



The Sonoma County Grand Jury

NEW LEGISLATION NEEDED: JUVENILE RECORDS

July 1, 2004

Summary

Arguably the most vulnerable segments in any community are children and the elderly. This report concerns itself with the children who, since they cannot effectively protect and defend themselves, need other forces to recognize their interests and do it for them. Common situations that might require protective intervention include child abuse (within the family itself or by outsiders), the incompetence for a variety of reasons of one or both parents, the absence of parents held in the detention system or in rehabilitation facilities, and effective abandonment.

Child Protective Services (CPS) is the Sonoma County agency responsible for intervening on behalf of children and for taking steps to regularize the children's lives until they can be returned to a stable home environment, or until they reach the age of 18. As a direct result of highly sensitive factors that come into play in these situations, the legislature has set up measures to protect the children's rights and well-being while the children are under the county's care and protection. These strict rules on confidentiality are necessary to safeguard the children, but they can sometimes work negatively against well-intentioned parents, *de facto* parents, or foster parents who must, in turn, rely on fairness and an even-handed lack of bias towards them on the part of Child Protective Services (also known as Family, Youth & Children's Services).

The interaction of these factors came into play when the 2003-2004 Sonoma County grand jury responded to complaints alleging a series of shortcomings in various CPS actions and procedures. The grand jury investigated three complaints against CPS. All three cases alleged bias against the complainants, asserting that the processes were prejudicial, citing a series of shortcomings in various agency actions and procedures.

The jury, however, was unable to conduct a complete investigation because it is not among the parties authorized by Welfare and Institutions section 827 to review juvenile records. CPS staff cannot reveal information in confidential case files nor discuss cases in general terms with the grand jury without waivers. Having tried unsuccessfully to access necessary information with methods used by the Sonoma County grand jury over the past decade, the 2003-2004 jury petitioned the court for select information and documents in order to complete its investigation, as prescribed in Penal Code 925. This, again, proved a failure. The jury was unable to overcome the strict requirements for the release of confidential information.

Reason for the Investigation

The 2003-2004 grand jury began this investigation based on a complaint held-over from the previous jury. The complaint questioned the appropriateness of a foster care placement and the

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processes which led to it. Two related complaints received this year raised additional questions about the decision-making processes of Child Protective Services (CPS): the number of persons involved in important decisions, and the grounds upon which decisions are made, especially regarding the placement of children in foster care when willing family members are available to provide homes, and the possibility of unfair bias. Additional concerns were raised about the background clearance of foster care providers, the number of times children were moved within the foster care system, the measures taken to safeguard and back-up records, and the general methods used for documenting required CPS visitations to children as well as for gathering other case information.

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Background

Child Protective Services (CPS), also known as Family, Youth and Children's Services (FY&C), is one of 5 divisions within the Sonoma County Human Services Department. Its duty is to intervene in child abuse and neglect situations by providing services to families and/or making referrals to appropriate agencies. Among the staff are 72 social workers who serve a number of facilities in the Santa Rosa area: Valley of the Moon Children's Home, Redwood Children's Center, and 2 elementary school sites. They also serve in a number of state-mandated programs: a 24-Hour Emergency Response Program, the Court Services Unit, the Family Reunification Program, and the Family Maintenance Unit. In addition, they staff the Permanency Planning Unit, which works to develop adoption, legal guardianship, emancipation or long term foster care, regularly reporting to Juvenile Court on their progress. Other social workers process foster care licensing, provide independent living skills training to older foster children, recruit foster parents, and develop a network of emergency foster homes. They are also responsible for maintaining contact with or visiting children, sometimes monthly, until the children are permanently placed.

During 2003, the CPS hotline answered over 10,000 calls reporting such things as alleged abuse or neglect, and interviewed over 2700 children, of which about 200 were removed from their homes. They currently care for about 390 children who cannot return home and approximately 180 who are in an impermanent placement and may be reunified with their families.

The division is currently supported by a combination of revenues: 50% federal funds, 35% state funds, and 15% county resources.

