



Children's Law Center of Los Angeles

“DEPENDENCY LEGAL NEWS”

Vol. 6, No. 7 April 28, 2010

Issued by the Children's Law Center of Los Angeles the second and fourth Tuesday of each month

Written by: Martha Matthews (MM), Jenny Cheung (JC), Patricia Bell (PB) and Sophia Ali (SA)

© 2010 by Children's Law Center of Los Angeles (“CLC”). All rights reserved. No part of this newsletter, except those which constitute public records, may be reproduced in any form or by any electronic or mechanical means, including information storage and retrieval systems, without permission in writing from CLC. Cases reported may not be final. Case history should be checked before relying on a case. Cases and other material reported are intended for educational purposes only and should not be considered legal advice.

For more information on Children's Law Center, please visit our website at www.clcla.org.

NEW DEPENDENCY CASE LAW

DISPOSITION; INFORMAL SUPERVISION; WIC 360(b)

In re Adam D. – filed March 30, 2010, Second Dist., Div. Three

Docket No. B219898

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/B219898.DOC>

County agency detained 6-month old baby and older siblings because baby was severely underweight and dehydrated. Children were detained for one week, then released to parents with in-home services. At time of jurisdictional hearing, baby had gained weight and parents had taken parenting classes and enrolled the older children in school (they had previously been home-schooled). Juvenile court sustained petition under WIC 300(b), and ordered informal supervision under 360(c). Parents appealed.

Affirmed. Appeal is not moot, because the informal supervision order is appealable dispositional order. Under 360(b), the dependency petition is not dismissed, and if parents do not cooperate with informal supervision, agency can file petition under WIC 332 and 360(c) for a new dispositional hearing. Evidence was sufficient to support jurisdiction because baby had actually suffered serious harm due to parents' neglectful conduct, even though her condition had improved by the time of adjudication. (MM)

ICWA- DECLARATION OF AN INDIAN EXPERT

In re M.B.- filed March 22, 2010, Fourth Dist., Div. Two

Docket No. E048581

Link to case: <http://www.courtinfo.ca.gov/opinions/documents/E048581.DOC>

At the WCI 366.26 hearing of an Indian case, a Declaration of an Indian Expert was filed with the court recommending that the court terminate parental rights. As the father argued that the investigation by the expert was inadequate because she did not interview the parents, the county agency called the expert to testify about her recommendation. At the conclusion of the hearing, the court terminated parental rights. Parents appealed.

Affirmed. Before the court can terminate parental rights over an Indian child, it must make a finding, supported by evidence beyond a reasonable doubt, including the testimony of a qualified expert witnesses, that custody of the child by the parent would result in serious emotional or physical damage to the child. The purpose of the expert is to offer a cultural perspective on a parent's conduct leading to detention in order to prevent unwarranted interference with the parent-child relationship due to cultural bias. Unless the interview of a specific party is relevant to the purpose of the testimony, the failure to interview a specific party does not affect the order terminating parental rights. As father did not point to any cultural evidence that his behavior leading to the filing of the petition would be interpreted differently in a cultural context, the failure to interview him or the mother does not effect the order terminating parental rights. Finally, the other evidence the court considered, including the numerous agency reports and the adoption assessment, evidence in the reports showing that the parents failed to avail themselves of any services but continued in their behavior, the opinion of the tribe and social worker that the court should terminate parental rights; etc. support the trial court's finding that return would be detrimental. (SA)

JURISDICTION- RISK OF SIBLING ABUSE

In re Andy G.--filed April 20, 2010, Second Dist., Div. Eight

Docket No: B215772

Link to Case: <http://www.courtinfo.ca.gov/opinions/documents/B215772.DOC>

Two year old child Andy and his five older half siblings were all detained after Maria and Janet alleged sexual abuse by A.G., Andy's father. The petition alleged that A.G. exposed himself and fondled Maria and Janet when they were 11 and 9, respectively. On one of the occasions when A.G. exposed himself, Andy was in the room, though he was not in a position to observe what was happening. The children's mother told the girls to recant their disclosure of sexual abuse. The petition was sustained and at disposition, the court ordered monitored visitation with all children for mother, and monitored visitation with Andy for A.G. A.G. appealed, on the grounds that there was an insufficient showing that Andy was at risk of sexual abuse. He also appealed the order requiring him to attend sexual abuse counseling for perpetrators.

