. However, they would then be required to visit the Department's offices for questioning instead.

The order in which the searches would be conducted and the homes that were visited were generated randomly by a government computer system. The searches began on March 15, 2012. They were conducted on every business day thereafter until Defendant received notice of a pending lawsuit. During the first batch of searches, Department employees visited forty-seven homes in three days. The second batch of searches began on March 19, 2011, when the authorities visited another fifty-two households. Malfoy Manor was visited during this second batch of searches.

Department personnel found nothing of particular concern in the Malfoy home. However, one Hogwarts parent, Xenophilus

Lovegood, was arrested as a result of the home visits and charged with one count of negligent child abuse on the basis of the search.

DISCUSSION

Summary judgment is appropriate if "there is no genuine issue as to any material fact and . . . the movant is entitled to judgment as a matter of law." Fed. R. Civ. P. 56(c).

I. DEFENDANTS HAVE NOT ESTABLISHED THAT THERE EXISTED PROBABLE CAUSE TO CONDUCT THE SEARCH.

On the record before this Court, it is debatable the Policy itself was created in response to any individualized form of suspicion. Although Hogwarts did alert the Department to the possibility of child abuse, there were no specifically named suspects and therefore the Department likely failed to meet the strictures of probable cause. Regardless, however, it is clear that the Department had no particularized reasonable suspicion or probable cause to believe the Malfoys were engaged in criminal activity, or that evidence thereof would be uncovered through a search of Malfoy Manor.

In passing, this Court notes that it finds no evidence to support Plaintiffs' contention that the Department colluded with Prof. Dumbledore to create a blanket policy in order to avoid the procedural niceties required to ultimately remove Luna Lovegood from her home.

II. PLAINTIFFS ARE ENTITLED TO SUMMARY JUDGMENT BECAUSE INVESTIGATING CHILD ABUSE IS NOT A "SPECIAL NEED" SEPARATE AND APART FROM THE STATE'S GENERAL INTEREST IN LAW ENFORCEMENT.

Defendants seeks to shield its Policy and the search at issue here from invalidation under the Fourth Amendment by relying on the "special needs" exception to the familiar probable cause or warrant requirement. However, the "special need" that Defendants put forth is not, in fact, a special need at all. This Court's holding that child abuse investigations do not constitute a special need is in keeping with the reasoning of the Supreme Court as well as the majority of the circuit courts that have ruled on this issue. See Ferguson v. City of Charleston, 532 U.S. 67 (2001).

Even those circuits which have carved out limited exceptions have done so on facts sufficiently distinct from the

facts before us. See, e.g., Doe v. Heck, 327 F.3d 492, 494 (7th Cir. 2003) (narrowing the Seventh Circuit's previous holding where the special needs doctrine was applied to a child abuse investigation); Doe v. Bagan, 41 F.3d 571, 574 (10th Cir. 1994) (the special needs doctrine was applied to an in-school interview, which was considered a "seizure" rather than a search within the home); Wildauer v. Frederick Cnty., 993 F.2d 369, 373 (4th Cir. 1993) (applying the special needs doctrine where the parent did "not have a constitutionally protected liberty interest in a continued relationship with [her] foster child").

Special needs cases arise where the state has demonstrated that "it is impracticable to obtain a warrant." Ferguson, 532 U.S. at 76; see also Vernonia Sch. Dist. 47J v. Acton, 515 U.S. 646, 653 (1995) ("A search unsupported by probable cause can be constitutional . . . when special needs, beyond the normal need for law enforcement, make the warrant and probable-cause requirement impracticable." (quoting Griffin v. Wisconsin, 483 U.S. 868, 873 (1987)) (internal quotation marks omitted). Defendant has not satisfied this heavy burden and has not even attempted to do so. If, as the record reflects, the Hogwarts faculty reached out to the Department with concerns that there was child abuse going on, then the Department should have acted responsibly and fulfilled its duty to inquire further into the particulars of the alleged abuse. Instead, it simply accepted Prof. Dumbledore's general suspicions at face value and did not attempt to respond in a more proportionate manner.

