

CHILD WELFARE SERVICES: Protection of Children

SUMMARY

The 2008/2009 San Diego County Grand Jury (Grand Jury) reviewed citizens' complaints involving families where children were removed from their parents by public authorities. The parents alleged that their rights had not been adequately protected. The Grand Jury investigated the processes and procedures involved and identified systemic issues to be addressed. The Grand Jury found that San Diego County (County) Child Welfare Services (CWS), a division of the County's Health and Human Services Agency, and the Juvenile Court emphasize the protection of children not the rights of parents, and recommended that CWS provide parents with timely information about the removal process. The Grand Jury also found that to be effective, CWS workers require a broad set of skills and experiences, and recommended that CWS provide enhanced training programs.

PURPOSE AND BACKGROUND

- To assess the processes and procedures by which public authorities remove custody of children from their parents.
- To evaluate CWS hiring and training practices.

PROCEDURES

Members of the Grand Jury

- Investigated complaints from parents whose children had been removed from parent's custody;
- Conducted interviews with parents and other relatives in cases where children had been removed from custody;
- Interviewed executive staff of Health and Human Services (HHS) and CWS;
- Reviewed CWS Policies, Procedures and Practices;
- Reviewed CWS documents;
- Reviewed CWS case records and Juvenile Court records;
- Reviewed prior Grand Jury reports.

DISCUSSION

The Grand Jury received complaints from parents and other relatives whose children had been removed from their custody. These custodians expressed concerns that their rights had been neglected. These complainants were told the Grand Jury could not address their individual cases. The Grand Jury, however, undertook a study to assess whether CWS Policies and Procedures, as well as practices, involved systemic issues.

The complainants were a diverse group of people from various parts of the County. They did not agree with CWS staff that the allegations lodged against them were sufficiently serious to merit the removal of their children. They also did not think that the Juvenile Court gave the same credence to their side of the case as it did to the CWS's staff representation of the facts.

The Removal of Children

CWS is a reactive agency. It responds to reports of neglect, physical or emotional abuse and sexual molestation of children. CWS initiates an investigation from reports made to the CWS Hotline. These reports come from various sources: responsible professional people, law enforcement, relatives, friends or neighbors and some anonymous reports. Each report is evaluated based on the content of the report, the source of the report, the seriousness of the allegations and whether it meets assignment criteria. If the Hotline worker determines that an investigation is warranted, that worker may recommend a two hour, a three-day, or a ten-day response. At this stage, the information given in the report is considered to be allegations, not proven facts.

The report is assigned to a CWS supervisor and then to one of the CWS line workers. The worker goes to where the child is reported to be, sometimes in the home and sometimes in the school. The worker decides if the allegations are substantiated based on interviews with the child, the parents and with the reporting party, if known. If the worker suspects that the child has been abused, that worker must determine if it would be safe for the child to stay home or if it is necessary to remove the child. If removal is decided to be in the best interest of the child, then the worker contacts a supervisor for permission to remove the child.

If the child is removed from the home, the child could be placed with an appropriate relative, in an emergency foster home or at Polinsky Children's Center. A CWS Court Intervention Social Worker is assigned to further investigate to determine within 48 hours whether the child can safely be returned home or if a petition will be filed with the Juvenile Court to keep the child in custody. A Detention Hearing is held in Juvenile Court and the judge decides upon placement.

It is the perspective of some parents who were interviewed by the Grand Jury, that the process that led to the child's removal is often unfair for several reasons: the person making the initial report could have had incomplete or false information; in cases of divorce with a custody battle, one parent could maliciously report false information about the other parent; the worker could be biased or have a personality conflict with one or both parents. With the immediate removal of the child, most parents are given only an oral reason for the removal.¹ They also expressed concerns that there may not be time to rebut any allegations, give further information or suggest an alternate placement for the child at the time of the initial removal.