Affirmed. Although Andy was only two, not near the age of his half sisters when they were abused by A.G., other factors were sufficient to support the court's finding that Andy was at

substantial risk of sexual abuse. Specifically, A.G. exposed himself to Janet while Andy was in the same room (albeit facing in the other direction). Aberrant sexual behavior by a parent places the victim's siblings who remain in the home at risk of aberrant sexual behavior. (PB)

OTHER LEGAL DEVELOPMENTS

New or Revised Los Angeles County Department of Children and Family Services Policies of Significance –

For Your Information (FYIs):

10-21 United Care Foster Family Agency

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1022UnitedCareFFAUpdate.rtf>

This FYI is to advise CSWs that effective immediately, a DO NOT USE has been placed on the United Care Foster Family Agency (FFA) and staff shall not place any children in any United Care FFA home. This FYI gives the CSWs guidelines to follow, regarding homes under this agency, to ensure that efforts are made not to disrupt safe and stable placements in these homes, unless there is a safety issue or other compelling reason. (SA)

10-22 United Foster Family Agency Update

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1022UnitedCareFFAUpdate.rtf>

This FYI is to inform CSWs that they shall not request that the juvenile court issue a "do not remove" order nor ask that attorneys for other parties (e.g. the child's attorney or the parent's attorney) request such an order for a child in a foster home under the United Foster Family Agency. (SA)

10-23 Update to On-Site DNA Testing at Children's Court

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1023DNAtestingChildrensCourt.rtf>

The FYI is an update to the the previously released FYI_09-05 "On-site DNA Testing at Children's Court." According to this FYI, due to an overwhelming demand of on-site DNA testing for children at the Children's Court, LabCorp has agreed to increase the testing hours for children on Thursday's from **12 noon to 4:00 p.m.** beginning April 1, 2010. (SA)

10-25 Annual \$100 Supplemental Clothing Allowance

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1025SupplementalClothing.rtf>

This FYI is to advise staff that the \$100 supplemental clothing allowance will be mailed out by April 21, 2010 to be issued to all foster family homes, relative caregivers and non-relative extended family member caregivers (including Kin-GAP guardians), and to foster family agencies. Group homes are excluded. (SA)

10-26 New Start Time for Detention Hearings at Edmund D. Edelman Children's Court

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1026ChangeinHearingTimes.rtf>

This FYI is to advise staff that due to the court's budget cutting measures, the processing of detentions will now begin at 8:00 a.m. instead of 6:00 a.m. Therefore, **effective 04/26/10**, all Detention hearings at Edmund D. Edelman Children's Court will begin at **9:30 a.m.** The

Detention hearings at Antelope Valley Children's Court will continue to be heard at 8:30 a.m. (SA)

10-27 Notifying Law Enforcement When a Runaway Child is Found or Returns

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1027Runaways.doc>

This FYI lists the tasks the case carrying social worker must complete when a runaway child is found or returns. It also remind staff that when a runaway child is found or returns, the law enforcement agency where the Missing Person's Report was filed must be contacted **within 24 hours** of the child returning or being found to request that the Missing Person's Report be **withdrawn**. It is important that law enforcement agencies be notified within 24 hours of the child's return so that their resources are used effectively and efficiently. (SA)

10-28 Sexual Abuse Treatment Program

Link to FYI: <http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1028SexAbuseTreatProgram.rtf>

This FYI is to inform CSWs that the Sex Abuse Treatment (SAT) Program is no longer providing group therapy services for cases of intra-familial sexual abuse. It instead offers a Psycho-Educational course consisting of 6 weekly classes for non-offending parents and perpetrators. The first series is being offered at the Metro North Office and the SAT East LA site. The sessions are not intended to be therapy. Clients can be evaluated for the program by inviting SAT Program staff to the initial TDM. The 6 week Psycho-Educational Sessions begin with an assessment of each client followed by five weekly classes for non-offending parents and perpetrators. Emergency Response CSWs and SCSWs may telephone or e-mail a request that a SAT Program staff attend an initial TDM, Summary of Findings meeting or any other meeting including case conferencing meetings. SAT Program staff will also support linking child victims, siblings, non-offending parents, and adolescent and adult perpetrators to mental health services. (SA)

10-29 Some Low Cost Family Law Legal Services Options

Link to FYI:

<http://dcfs.co.la.ca.us/Policy/FYI/2010/FYI1029LowCostFamilyLawLegalServices.rtf>