For the protection of children, CPS functions under laws requiring complete confidentiality of information. However, the county grand jury is an arm of the court charged with oversight of local government, and the Human Services Department is subject to the scrutiny of the grand jury. The respective obligations of the jury and of CPS, therefore, involve a competition of important issues—the privacy interests of the children and the investigatory needs of the jury. In addition, the jury is prohibited from investigating the judicial branch or court decisions where essential functions of CPS take place. Matters before the court or under appeal are also beyond the jury's jurisdiction. The jury has sought to exercise its duty through the use of waivers and petitions to the court. Though necessarily limited in the depth of its investigation even in non-legal areas by the privacy concerns, the jury was able to obtain sufficient information to investigate most remaining questions raised by the complainants and related events reported in the media.

Findings

- F1. The jury was unable to determine how well CPS is meeting its obligations of providing required interventions and family services in accordance with its mission statement and governing regulations.
- F2. The grand jury is not authorized to see CPS case files; limited access may be achieved only by means of a petition to the presiding judge of juvenile court, but it must be on specific items in a file which the judge deems sufficiently essential to the jury's work to balance privacy constraints.
- F3. Only parties to a case may be present at court proceedings of CPS. Juvenile Court records are not public documents.

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Conclusions

While it is possible for persons outside CPS to learn in a general way the processes it employs to carry out its work, it is very difficult for the grand jury to assess how adequately or equitably these processes are followed in specific cases, given the rigorous requirements of confidentiality in child protective services. Some of the factual issues raised by the complainants can be investigated by the use of waivers and petitions to the court, but systemic issues and questions of quality and equity require broader study and are not easily resolved by requesting some certain document or without the ability to do comparisons.

In the cases reviewed during 2003-2004, the jury found that, to the degree it was able to discern, the appropriate processes were followed in an adequate way and questions and concerns raised by the complaint process were answered.

At present, the grand jury is not included under Welfare and Institutions Code section 827 in its list, of parties authorized to investigate juvenile records. However, Penal Code section 925 describes the grand jury's power to investigate county agencies such as CPS. New legislation rather than judicial decision will be required to address this contradiction, as the case, *People v. Tulare County* 107 Cal. App.4th 488 (2003) found:

“Undoubtedly the grand jury plays an important role as a public watch dog..., but the standoff between the competing policies served by section 827 and Penal Code section 925, if there is such a standoff, can only be resolved, if it is to be resolved, by the Legislature.”

Recommendations

R1. New legislation should be passed that includes the grand jury in the list of parties authorized to inspect juvenile case files under Article 22, “Wards and Dependent Children Records” of California Welfare and Institutions Codes, Division 2, “Children”, Chapter 2, Section 827

Required Responses to Findings

None

Required Responses to Recommendations

None

Requested Responses to Recommendations

Member of the State Senate representing Sonoma County – 2nd District. – R1
Member of the State Senate representing Sonoma County – 3rd District. – R1
Member of the State Assembly representing Sonoma County – 1st District – R1
Member of the State Assembly representing Sonoma County – 6th District – R1
Member of the State Assembly representing Sonoma County – 7th District – R1

Research and Investigation

The jury interviewed the following employees of the county:

- Director of Family, Youth, and Children Services Division
- Manager of Pre-placement Services
- Manager of Placement Services
- Manager of Valley of the Moon Children's Home and Redwood Children's Center

The jury also interviewed 4 Complainants.

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The jury reviewed the following documents:

“A Guide to Reporting Child Abuse to the California Department of Justice” (Bureau of Criminal Statistics and Special Services), Effective 10/27/99.)

“County Self-Assessment User’s Guide” Ver. 1.0 (CDSS), January, 2004.

“Implementation of Child Welfare Services Outcome and Accountability System” (State of California Health and Human Services Agency, Dept. of Social Services, (CDSS), February 3, 2004.

“Peer Quality Case Review: Overview of Process and Tools for Child Welfare Services Cases” (CDSS.) January, 2004.

People v. Tulare County 107 Cal. App. 4th 488 (2003)

Selected documents from CPS case files with approval of juvenile court judge.

“State of California Program Improvement Plan (PIP) for Child Welfare Services Program”. (CDSS) January, 2004.

“Sonoma County Family Youth and Children’s Services Division Mission Statement” (undated)

“Understanding the Child Welfare System in California: A Primer for Service Providers and Policymakers”, (California Center for Research on Women and Family, November, 2002).