In order to exercise their rights effectively, a parent needs to be aware of how CWS and the Juvenile Court function. CWS operates under the Penal Code and the Welfare and Institutions Code of the State of California. *It is the intent of the legislature in enacting this section to provide maximum protection for children who are currently being physically, sexually or emotionally abused, being neglected, or being exploited, and to*

¹ Despite recommendations made by previous Grand Juries, there is no printed form given to parents at the time of removal. Such a form would list the allegations, contact information, and short-term placement of the child.

protect children who are at risk of that harm.² Within each county welfare department there is a specialized child welfare services program designed specifically for the protection of children's welfare. County child welfare service programs are the major intervention system for child abuse and neglect in California.³ It is the practice of the Juvenile Court in making a decision regarding a child to say that *the most important thing is the child's safety and what is in the best interest of the child.*⁴ To help parents understand their rights and how the Court and CWS work, the parent is usually given a booklet, "A Parent's Guide to the Child Welfare System" at the time of removal.

When parents attend court sessions, many do not understand the court process. In many cases, they have an attorney to represent them but they say the attorney does not do an adequate job educating them in the proceedings. The court may exclude certain evidence from the court's consideration because of rules of evidence. Parents may gain access to CWS records relating to their case but only by presenting a discovery motion to the Juvenile Court for its consideration and action.

After a CWS social worker detains the child/children and the Juvenile Court takes over custody, the worker is required to develop reunification plans for the parents. These may require some parents to attend parenting or anger management classes, take drug tests, and get therapy, etc., in order to get their children back. Some parents interviewed by the Grand Jury say some workers are unreasonable in what they require. These parents assert that CWS workers do not understand that parents must work for a living, they may have to use public transportation to attend classes wherever and whenever the recommended agencies offer them.

Hiring and Training

The agency attempts to hire competent workers, give adequate training, and provide good supervision. The system and its personnel are not perfect. They attempt to have checks and balances using risk assessment tools, consultation with supervisors, and to give people with grievances representation in court. They also provide for an appeals process through the Juvenile Court and the Court of Appeals.

CWS has instituted a program called "Social Work Administrative Internships in Child Welfare." This is a joint program between the Health and Human Services Agency (HHS) and San Diego State University (SDSU). SDSU has approved a Graduate-Undergraduate Social Work Program. This is described in a joint statement: *Those who volunteer and are chosen to work in the program undergo professional field practicum experience...The HHS agency supplies designated qualified, experienced staff members who serve as field instructors...The students work in County facilities and use space, telephone access, supplies, and other necessary materials to enable the students to*

² State of California Welfare and Institutions Code, Section 300.

³ P. 41, *Child Abuse Prevention Handbook*, Crime and Violence prevention Center, California Attorney General's Office.

⁴ Pp. 7-8. CWS Booklet, *A Parent's Guide to the Child Welfare System*.

*function effectively and professionally.*⁵ The program is intended to provide a bridge between theory and practice and to be a source of well-qualified social workers to staff agencies like CWS.

Based on interviews with CWS personnel, an issue that needs to be addressed in training is the abuse of alcohol and drugs. A majority of cases CWS investigates involve the abuse of these substances. This is especially true of neglect cases. The agency and the Juvenile Court working together have developed the Substance Abuse Recovery Management System (SARMS). *If a social worker has reason to believe a parent has a drug and/or alcohol problem, then the social worker will document in the Court report and make a recommendation that the parent be referred to SARMS. SARMS staff (who are contractors, not county staff) are responsible for providing...services to assist parents with maintaining or reunifying their families.*⁶

To help children stay in their home, the agency has provided an Intensive Family Preservation Program to provide intensive, in-home services to families using a multi-cultural and multi-disciplinary team. Members of this team provide frequent and intensive services to families to maintain children in their homes or expedite the return of the child/children.

The CWS social worker may also arrange a Family Conference. This is a meeting involving just the child's family and may include the child. The purpose is for the family to plan what is the best placement for the child and how family members can help ensure the child's safety, health and well-being. The social worker then considers the appropriateness of the plan and presents it to the court for its consideration.

FACTS AND FINDINGS

Fact: Child Welfare Services (CWS) is the agency designated by the State of California and the County of San Diego to protect children.

Fact: CWS is empowered by the state to *provide maximum protection for children who are currently being physically, sexually or emotionally abused, being neglected or being exploited.*⁷

Fact: CWS investigates reports of neglect, physical and emotional abuse, exploitation and sexual molestation of children.