This FYI provides a list of a few low cost legal services for clients who are in need of such services. This is not a comprehensive list. Further, DCFS does not make any guarantees regarding the quality or availability of legal services in the list as none of the services are affiliated with DCFS. (SA)

Procedural Guides:

0050-503.15 (REV) Child Protection Hotline (CPH) Determining Response Times

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0050/005050315v0410.doc>

This procedural guide was updated to inform CSWs that the time frame for 5-day referrals has changed. The old time frame was to initiate face-to-face contact within 5 calendar days while the new policy is to initiate face-to-face contact within 5 business days. This new time frame applies ONLY to referrals generated by CPH on or after April 5, 2010. The CPH will

continue to use the response time of 5 day by (date specified) when a threat of specific harm is not immediate but is expected to occur prior to the fifth business day. (SA)

0050-504.25 (REV) Recording Child Deaths at the Child Protection Hotline (CPH) and Submission of the SOC 826, Child Fatality/Near Fatality County Statement of Findings and Information

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0050/005050425v0310v2.rtf>

This procedural guide was revised with the updated contact information for the Risk Management Division of DCFS. (SA)

0070-509.10 (REV) Observation Techniques

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007050910V0310.doc>

This procedural guide was revised to include reference to Division 31 Regulations Section 31.320.11. Pursuant to California Department of Social Services Manual Policy and Procedures, Division 31.320.11, the purpose of social worker contact with the child is to verify the location of the child, monitor the safety of the child, assess the child's well-being, and assist the child in preserving and maintaining religious and ethnic identity. (SA)

0070-531.10 (REV) Visual Inspection of Children

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007053110V0310.doc>

This procedural guide was updated to improve compliance with federal law which requires that before a CSW can conduct a visual inspection of a child, which includes the removal or adjustment of clothing, the CSW must have voluntary consent, a court order, or exigent circumstances. (SA)

0070-547.11 (REV) Time Frames For Response to Referrals

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054711v0410.doc>

This procedural guide was updated to inform CSWs that the time frame for 5-day referrals has changed. The old time frame was to initiate face-to-face contact within 5 calendar days while the new policy is to initiate face-to-face contact within 5 business days. This new time frame applies ONLY to referrals generated by CPH on or after April 5, 2010. The CPH will continue to use the response time of 5 day by (date specified) when a threat of specific harm is not immediate but is expected to occur prior to the fifth business day. (SA)

0070-548.20 (REV) Taking Children Into Temporary Custody

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054820v0310.doc>

This procedural guide was updated to reflect current law that a CSW must either have exigent circumstances, consent or a court order prior to taking a child into temporary custody. Also, DCFS form 153 was updated and posted on LA Kids. (SA)

0070-548.25 (REV) Completing the Structured Decision Making (SDM) Safety Plan

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0070/007054825SDMSafetyPlanv0410.doc>

This procedural guide was updated with examples of inappropriate SDM Safety Plans in order to ensure the safety of children under SDM Safety Plans. It was further revised to emphasize that a parent or legal guardian's participation in the SDM Safety Plan is voluntary. (SA)

0100-502.52 (REV) Grievance Review Regarding Placement/Removal of a Child From a Foster Family Home, or Denial of Home Approval for a Relative/Non-Relative Extended Family Member Home

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010050252GrievanceReviewV0410.doc>

This procedural guide was updated to include the mailing address for CDSS where a copy of the Director's final decision is sent. In addition, the procedural guide was updated to inform staff that in situations where the ASFA Division has not approved the home, the Regional RA can be the Review Agent. Further, the procedural guide was revised to clarify that a FFA certified home is included in the definition of foster parent and therefore can participate in the grievance process. (SA)

0100-510.35 (REV) Special Placements

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010051035v0410.doc>

This procedural guide was updated to include procedures for the use of a prospective adoptive family home when that home is certified through a non-contracted Foster Family Agency (FFA). (SA)

0100-513.05 (REV) Post-adoption Contact Agreements

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020051305v0410.doc>

This procedural guide was updated to reflect the changes in Family Code section 8616.5 that now permits contact between the child and the child's birth parent where there was not an existing relationship. Also, if the adoptive parent wants to use the Consortium for Children's Permanency Planning Mediation Program to create the post-adoption contact agreement, the referral must be received 60 days prior to the WIC 366.26 hearing or a fee will be charged. The DCFS 5520 form has been revised to reflect these changes. (SA)