Although the need to deter child abuse may very well be "superior" to the general interest in law enforcement, this does not change the fact that, by its very definition, a special need must be "discrete." New Jersey v. T.L.O., 469 U.S. 325, 341 (1985); see also, e.g., Roe v. Tex. Dep't of Protective and Regulatory Servs., 299 F.3d 395, 404 (5th Cir. 2002); Wildauer, 993 F.2d at 372. The special needs doctrine is not a license for government agencies to trample into the home environment, a sanctuary especially worthy of heightened Fourth Amendment protection. After all, the Supreme Court's special needs precedent indicates a longstanding concern that "citizens have an especially strong expectation of privacy in their homes." Roe, 299 F.3d at 405 (citing numerous Supreme Court cases). If this Court were to legally validate the manner in which the Department executed its Policy, the ultimate result would be, in effect, to eradicate the probable cause or warrant requirements and have them subsumed by this perhaps-not-so-special needs doctrine.

We recognize that the home visits were conducted by social

workers and Department personnel, rather than by officers of the law. Although this is one factor courts must take into consideration in determining whether to grant "special need" status, it is not determinative. Even conceding that the Department acted wisely in this regard, this Court still finds that the Department's civil purpose was not sufficiently divorced from the state's general interest in law enforcement. See Ferguson, 532 U.S. at 68. The Department's laundry list of goals include aims that take on both civil and criminal purposes. While it is true that the criminal aspects of the Department's functions cannot be accomplished without the aid of the government agency dedicated to law enforcement, this does not render all of its purposes to the civil realm. See Griffin, 483 U.S. at 884 (arguing against the proposition that our cases do not support application of the special-needs exception where the "legitimate, civil objectives" are sought only *through* the use of law enforcement means). Department personnel in this case were using the threat of imposing criminal sanctions to assure compliance with Policy No. 47. In any case, because the warrantless entry had an investigatory purpose, we cannot say that the Department's purpose was entirely of a civil nature.

If, for example, the Department had instead decided to collaborate with Hogwarts to have Department psychologists or nutritionists interview students *during school hours*, such a policy might pass constitutional muster under the special needs doctrine. The Supreme Court has previously applied the special needs doctrine in cases where the individual had a reduced expectation of privacy, the government actor could rely on the voluntary nature of the plaintiff's activities, there was some form of consent, the activity in question took on a discretionary nature, or the individual was part of a particular industry that was highly regulated. See Bd. of Educ. of Indep. Sch. Dist. No. 92 of Pottawatomie Cnty. v. Earls, 536 U.S. 822, 831-32 (2002); Vernonia, 515 U.S. at 657; Nat'l Treasury Emps. Union v. Von Raab, 489 U.S. 656, 671 (1989); Skinner v. Ry. Labor Execs. Ass'n, 489 U.S. 602, 627 (1989). Moreover, the Department cannot claim *in loco parentis* authority over the subjects of the search because such an exercise of authority is reserved for school officials.

Defendants further argue that the Supreme Court has applied the special needs doctrine in those cases where there was an interest in preventing future harm to the health or safety of the person being searched. See T.L.O., 469 U.S. at 337; Dubbs v. Head Start, Inc., 336 F.3d 1194, 1212-14 (10th Cir. 2003). On this point, it is difficult for this Court to disagree with Defendants' line of reasoning. Our decision today does not rest

on a belief that the Department's interest was one of deterrence or punishment for past wrongdoing. See T.L.O. at 337. Still, it is a dangerous adventure indeed for a district court to declare that the sweeping goal of "preventing child abuse" is a discrete and special need for purposes of applying the doctrine. Although we praise the Department's proactive approach, this Court does not feel comfortable holding in favor of Defendant given the current state of the law. At present, the Supreme Court and those circuits that have applied the special needs doctrine rely on a series of factors to determine how it should apply. These include: the location of the search, the intrusiveness of the search, and the existence of discretion-limiting statutes or regulations. None of these are present here. See, e.g., Wyman v. James, 400 U.S. 309, 318 (1971); Heck, 327 F.3d at 494; Bagan, 41 F.3d at 572; Franz v. Lytle, 997 F.2d 784, 791 (10th Cir. 1993); Wildauer, 993 F.2d at 372 (4th Cir. 1993); Darryl H. v. Coler, 801 F.2d 893, 905 (7th Cir. 1986).

The location of this search, the family home, significantly undermines the state's authority to conduct a search in the absence of a warrant, probable cause, or exigent circumstances. We agree with majority of courts in holding that a warrantless search or seizure conducted on private property is presumptively unreasonable, regardless of whether the search was administrative or criminal. See Heck, 327 F.3d at 502 (7th Cir. 2003); Roe, 299 F.3d at 401; Calabretta v. Floyd, 189 F.3d 808, 820 (9th Cir. 1999); Tenenbaum v. Williams, 193 F.3d 581, 593 (2d Cir. 1999); Good v. Dauphin Cnty. Soc. Servs. for Children & Youth, 891 F.2d 1087, 1094-95 (3d Cir. 1989).