Fact: CWS workers execute the initial removal of children from parent's custody.

Finding #01: CWS workers concentrate their efforts on the protection of children.

Fact: CWS workers give only oral reasons at the time of removal.

⁵ Joint Statement by San Diego County Health and Human Services Agency and San Diego State University.

⁶ P.8, CWS Booklet, *A Parent's Guide to the Child Welfare System.*

⁷ State of California Welfare and Institutions Code, Section 300.

Finding #02: Parents assert that they do not receive sufficient information from CWS workers to exercise their parental rights effectively.

Fact: The Juvenile Court works with CWS to protect children from neglect, physical and emotional abuse, sexual molestation and exploitation.

Finding #03: The Juvenile Court acts *to do what is in the best interest of the child and the most important thing is the child.*⁸

Fact: CWS employs social workers to investigate reports of neglect, physical and emotional abuse, exploitation and sexual molestation of children.

Fact: CWS employs social workers, some of whom, in the opinion of the Grand Jury, are biased, have personality differences with customers, or have little experience with the populations they serve.

Finding #04: It is essential to the administration of the child protection system that CWS screen its workers and train them to minimize personal bias, cultural ignorance or factual errors.

Fact: CWS hires workers who have education in the social sciences and who often come directly from colleges and universities with the needed educational knowledge but little practical experience.

Fact: The “Social Work Administrative Internships in Child Welfare” program is an available tool to screen and train a pool of experienced social workers.

Fact: A majority of cases investigated involve the abuse of alcohol and drugs.

Finding #05: In the hiring of CWS social workers, in addition to education proficiency, it is useful to have people that also have experience with children and with knowledge of alcohol and drug abuse programs.

RECOMMENDATIONS

The 2008/2009 San Diego County Grand Jury recommends that the San Diego County Child Welfare Services (CWS):

09-43: Develop a form with a check-off list indicating the allegations that are being investigated by the social worker and list contact information. This form is to be given to the parents/guardians at the time of removal.

09-44: Expand the existing booklet given to parents regarding rights and details CWS processes, reunification plans and appeals.

⁸ P. 8, CWS Booklet, *A Parent's Guide to the Child Welfare System.*

09-45: Continue, and, possibly expand the use of the Social Work Administrative Internship programs currently in use.

09-46: Emphasize training for all CWS workers on alcohol and drug abuse.

REQUIREMENTS AND INSTRUCTIONS

The California Penal Code §933(c) requires any public agency which the Grand Jury has reviewed, and about which it has issued a final report, to comment to the Presiding Judge of the Superior Court on the findings and recommendations pertaining to matters under the control of the agency. Such comment shall be made *no later than 90 days* after the Grand Jury publishes its report (filed with the Clerk of the Court); except that in the case of a report containing findings and recommendations pertaining to a department or agency headed by an elected County official (e.g. District Attorney, Sheriff, etc.), such comment shall be made *within 60 days* to the Presiding Judge with an information copy sent to the Board of Supervisors.

Furthermore, California Penal Code §933.05(a), (b), (c), details, as follows, the manner in which such comment(s) are to be made:

- (a) As to each grand jury finding, the responding person or entity shall indicate one of the following:
 - (1) The respondent agrees with the finding
 - (2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefor.
- (b) As to each grand jury recommendation, the responding person or entity shall report one of the following actions:
 - (1) The recommendation has been implemented, with a summary regarding the implemented action.
 - (2) The recommendation has not yet been implemented, but will be implemented in the future, with a time frame for implementation.
 - (3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a time frame for the matter to be prepared for discussion by the officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.
 - (4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefor.
- (c) If a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the Board of Supervisors

shall respond if requested by the grand jury, but the response of the Board of Supervisors shall address only those budgetary or personnel matters over which it has some decision making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

Comments to the Presiding Judge of the Superior Court in compliance with the Penal Code §933.05 are required from the:

<u>Responding Agency</u>	<u>Recommendations</u>	<u>Date</u>
San Diego County Child Welfare Services	09-43 through 09-46	9/4/09