0100-520.70 (REV) Exemptions for Relatives, Non-Relatives Extended Family Members, and Prospective Guardians with Criminal History Records

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0100/010052070ExmptV0310.doc>

This procedural guide was updated to reflect changes and/or additions to criminal offenses that are non-exemptible or on the federal 5-year ban. (SA)

0200-506.05 (REV) Information to be Provided to Prospective Adoptive Applicants

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0200/020050605v0310.doc>

This procedural guide was revised to add language to inform the prospective adoptive family of their potential eligibility for a federal and state tax credit. Also, information was added regarding the citizenship requirements for AAP eligibility. Information was also included about adoption assistance benefits no longer receiving increases based on age. (SA)

0300-503.10 (REV) Writing the Jurisdictional/Dispositional Hearing Report

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030050310v0310.doc>

This procedural guide was revised to reflect AB 938's amendment to WIC 309 that now requires the county to make diligent efforts to identify and locate relatives within 30 days of a child's removal from the home, to recommend and consider tribal adoption as a permanent plan for children who are or may be Indian children, and to clarify when a child is deemed to have entered foster care. Instructions in the Medical, Developmental, Educational and Mental and Emotional Status sections were revised to reflect the new procedures regarding the use and proper completion of the Health and Education Passport (HEP). (SA)

0300-503.15 (REV) Writing the Status Review Hearing Report for WIC Section 364, 366.21(e) or(f), 366.22 or 366.25 Hearings

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030050315v0310.doc>

This procedural was revised to reflect AB 938's amendment to WIC 309 that now requires the county to make diligent efforts to identify and locate relatives within 30 days of a child's removal from the home, to recommend and consider tribal adoption as a permanent plan for

children who are or may be Indian children, and to clarify when a child is deemed to have entered foster care. Instructions in the Medical, Developmental, Educational and Mental and Emotional Status sections were revised to reflect the new procedures regarding the use and proper completion of the Health and Education Passport (HEP). (SA)

0300-503.85 (REV) Permission for a Child to Marry, Join the Armed Forces or Job Corps

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0300/030050385V0410.doc>

This procedural guide added instructions regarding youth who are 18 years or older who wish to marry, join the armed forces or join Job Corps. In addition, instructions were added regarding Family Code Section 304 which deals with premarital counseling. (SA)

0400-503.30 (REV) Attempted Contact on Referrals

Link to Procedure: <http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0400/040050330v410.rtf>

This procedural guide was updated to inform CSWs that the time frame for 5-day referrals has changed. The old time frame was to initiate face-to-face contact within 5 calendar days while the new policy is to initiate face-to-face contact within 5 business days. This new time frame applies ONLY to referrals generated by CPH on or after April 5, 2010. The CPH will continue to use the response time of 5 day by (date specified) when a threat of specific harm is not immediate but is expected to occur prior to the fifth business day. In addition, instructions were strengthened to clarify the frequency of attempted contacts and efforts to locate the family. (SA)

0500-501.10 (REV) Releasing DCFS Case Record Information

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0500/050050110V0310.doc>

This procedural guide was revised with the updated contact information for the Risk Management Division of DCFS. (SA)

0500-501.40 (REV) Release of Case Record Information Regarding a Child Fatality

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20CWS/0500/050050140ChildDeathreportingv0310.doc>

This procedural guide was revised with the updated contact information for the Risk Management Division of DCFS. (SA)

E050-0560 (REV) Adoption Assistance Program (AAP) Freed Child and AAP Intake

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20FCE/E050/E050-0560AAP0410l.doc>

This procedural guide was updated to provide instruction and guidelines for eligibility workers to ensure that the foster care child meets the Adoptions Assistance Program (AAP) requirements of age and financial participation. (SA)

E080-0590 (REV) Permanent Residence Under Color of Law (PRUCOL)

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20FCE/E080/E080-0590PRUCOLv0410.doc>

This procedural guide provides CSWs with information on Permanent Residence Under Color of Law (PRUCOL) as well as instructions for determining whether a dependent child can be classified as a PRUCOL. (SA)

E090-0590 (REV) Foster Care Placement/Replacement

Link to Procedure:

<http://dcfs.co.la.ca.us/Policy/Hndbook%20FCE/E090/E090-0590v0410.doc>

This procedural guide was updated with additional forms that are to be included in the Placement/Replacement Packet. (SA)