Because the case at hand involves warrantless entries into the home to investigate parents' treatment of their children, where there was no apparent objection but also no apparent consent, the general law of search warrants applies to child abuse investigations. We hereby hold that child abuse investigations do not constitute a "special need" for purposes of the special needs doctrine.

III. PLAINTIFFS ARE ENTITLED TO SUMMARY JUDGMENT BECAUSE DEFENDANTS' ACTIONS WERE UNREASONABLE.

Even though the Department's investigation into potential child abuse is not a special need, we must still examine the reasonableness of their actions. Assuming we had held in favor of DefendantS on the first issue, the appropriate test would be "the standard of reasonableness under all of the circumstances." Roe, 299 F.3d at 404 (conducting a reasonableness analysis despite holding that the special needs exception was not

applicable in the Fifth Circuit). In special needs cases, the Supreme Court employs a balancing test that looks to the nature of the privacy interest, the character of the intrusion, and the nature and immediacy of the government's interest. See Earls, 536 U.S. at 843 (quoting Griffin, 483 U.S. at 873).

In this case, we have no doubt that the Department fails on any measure of reasonableness. The Malfoy family was entitled to an extremely high level of privacy in the comfort of their own private home, and the foreseeability of the constitutional harm they would suffer only exacerbates the offensiveness of the intrusion. Although the Department does claim a legitimate government interest, that interest does not excuse the intrusion on the facts of this case. The Malfoys were not even remotely suspected of abusing their son. The abuse asserted by both Hogwarts faculty and the Department was abuse in the form of neglect, not intense physical or emotional abuse. There were other forms of remedying the situation and other avenues available to the Department to uncover any abuse. In fact, the record reflects that Hogwarts had already begun a campaign to fulfill those very ends. The Department's search was therefore a gratuitous exercise of government authority and it exceeded the bounds of the Fourth Amendment.

In cases involving searches in connection with child abuse investigations, "courts must consider the scope of the particular intrusion, the manner in which it is conducted, the justification for initiating it, and the place in which it is conducted." Bell v. Wolfish, 441 U.S. 520, 559 (1979). This Court finds that the scope of the particular intrusion and the manner in which it was conducted were extremely unreasonable, as it involved coerced entry into the sanctuary of the home. The justifications for initiating it were weak, and were further weakened by the fact that Hogwarts had already carried out an extremely extensive and thorough investigation to uncover any child abuse. Finally, as to the location in which the search was conducted, the Department invaded the sanctity of the Malfoys' home. In claiming the state's authority to enter through the doors and rummage through their drawers, they invaded the family's inalienable right of personal security and liberty, "where that right has never been forfeited by [the] conviction of some public offense." Boyd v. United States, 116 U.S. 616, 630 (1886).

CONCLUSION

Plaintiffs' motion for summary judgment is hereby GRANTED.

IT IS SO ORDERED.

/s/ _____
Hon. Pierre Bonaccord
District Court Judge
United States District Court
District of Hogsmeade

Dated: June 23, 2012

UNITED STATES COURT OF APPEALS
FOR THE FOURTEENTH CIRCUIT

OTTERY ST. CATCHPOLE DEPARTMENT :
OF CHILDREN & FAMILY SERVICES, and :
its subordinate bureau, Child :
Welfare Bureau :
Appellants, :
-against- :
LUCIUS MALFOY and NARCISSA MALFOY, :
individually and on behalf of :
Draco Malfoy, :
Appellees. :

ORDER GRANTING APPEAL

THICKNESSE, J.

An application for appeal having been made from the final judgment entered by the United States District Court for the District of Hogsmeade, dated June 23, 2012, and upon consideration thereof, it is hereby:

ORDERED, that said appeal be GRANTED and that the appeal be set down for argument. Said appeal shall address the following question:

Whether the "special needs" exception to the warrant requirement applies to searches and seizures conducted in a child abuse investigation.

/s/ _____
Hon. Pius Thicknesse
Circuit Court Chief Judge
United States Court of Appeals
Fourteenth Circuit

Dated: July 5, 2012